

Newsfeed: Fee Update

At a public hearing held at its February 21, 2019 meeting, the East Providence Waterfront Special Development District Commission (“Waterfront Commission”) voted to approve proposed amendments to previously approved application and processing fees. Amendments included the following:

- Establishes a fee for Hearing Panel and Waterfront Commission hearings for conditional use and deviations for a project without alterations, additions or construction.
- Establishes fees for extension of approval, plan modification, and signage review.
- Clarifies the applicant’s responsibility for reimbursement of Commission’s consultant fees and hearing costs.
- Amends Tax Increment Financing (TIF) application fees for requests up to \$15,000,000, \$15,000,000 to \$30,000,000, and above \$30,000,000.
- Establishes TIF amendment fees for requests up to \$15,000,000, \$15,000,000 to \$30,000,000, and above \$30,000,000.

In accordance with the Administrative Procedure Act, Waterfront Commission Application and Processing Fees were posted on the Secretary of State’s website on March 18, 2019 for proposed adoption. See below for the **Rhode Island Government Register Public Notice of Proposed Rulemaking** and the proposed adoption, **885-RICR-00-00-3**. All interested parties are invited to request additional information or submit written or oral comments concerning the proposed adoption until April 17, 2019 by contacting:

Pamela M. Sherrill, AICP
East Providence Waterfront Commission Executive Director
City Hall – 145 Taunton Ave
East Providence RI 02914
psherrill@cityofeastprov.com

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING
EAST PROVIDENCE WATERFRONT DISTRICT**

Title of Rule: East Providence Waterfront Commission Application and Processing Fees

Rule Identifier: 885-RICR-000-03

Rulemaking Action: Proposed Adoption

Important Dates:

Date of Public Notice: 03/18/2019

End of Public Comment: 04/17/2019

Authority for this Rulemaking:

Rhode Island State Law Chapter 345 2003 S 1187 Enacted 07/17/03.
2003 S1187, LC03568, State Of Rhode Island In General Assembly, January Session, A.D. 2003. An Act Relating To Special Development Districts East Providence

Summary of Rulemaking Action:

The Rule is proposed to compile all Waterfront Commission fees for applications for Tier I Minor Projects (up to \$100,000 in estimated construction cost) and Tier II Major Projects (above \$100,000 in estimated construction cost); fees for public entities; miscellaneous fees for extension of approvals, plan modification, and signage review; clarification of obligation to pay city fees; and tax increment financing fees, including TIF amendment fees.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed adoption until April 17, 2019 by contacting the appropriate party at the address listed below:

Pamela Sherrill, Executive Director
East Providence Waterfront District
Waterfront Commission
City Hall 145
Taunton Ave.
East Providence, RI 02914
psherrill@cityofeastprov.com

In accordance with R.I. Gen. Laws § 42352.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Regulatory Analysis Summary and Supporting Documentation:

The East Providence Waterfront Special Development District Commission has generally operated under the same fee structure put into place in 2003/2004 when the Commission was formed by an act of the state legislature. Codifying the fee structure with amendments adopted by the Commission over the past 15 years, with recent amendments adopted by the Commission will enable all fees to be posted in one document. This will provide transparency for the public, and provide a uniform fee document for use by developers and the Waterfront Commission.

The Waterfront District is authorized and empowered to fix, revise, charge, collect, and abate fees in accordance with Section 7 of enabling legislation. Public notice was published in the East Providence Post on February 7, 2019 and a hearing was held at the Waterfront Commission meeting on February 21, 2019 at which time the public was afforded an opportunity to comment (no comments were made). The Waterfront Commission voted to adopt the proposed amendments at the February 21, 2019 hearing (the Notice of Decision is filed in the East Providence Land Development and Decision Index, Book 9 Pages 202 to 209).

