

**AGENDA REQUEST FORM**

**FOR: Council Meeting of December 3, 2019**

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**FROM: Council Member Teresa Turk**

**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

A RESOLUTION TO WAIVE THE DEVELOPMENT PERMIT FEES OTHERWISE REQUIRED BY THE UNIFIED DEVELOPMENT CODE FOR NEW BEGINNINGS TO SERVE HOMELESS IN NORTHWEST ARKANSAS

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**APPROVED FOR AGENDA:**



Council Member Teresa Turk

11/18/19

Date



City Attorney Kit Williams

Approved as to form

November 18, 2019

Date



OFFICE OF THE  
CITY ATTORNEY

## DEPARTMENTAL CORRESPONDENCE



**Kit Williams**  
City Attorney

**Blake Pennington**  
Assistant City Attorney

**Jodi Batker**  
Paralegal

TO: **Mayor Jordan**  
**City Council**

CC: **Don Marr**, Chief of Staff  
**Paul Becker**, Finance Director  
**Susan Norton**, Communications Director  
**Garner Stoll**, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: **November 19, 2019**

RE: **§159.01 Fees (A) City Council waiver of development fees for homeless project (New Beginnings)**

The City Council recently amended the waiver of impact fees and building permit fee ordinances to accommodate the New Beginnings homeless project near 19<sup>th</sup> Street and School Avenue. Unfortunately, this project will require grading and thus a grading permit fee of over \$500.00. The *Unified Development Code* provides:

“An alderman may present a resolution to the City Council to waive or reduce development permit fees otherwise required by this chapter or elsewhere within the *Unified Development Code*... If the reduction or waiver would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole, the City Council may grant such reduction or waiver of permit fee.” §159.01 (A)

Council Member Turk has sponsored the appropriate resolution that would waive the development permit fees for New Beginnings to serve the public interest and be beneficial to the City. Attached are the emails leading to this agenda request and resolution.

**CHAPTER 159: FEES**

**Sections:**

- 159.01 Fees/Schedule
- 159.02 Water And Wastewater Impact Fees
- 159.03 Police And Public Safety Impact Fees
- 159.04 Fire Protection System Impact Fees
- 159.05—159.99 Reserved

**159.01 Fees/Schedule**

(A) *Fees.* Fees shall be imposed, as set forth below, to cover a portion of the cost of public notices and such other expenses as may be incurred in connection with processing of applications, plan reviews, amendments, permits, variances and other matters pertaining to the UDC.

An alderman may present a resolution to the City Council to waive or reduce development permit fees otherwise required by this chapter or elsewhere within the Unified Development Code, where it is permitted. If the reduction or waiver would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole, the City Council may grant such reduction or waiver of permit fee.

(B) *Fee schedule.*

- (1) *General.* Unless specific fees are otherwise adopted by the City Council, the following schedule of fees is established.
- (2) *Signs.*
  - (a) *Signs.* \$25.00 for each sign.
  - (b) *Windblown signs.* \$10.00.
  - (c) *Sign variance.* Filing fee: \$25.00
- (3) *Development.*

Concurrent Plat

Nonresidential	\$800.00
10 or less residential units	\$200.00
25 or less residential units	\$400.00
26 or more residential units	\$800.00

Preliminary Plat

Nonresidential	\$800.00
10 or less residential units	\$200.00
25 or less residential units	\$400.00
26 or more residential units	\$800.00

## Williams, Kit

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**From:** Kevin M. Fitzpatrick <kfitzpa@uark.edu>  
**Sent:** Monday, November 18, 2019 2:04 PM  
**To:** Williams, Kit; Turk, Teresa  
**Cc:** Batker, Jodi  
**Subject:** Re: Grading Permit Fees

Kit,

This is fantastic! Thank you for working with Teresa to get this taken care of...we appreciate everything that the City is doing and has done to smooth the path for us to complete this project before another winter passes by.

Please let me know if you all need anything. Also please let us know if you think we need to be at the next Council meeting when this resolution is read.

Thanks again

Kevin

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**From:** "Williams, Kit" <kwilliams@fayetteville-ar.gov>  
**Date:** Monday, November 18, 2019 at 12:13 PM  
**To:** "Turk, Teresa" <ward4\_pos1@fayetteville-ar.gov>, Kevin Fitzpatrick <kfitzpa@uark.edu>  
**Cc:** "Batker, Jodi" <jbatker@fayetteville-ar.gov>  
**Subject:** RE: Grading Permit Fees

Teresa,

Attached is my draft of the needed resolution. You may wish to present a letter or memo about why this would serve the public interest and be beneficial to the City as a whole which we could include in the packet. I suggest that this be a New Business item to give Kevin's project more publicity and possibly help in his fund raising efforts. Thus, it should not be on the Consent Agenda in my opinion.

