

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

**OFFICE OF LAND USE**

**INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM**

GENERAL SUBJECT: Land Development Costs	NUMBER: IIM-LU-002
SPECIFIC SUBJECT: Charging Actual Costs for Exceptional Permits, Street Construction Inspection, and Complex Developments	DATE: June 13, 2016
	SUPERSEDES: N.A.
APPROVED: Robert W. Hofrichter Director Approved <u>June 13, 2016</u>	

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EFFECTIVE DATE

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This memorandum applies to VDOT recovery of actual costs related to certain land use activities specified in 24VAC30-92 and 24VAC30-151, in lieu of collection of set permit or street acceptance fees.

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PURPOSE/SCOPE/REQUIREMENTS

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In some cases, VDOT may charge for the actual cost of the review and/or inspection of certain land use activities.

When a request for a land use permit is extraordinary in nature or extent, the permittee may be required to pay the actual cost of VDOT review, processing, and inspection. Such repayment of VDOT expenses is instead of the standard permit fees. This is allowed per [Section 70](#) of [24VAC30-151](#).

When a submitted secondary street development proposal (under the [Secondary Street Acceptance Requirements](#) or [Subdivision Street Requirements](#)) is for a large, complex, multiuse development, VDOT may recover actual costs related to the review of such proposal; however, the total costs charged to the developer cannot exceed two times

the normal administrative cost recovery fee that would have been charged. Additionally, actual costs can be recovered in the following situations:

- If requested by the developer, for the construction inspection of the development's streets by VDOT. This is for a more intense level of inspection than would normally be conducted for acceptance, but exempts the street from the one-year surety period that follows acceptance under standard street inspection. Please see the [Land Development Inspection Documentation Best Practices Manual](#) for guidance on the level of inspection intended under this option.
- If requested by the developer, for the review and processing of the secondary street development plans.
- If requested by the locality to review street plans for streets not intended to be accepted by VDOT for maintenance.

The above secondary street-related cost recovery items are allowed under [Section 140](#) of [24VAC30-92](#).

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## PROCEDURES

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### Extraordinary Land Use Permits

The Land Use Permit Regulations allow VDOT to charge for actual costs incurred for work associated with permit requests that are “extraordinary in nature or extent, or both” instead of charging the standard application and additive fees. Because the term “extraordinary” is not defined in the regulations, and due to the variable nature of work across the state, each district shall retain the authority to define what constitutes an extraordinary permit, but no more than 5% of a district's land use permit submissions may be classified as “extraordinary.”

Elements that a district may wish to consider in deciding what constitutes “extraordinary” may include, but not be limited to:

- Number of different additive fee elements covered by the permit
- The number of district (and other) sections that must review the submission
- The amount of time that it will take to review the submission and inspect the work
- The critical or sensitive nature of the submission and the covered work

The District Administrator or designee shall set consistent district-wide criteria for making the determination of what constitutes “extraordinary.”

### Secondary Street / Subdivision Street Review

The Secondary Street Acceptance Requirements and its predecessor, the Subdivision Street Requirements, have provisions to charging direct costs in four circumstances:

1. At the request of the developer for construction inspection of streets. Such inspection is more intensive than regular intermittent VDOT inspection, but exempts that development from the 1 year surety requirement and the standard street inspection fee.
2. At the developer's request for the review and processing of a development's streets. The administrative cost recovery fee normally collected for street addition requests is not collected for streets reviewed under this option.
3. At VDOT's option for the review and processing of "large, complex, multiuse developments." Note that a development plan for streets must contain all three elements to qualify. Cost recovery is limited to two times the normal administrative cost recovery fee for such projects and street addition requests stemming from these are exempt from the administrative cost recovery fee.
4. At VDOT's option for the review of streets not intended for maintenance by VDOT. As these streets will not be requested for acceptance, the administrative cost recovery fee and the street inspection fee will not be collected.

Item 3 above includes the use of the terms "large" and "complex," which are not specific and again, as in the land use permit use of the term "extraordinary," may be defined by the district. Elements that a district may wish to consider in deciding what constitutes "large" and "complex" may include, but not be limited to:

- The amount of time that it will take to review the conceptual sketch and the plan of development/street construction plan
- The number of district (and other) sections that must review the submission, especially if there are bridges or similar structures involved
- The geographic scope of the proposed development exceeding what is normally reviewed by the district

The District Administrator or designee shall set consistent district-wide criteria for making the determination of what constitutes "large" and "complex."

### General Process

The Area Land Use Engineer or other position as may be directed by the District Administrator shall determine if a permit request is "extraordinary" in accordance with district direction and therefore subject to Section 70 of the Land Use Permit Regulations or if the development plans fall under the various options for direct cost reimbursement in the Secondary Street Acceptance Requirements. Once this determination is made, the applicant shall be notified and an agreement, consisting of a letter specifying the reasons for payment, the expected maximum amount, and any special conditions that may apply, secured with the applicant's signature. The Area Land Use Engineer or designee shall prepare the letter or provide a draft to the applicant.

Generally, tracking costs of such activities will be through the use of Agency Use 1 (AU1) codes in Cardinal, added to the normal cost centers used for the particular activity. Such AU1 codes shall start with the letters "LU," followed by the one-digit district number (1=Bristol, 2=Salem, 3=Lynchburg, 4=Richmond, 5=Hampton Roads,

6=Fredericksburg, 7=Culpeper, 8=Staunton, 9=NoVA) which would then be followed by whatever additional unique alphanumeric sequence the district wishes to use to track that specific development project.

The District shall follow the [District Generated Receivable Procedures](#) as provided by Fiscal Division. These costs fall within Miscellaneous Goods and Services that are provided by the agency and the AU1 tracking mechanism is used to generate a manual bill. The Procedures document the steps needed to generate such a bill.

When extraordinary permit or subdivision street acceptance work has been accomplished under 24VAC30-151-70 or subsections B.2.b or C.2 of 24VAC30-92-140 and actual costs collected (or being collected), and the accomplishment of such work has (or is expected to) exceed the approved budget for the impacted cost center, the designated district manager shall contact Financial Planning Division or Asset Management Division, copying the Transportation and Mobility Planning Division, documenting the current spending and the conclusion that the budget will be exceeded. The district manager shall submit the following information with the budget concerns:

- The actual (or an estimate of the) total amount the cost center shall exceed the existing assigned budget based on the budget development assumptions used, expenditures to date and anticipated activity for the remainder of the year.
- Documentation of the funds received (or expected to be received) from permittees or developers

If it is determined appropriate, Financial Planning or Asset Management Division shall then make the appropriate adjustments in the applicable district section's budget.

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## NOTES

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## REFERENCES

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- Information on the Land Use Permit Regulations is available on VDOT's external website at <http://www.virginiadot.org/business/bu-landUsePermits.asp>.
- Information on the Secondary Street Acceptance Requirements is available on VDOT's external website at [http://www.vdot.virginia.gov/info/secondary\\_street\\_acceptance\\_requirements.asp](http://www.vdot.virginia.gov/info/secondary_street_acceptance_requirements.asp)
- Information on the various inspection requirements and related documentation is available on VDOT's external website at [http://www.vdot.virginia.gov/info/land\\_development\\_inspection\\_documentation\\_best\\_practices\\_manual.asp](http://www.vdot.virginia.gov/info/land_development_inspection_documentation_best_practices_manual.asp)

- District Generated Receivable Procedures, issued June 1, 2015  
<https://insidevdot.cov.virginia.gov/Docs/Documents/ManagingDistrictGeneratedReceivables.pdf>