Operating expenses of the East Providence Waterfront Commission are solely funded by application fees and rent received on one property. Operating expenses include payroll for the part time executive director, legal counsel, insurance, auditing, accounting, and website maintenance, among others. Although office space and equipment are provided by the East Providence Planning Department, the Commission receives no funding at the current time from either the City of East Providence or the State of Rhode Island. Fee amendment is required to improve the sustainability of the Commission's general operations and to clarify expenses for project applicants to enhance a predictable land development process.

For full regulatory analysis or supporting documentation see agency contact person above.

885-RICR-00-00-3

TITLE 885 – EAST PROVIDENCE WATERFRONT DISTRICT

CHAPTER 00 – N/A

SUBCHAPTER 00 – N/A

PART 3 – East Providence Waterfront Commission Application and Processing Fees

3.1 Commission Fees - General

- A. With the exception of the initial pre-application workshop meeting, the applicant is responsible for all design workshop costs and all costs relating to design review and public hearings including, but not limited to advertising, certified mail, the stenographer, legal fees, design review, administrative costs and other direct costs including peer review.
- B. The applicant shall submit a certified bank check with the development application payable to the East Providence Waterfront Commission in the amount listed below.
- C. All filing and application fees are non-refundable.

3.2 TIER I Fees - Minor Projects

This fee schedule applies to determinations of consistency of use, hearing panel review, and alterations, additions and new construction with an estimated construction cost of \$100,000 or less. Project costs shall be determined by the Executive Director but shall exclude site acquisition, remediation, and site preparation costs.

3.2.1 Certification of Consistency of Use and Hearing Panel Review

- A. The fee for a certificate of consistency of use is \$100.00.
- B. The fee for Hearing Panel and Waterfront Commission hearings for conditional use and deviations for a project without alterations, additions or construction is \$200.00.

3.2.2 Alterations, Additions and Construction

- A. The project fee for project costs up to \$5,000 is \$50.00.
- B. The project fee for project costs from \$5,000 to \$9,999 is \$100.00.
- C. The project fee for project costs from \$10,000 to \$49,999 is \$250.00.

D. The project fee for project costs from \$50,000 to \$99,999 is \$500.00.

3.3 Tier II Fees - Major Projects

3.3.1 Application Fees

A. The fee schedule below applies to alterations, additions, and new construction with an estimated construction cost in excess of \$100,000. Project costs shall exclude site acquisition, remediation and site preparation costs. Applicants shall submit a construction cost estimate broken down on a per square foot basis by land use. The Commission will have the construction cost estimate upon which the fee is calculated, reviewed and verified.

1. Multi-phase projects will be considered one project, and the fee paid must reflect the total cost of the project.
2. Total fees are not capped.
3. Development fees for project costs less than \$5,000,000 are due in full at project application at the fee rate of 0.50%.
4. Development fees payable for projects with a cost of \$5,000,000 or greater are due in four phases as follows.
 - a. Twenty-five percent (25%) of the total fee is due at the time of application.
 - b. Ten percent (10%) of the total fee shall be paid prior to issuance of a Notice of Decision.
 - c. Fifty percent (50%) of the total fee must be paid in full at the time of application for the first building permit. For phased projects, applicant may petition the Waterfront Commission for approval to pay a prorated fee for payment in full prior to the application for the first building permit for each phase.
 - d. The final fifteen percent (15%) of the total fee is due in full at the time of application for the first certificate of occupancy. For phased projects, applicant may petition the Waterfront Commission for approval to pay a prorated fee in full prior to the application for the first certificate of occupancy for each phase.
5. Development fee rates for projects \$5,000,000 or greater are established for project cost ranges as defined below and are payable in phases as defined in § 3.3.1(A)(4) of this Part.
 - a. Fee rate for project costs \$5,000,000 to \$19,999,999 is 0.50%.

b. Fee rate for project costs \$20,000,000 to \$24,999,999 is 0.40%.

c. Fee rate for project costs \$25,000,000 to \$29,999,999 is 0.35%.

d. Fee rate for project costs \$30,000,000 to \$39,999,999 is 0.30%.

e. Fee rate for project costs \$40,000,000 to \$49,999,999 is 0.25%.

f. Fee rate for project costs \$100,000,000 and greater is 0.20%.