Please let me know if you would like changes. I would like to get this to you tonight at the EAC meeting for your signature. Kit

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**From:** Turk, Teresa  
**Sent:** Friday, November 15, 2019 11:57 AM  
**To:** Kevin M. Fitzpatrick <kfitzpa@uark.edu>; Williams, Kit <kwilliams@fayetteville-ar.gov>  
**Subject:** Re: Grading Permit Fees

Hi Kit,  
Could you draft this resolution? I would be happy to sponsor such action.

Thank you,  
Teresa  
Sent from my iPhone

On Nov 15, 2019, at 11:46 AM, Kevin M. Fitzpatrick <kfitzpa@uark.edu> wrote:

## Williams, Kit

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**From:** Kevin M. Fitzpatrick <kfitzpa@uark.edu>  
**Sent:** Friday, November 15, 2019 12:49 PM  
**To:** Turk, Teresa; Williams, Kit  
**Subject:** Re: Grading Permit Fees

Thanks Teresa!

Kevin

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**From:** "Turk, Teresa" <ward4\_pos1@fayetteville-ar.gov>  
**Date:** Friday, November 15, 2019 at 11:57 AM  
**To:** Kevin Fitzpatrick <kfitzpa@uark.edu>, "Williams, Kit" <kwilliams@fayetteville-ar.gov>  
**Subject:** Re: Grading Permit Fees

Hi Kit,  
Could you draft this resolution? I would be happy to sponsor such action.

Thank you,  
Teresa  
Sent from my iPhone

On Nov 15, 2019, at 11:46 AM, Kevin M. Fitzpatrick <kfitzpa@uark.edu> wrote:

Kit,

Thanks! Can you go ahead and do that for us? Need anything from me?

Kevin

Sent from my iPhone

On Nov 15, 2019, at 11:39 AM, Williams, Kit <kwilliams@fayetteville-ar.gov> wrote:

Kevin,

Grading permit fees are technically not covered by subsection (10) which contains the waiver language. However, the *Unified Development Code* allows waiver of all development (including grading) fees to "serve the public interest" in Section 159.01 (A) if authorized by City Council resolution. I have attached this section for your review. I believe that the City Council will be happy to pass such a Resolution as I shall be happy to draft the Resolution if requested.

Kit

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**From:** Kevin M. Fitzpatrick <kfitzpa@uark.edu>  
**Sent:** Friday, November 15, 2019 11:08 AM

**To:** Williams, Kit <kwilliams@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>  
**Cc:** Neal Morrison <nmorrison@MorrisonShiple.com>  
**Subject:** FW: Grading Permit Fees

Kit,

I was wondering if you might be able to weigh in on this and hopefully get some clarification (see below).

Was it not in the spirit of changing the ordinance that non-profit organizations would not be hit with fees and assessments that would continue to chip away at their already limited bottom line?

So, should we expect that if this is the case, and there are other fees not listed in the ordinance, we would need to be responsible for paying these fees? It seems like maybe the ordinance should have just been rewritten to say, "all fees related to the construction of housing services, shelters, and affordable housing..."?

Appreciate your insight on this and while it is certainly reasonable that we could pay this...with these two fees that have not fallen under the ordinance (initial plan review fee and now this grading fee) have us already approaching 1000.00.

Thanks

Kevin Fitzpatrick

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**From:** Neal Morrison <nmorrison@MorrisonShiple.com>  
**Date:** Friday, November 15, 2019 at 10:52 AM  
**To:** Kevin Fitzpatrick <kfitzpa@uark.edu>  
**Cc:** Elizabeth Stinnett <estinnett@werarch-nwa.com>, John Langham <jlangham@werarch-nwa.com>  
**Subject:** FW: Grading Permit Fees

Kevin,

Folks at the City say that the grading permit fee is not covered by the ordinance. It is not specifically listed, but this does not seem to comport with the intent of the ordinance. For our application, the fee will be \$520. How do you want to handle this?

Thanks,

Neal

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**From:** Boccaccio, Joshua <jboccaccio@fayetteville-ar.gov>  
**Sent:** Friday, November 15, 2019 10:29 AM  
**To:** Neal Morrison <nmorrison@MorrisonShiple.com>  
**Cc:** Garner, Andrew <agarner@fayetteville-ar.gov>  
**Subject:** Grading Permit Fees

**This email is sent from an EXTERNAL sender. Please be cautious of opening any links or attachments.**