



Date of Council Meeting: June 8, 2015

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING  
INFORMATION MEMO**

**Subject:** Zoning Permits for Businesses and the Permit Fee

**Staff Contact:** Brandon White, Assistant Zoning Administrator

**Council Action Requested:** None

**Staff Recommendation:** None

**Commission Recommendation:** None

**Fiscal Impact:** Seventy-seven (77) permits were issued for occupancy or occupancy/tenant fit-up (i.e. establishment of a business with or without interior improvements) for new businesses during Fiscal Year 2014, which equates to \$3,850 of zoning permit revenue in the General Fund.

**Work Plan Impact:** None

**Executive Summary:** During the May 11, 2015 Town Council Work Session, Council requested an information memo explaining when a zoning permit is required of a new business, and whether it is advisable to waive the permit fee in particular circumstances. Specifically, the question was asked if a zoning permit is required when one business buys another, and nothing else changes (not even the name). In this specific example, a zoning permit is not required. However, where there is a “change in tenancy” or a new business replaces an old business at a location, a zoning permit for change of tenancy is required. This and other examples of when zoning permits are required are provided in the text of this memorandum below. Since 1959, with the establishment of zoning permits and zoning certificates, there has been a fee charged by the Town. Currently the Zoning Permit fee is \$50. The fee is charged to recover some administrative costs. Any money collected from zoning permit fees goes into the General Fund. If Council desired to waive this fee, it would require an ordinance to amend the Land Development Inspection and Review Fee Schedule.

**Background:** In order to verify that a new business is in conformance with the Zoning Ordinance at its location, the Town has historically required proof of compliance. A brief history of the practice is provided below.

- **1959-1989:** For 30 years, the Town issued two types of zoning approvals: the zoning permit and the zoning certificate. The zoning permit was required prior to any construction related activity, and the zoning certificate was required prior to occupancy of any new or existing structure or the change of use thereof. That meant that when a new business was occupying a space, a zoning certificate was issued to confirm compliance with zoning regulations.

- **2003:** The Town of Leesburg Zoning Ordinance (TLZO) was amended to combine the required zoning permit and zoning certificate documents into a single document—the Zoning Permit with one set of requirements. This was done to avoid the confusion that had existed regarding when the zoning certificate was required and to simplify the process.
- **2011:** The language in TLZO Section 3.7.1 When Permits Required was amended to clarify that zoning permits are required prior to any change in use in accordance with long-standing practice and to verify the following:
  - A proposed land use is permitted on a specific parcel of land;
  - The proposed use would operate in compliance with applicable conditions of approval, the *Zoning Ordinance*, and/or applicable proffers;
  - The proposed land use will not create any adverse impacts on adjacent land uses.
- **2014:** TLZO Section 3.7.1 When Permits Required was revised to clarify that the zoning permit requirement does apply to a change in nonresidential tenancy, and that it does *not* apply to a “change of business name or a change in the ownership/operator of a legally permitted business.”

**When is a Zoning Permit required?** TLZO Sec. 3.7 Zoning Permits sets out when a permit is required. Briefly, a zoning permit is required **prior to**:

- New construction (e.g. new home, deck, driveway, off-street parking, new office building, etc.);
- Establishment of a new use (e.g. new office, new retail shop, an art studio that wants to add an accessory coffee shop, etc.);
- Interior or exterior construction that requires a building permit from the Loudoun County Department of Building and Development (e.g. roof replacement, finished basement, wall removal, etc.);
- Change of use (e.g. conversion from residential use to office use, conversion from restaurant to retail such as Joe’s Bar and Grill converting into Anita’s Beauty Supply retail shop, etc.);
- Change of nonresidential tenancy *and use* (e.g. change from office to coffee shop, change from Dan’s Law Office to Joel’s Accounting Office, change from Nancy’s Discount Clothing Store to Stein Mart Clothing Store, etc.);
  - Note that replacing one use with a similar use still requires a zoning permit (e.g., Bill’s Restaurant is replaced by Calvin’s Sit-Down Eatery).

**When is a Zoning Permit not required?** A zoning permit is **not** required if and only if:

- The name of a business changes and all operations remain exactly the same under the same operator (e.g. *Mike’s Office Supplies* changes to *Leesburg Office Emporium*, Mike Smith is still the owner/operator, and nothing about the business has changed);
- If the owner/operator of a business changes and all operations remain exactly the same (e.g. John Brown sells his diner, *Coffee City*, to Jane Green and she owns and operates it).

**Jurisdictional Comparison:** Other communities in the Northern Virginia region have existing practices similar to the Town of Leesburg. A review of other local governments in the area revealed that the zoning permit process for change of tenancy in Leesburg is largely similar to the practice in Loudoun County, Fairfax County, and the City of Falls Church.

**Zoning Permit Fee and Possible Waiver:** The zoning permit fee for the establishment of a business in an existing structure or unit is \$50. In general, fees for public services are designed to cover at least a portion of the cost of the services being provided to the applicant. Not capturing that cost or a portion thereof, passes that cost to the public. As noted in the Fiscal Impact section, zoning permit revenue for change of use and/or change of nonresidential tenancy totaled \$3,850. Should Town Council wish to exempt the zoning permit fee for change of use and/or change of nonresidential tenancy, the Land Development Review and Inspection Fee Schedule must be amended by ordinance, subject to public hearing notice and meeting requirements.

**Improving Business Outreach and Coordination:** While the zoning permit, utility permit and business license processes are designed to be straightforward and user friendly, actual practice shows there is room for improvement. Therefore, a business coordination team with representatives from the Finance Department, Planning and Zoning Department, Economic Development Department, and the Utilities Department has been assembled and will meet regularly to review Town procedures and ensure that they are effective and efficient as possible with the resources available, and to make information more accessible and accommodating to the community.