6. Examples of Project Fees are provided in the following table.

| <u>Project Cost</u> | <u>Fee Rate</u> | <u>Total Fee</u> | <u>Due at Application</u> | <u>Due prior to Notice of Decision</u> | <u>Due at Building Permit</u> | <u>Due at Cert. of Occupancy</u> |
|---------------------------------|-----------------|------------------|---------------------------|--|-------------------------------|----------------------------------|
| | | | <u>25%</u> | <u>10%</u> | <u>50%</u> | <u>15%</u> |
| <u>\$100,000 to \$4,999,000</u> | <u>0.50%</u> | <u>\$ 500 +</u> | <u>\$500 +</u> | | | |
| <u>\$ 5,000,000</u> | <u>0.50%</u> | <u>\$ 25,000</u> | <u>\$ 6,250</u> | <u>\$ 2,500</u> | <u>\$ 12,500</u> | <u>\$ 3,750</u> |
| <u>\$ 10,000,000</u> | <u>0.50%</u> | <u>\$ 50,000</u> | <u>\$ 12,500</u> | <u>\$ 5,000</u> | <u>\$ 25,000</u> | <u>\$ 7,500</u> |
| <u>\$ 15,000,000</u> | <u>0.50%</u> | <u>\$ 75,000</u> | <u>\$ 18,750</u> | <u>\$ 7,500</u> | <u>\$ 37,500</u> | <u>\$ 11,250</u> |
| <u>\$ 20,000,000</u> | <u>0.40%</u> | <u>\$ 80,000</u> | <u>\$ 20,000</u> | <u>\$ 8,000</u> | <u>\$ 40,000</u> | <u>\$ 12,000</u> |
| <u>\$ 25,000,000</u> | <u>0.35%</u> | <u>\$ 75,000</u> | <u>\$ 18,750</u> | <u>\$ 7,500</u> | <u>\$ 37,500</u> | <u>\$ 11,250</u> |
| <u>\$ 30,000,000</u> | <u>0.30%</u> | <u>\$90,000</u> | <u>\$ 26,250</u> | <u>\$ 10,500</u> | <u>\$ 52,500</u> | <u>\$ 15,750</u> |
| <u>\$ 40,000,000</u> | <u>0.20%</u> | <u>\$ 80,000</u> | <u>\$ 20,000</u> | <u>\$ 8,000</u> | <u>\$ 40,000</u> | <u>\$ 12,000</u> |
| <u>\$ 50,000,000</u> | <u>0.25%</u> | <u>\$125,000</u> | <u>\$ 31,250</u> | <u>\$ 12,500</u> | <u>\$ 62,500</u> | <u>\$ 18,750</u> |
| <u>\$ 75,000,000</u> | <u>0.25%</u> | <u>\$187,500</u> | <u>\$ 46,875</u> | <u>\$ 18,750</u> | <u>\$ 93,750</u> | <u>\$ 28,125</u> |
| <u>\$100,000,000</u> | <u>0.25%</u> | <u>\$250,000</u> | <u>\$ 62,500</u> | <u>\$ 25,000</u> | <u>\$125,000</u> | <u>\$ 37,500</u> |

| | | | | | | |
|----------------------------------|--------------|---|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| <u>\$100,000,000</u> <u>±</u> | <u>0.20%</u> | <u>.20% of</u> <u>Project</u> <u>Cost</u> | <u>25% of</u> <u>Total Fee</u> | <u>10% of</u> <u>Total Fee</u> | <u>50% of</u> <u>Total Fee</u> | <u>15% of</u> <u>Total Fee</u> |
|----------------------------------|--------------|---|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|

