

**RESOLUTION NO. 3101-14**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
ESTABLISHING THE AMOUNT OF A USER FEE  
FOR MISCELLANEOUS DISCRETIONARY SERVICES, AND REPEALING  
PREVIOUSLY ADOPTED USER FEES FOR SUCH SERVICES**

**WHEREAS**, the Town of Windsor provides miscellaneous public services of a discretionary nature, as these services can be withheld from customers for non-payment, in addition to community-supported public services which are paid for by Town tax revenues for general social, safety or welfare reasons; and

**WHEREAS**, the Town of Windsor engaged NBS Local Government Solutions to conduct a cost of service study for its miscellaneous discretionary services in order to determine the estimated and reasonable costs borne by the Town to provide these services; and

**WHEREAS**, NBS Local Government Solutions prepared a report dated July 2008, entitled "Cost of Service Study for Analyzing User Fees and Regulatory Fees" ("Report"), which provides a generally accepted cost of service analysis and a Master Fee Schedule that were approved by Town Council on August 20, 2008 by Resolution No. 2347-08; and

**WHEREAS**, the Town wishes to comply with both the letter and the spirit of Article XIII B of the California Constitution; and

**WHEREAS**, in adopting the user fee for Town services as set forth in this Resolution, the Town Council of the Town of Windsor is exercising its powers under Article XI Section 7 of the California Constitution, Section 66000 *et seq.* of the California Government Code, and other applicable law; and

**WHEREAS**, the Town has a general policy of recovering the full costs reasonably borne of providing miscellaneous discretionary services of a voluntary and limited nature, such that general tax revenues are not diverted from services of a broad nature and thereby utilized to subsidize such miscellaneous discretionary services; and

**WHEREAS**, the user fee set forth in the schedule of fees adopted by this Resolution is consistent with the requirements of Article XIII D of the California Constitution pursuant to *Apartment Association of Los Angeles County v. City of Los Angeles* (2001) 24 Cal. 4th 830, in that such fee is not applicable to incidents of property ownership, but rather actual use of Town services; and

**WHEREAS**, in accordance with Government Code Section 50076, user fees and regulatory fees that do not exceed the reasonable cost of providing the service or of performing the regulatory activity for which the fees are charged, as applicable, and which are not levied for general revenue purposes, are not special taxes as defined in Article 3.5 of the Government Code; and

**WHEREAS**, a schedule of user fees and regulatory fees to be paid by those requesting such miscellaneous discretionary services was adopted so that the Town might carry into effect its policies; and

**WHEREAS**, it is the intention of the Town Council to update the master schedule of miscellaneous user fees and regulatory fees based on the Town's budgeted and projected costs of the services described in Exhibit "A" attached hereto and incorporated herein by this reference; and

**WHEREAS**, the user fee for miscellaneous discretionary services, which is described in Exhibit "A", is hereby determined to be reasonable in that the amount thereof does not exceed the estimated reasonable costs of providing the miscellaneous discretionary services for which the user fee is proposed to be rendered; and

**WHEREAS**, adoption of the user fee set forth in Exhibit "A" is intended to recover costs necessary to maintain such services within the Town within existing service areas and is not a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations ("CEQA Guidelines") section 15378(b)(4) (the creation of government funding mechanisms or other government fiscal activities which do not involve any specific commitment to any specific project which may result in a potentially significant impact on the environment); and/or CEQA Guidelines section 15273 (statutory exemption for rates, tolls, fares and charges within an existing service area); and/or CEQA Guidelines section 15061(b)(3) ("common sense" general exception where there is no possibility the activity in question may have a significant effect on the environment).

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES RESOLVE AS FOLLOWS:**

Section 1. Adoption of Amendment to Master Fee Schedule and Repeal of Prior Inconsistent Fees. The user fee set forth in Exhibit "A" is hereby established and directed to be imposed and to be collected by the Town Administrative Services Department for the herein listed miscellaneous discretionary services when provided by the Town or its designated contractors.

Section 2. Separate Fee for Each Service. The fee set forth in this Resolution shall be separately imposed for each service described under Exhibit "A" to which the fee pertains; additional fees shall be required for each additional service that is requested or required. Where fees are indicated on a per unit of measurement basis, the fee is for each identified unit or portion thereof within the indicated ranges of such units.

Section 3. Incorporation and Adoption of Findings and Service Cost Analysis. The recitals set forth above are true and correct and adopted as the findings of the Town Council and after consideration of the staff report, and any public comment and correspondence received, the Town Council hereby approves and adopts the miscellaneous discretionary user fee set forth in Exhibit "A".

Section 4. Application. This Resolution may be applied by the several Town department directors in consultation with the Town Manager and, should there be a conflict between two fees which ostensibly cover the same service, then the lower in dollar amount of the two shall be applied.

Section 5. Review. It is the intention of the Town Council to review the user fee as determined and set out herein on a periodic basis as well as the Town's costs reasonably borne as established and, as and if warranted, to revise such fee based thereon.

Section 6. Annual Adjustment. The adopted fee for miscellaneous discretionary services set forth in Exhibit "A" shall be adjusted for inflation by the Town Manager on July 1 of every year by applying the then current Consumer Price Index - All Urban Consumers for the San Francisco-Oakland-San Jose area, as calculated by the U.S. Department of Labor, for the month of April. The Town Manager may round the adjusted fee down to the nearest whole dollars. .

Section 7. Repealer. The adopted user fee shall supersede the corresponding fee previously established and adopted by the Town Council. All previously adopted and conflicting user fees are hereby repealed.

Section 8. Use of Fee Revenue. The revenues raised by payment of the user fee established by this Resolution shall be used to fund the estimated reasonable cost of providing the miscellaneous discretionary services for which the fee is charged, and the revenues from such fee shall not be used for general revenue purposes.

Section 9. Severability. The fee set forth in Exhibit "A" to this Resolution and all portions of this Resolution are severable. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution.

The Town Council hereby declares that it would have passed this Resolution and the user fee set forth in Exhibit "A" to this Resolution, and each section, subsection, phrase or clause thereof irrespective of the fact that the fee or any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

Section 10. Effective Date. This Resolution and the user fee adopted thereby shall become effective immediately upon adoption of the Resolution.

PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of July 2014, by the following vote:

**AYES:** COUNCILMEMBER FUDGE, GOBLE, SALMON AND  
MAYOR OKREPKIE

**NOES:** NONE


**ABSTAIN:** NONE

**ABSENT:** VICE MAYOR ALLEN



**BRUCE OKREPKIE, MAYOR**

**ATTEST:**



**MARIA DE LA O, TOWN CLERK**

Attachment: Exhibit "A"

**EXHIBIT "A"**  
**TOWN OF WINDSOR**  
**Amendment to Master Fee Schedule, 2014-15**

July 16, 2014

<u>Service/Activity Category &amp; Description</u>	<u>Fee</u>
<u>Parks and Facilities</u>	
Miscellaneous and Other Fees:	
Banner Permit - Digital	\$59.00 per application