7. Additional Professional Review Fees

- a. The Waterfront Commission may require the applicant to pay additional review fees in advance so that the Commission may hire outside professionals to conduct review of impact analyses submitted by the applicant and to conduct independent reviews. The elements of an application for which the Commission may require additional review fees shall include, but not be limited to, the following; legal issues, drainage, traffic, noise environmental assessments, architecture, landscape architecture, and geotechnical sampling and testing. The amount of the additional review fee(s) shall be based upon written cost estimates prepared by qualified consultants based upon a written scope work prepared by the Executive Director in consultation with Design Review Committee and applicable City staff. The applicant shall be afforded opportunity to review and comment on the scope of work and the proposed fees. These review fees shall be deposited in a review escrow account established by the Commission or, at the discretion of the Executive Director, the applicant shall be billed for expenses incurred.
- b. If any such professional review is required by the Waterfront Commission, the Commission shall so indicate at the Pre-Application stage of review, based upon a recommendation of the Executive Director. The determination will be based upon the understanding of the Commission and staff, at that time, of the issues posed by an application. This shall not preclude the Commission from requiring such outside professional review at a later stage in the review process if additional information is received which leads the commission to believe that such additional professional review is required for an adequate consideration of the proposal.
- c. As part of the public record, the Waterfront Commission shall indicate its intent to spend any portion of the professional fee escrow account and shall specify the purpose for the proposed expenditure(s). Those moneys deposited by the applicant and not spent by the Waterfront Commission in the course of its review shall be returned to the applicant within thirty (30) days after the Waterfront Commission renders its final decision on the application.

3.4 Public Entities

The following fees shall apply for public entities only (and not to any public/private applicants):

3.4.1 Tier I Minor Applications

- A. Application fee for projects with an estimated cost of \$50,000 or less shall pay \$500.00.
- B. Projects with an estimated cost of \$50,000 to \$100,000 shall pay \$1,000.00.

3.4.2 Tier II Major Projects

- A. Projects with an estimated cost of between \$100,000 and \$5,000,000 shall pay \$1,500.00.
- B. Projects with an estimated cost of \$5,000,000 or more shall pay \$2,000.00.

3.5 Other Miscellaneous Fees

- A. Miscellaneous fees include the following.
 - 1. The fee to request an extension of approval is \$100.00 for Tier I (construction cost at or below \$100,000) and \$500.00 for Tier II (construction cost above \$100,000) projects.
 - 2. The Plan Modification fee is \$500.00 for Tier I application and \$1,000.00 per Tier II application. The Waterfront Commission reserves the right to reconsider fees due as defined in § 3.3.1 of this Part in accordance with the scope of plan modification. Applicant is responsible for all peer review and hearing fees.
 - 3. The fee for Signage Review is \$100.00 per application. Applicant shall be responsible for the cost of peer review by the commission's consulting architect.
 - 4. For implementation of any Conditions of Approval requiring inspection, applicant shall be responsible for the cost by the commission's consultants.

3.6 City Application Fees

- A. The applicant is obligated to pay any development permitting fees applicable to City Agencies such as building permit, sewer, and subdivision fees.
- B. No building permit or certificate of occupancy will be issued without payment of all applicable Waterfront Commission fees.

3.7 Tax Increment Financing Fees

- A. Applicant shall be invoiced for all public hearing fees paid by the Waterfront Commission including legal notice and stenographer costs. Applicant shall be responsible for certified mailing to property owners within the 200-foot public notice area.
- B. Applicant shall be responsible for reimbursement of all consultant fees including legal and TIF bond review fees incurred by the Waterfront Commission. Waterfront Commission fees are exclusive of any fees or reimbursable costs incurred for City review.

3.7.1 Application

The TIF application fee, payable to the East Providence Waterfront Commission, is \$4,000.00 for TIF requests up to \$15,000,000; \$5,000.00 for TIF requests \$15,000,000 to \$30,000,000; and \$7,500.00 for TIF requests above \$30,000,000.

3.7.2 TIF Amendment Fee

TIF modification or amendment application fee, payable to the East Providence Waterfront Commission, is \$3,000.00 for requests up to \$15,000,000, \$4,000.00 for requests \$15,000,000 to \$30,000,000 and \$5,000.00 for requests above \$30,000,000.