

RESOLUTION NO. 3687-21

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
ADOPTING AMENDMENTS TO THE MASTER FEE SCHEDULE AND UPDATING
THE INCLUSIONARY HOUSING IN-LIEU FEE AND
DEVELOPMENT IMPACT FEES**

WHEREAS, the Town of Windsor provides miscellaneous public services of a discretionary nature, 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 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 desires to comply with Article XIII B of the California Constitution; and

WHEREAS, in adopting the fees 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, so that general tax revenues are not diverted from services of a broad nature and thereby utilized to subsidize the miscellaneous discretionary services; and

WHEREAS, the user fees set forth in the Master 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 fees are not applicable to incidents of property ownership, but rather actual uses 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 Government Code; and

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

WHEREAS, Section 27.23.130 of the Town’s Inclusionary Housing Ordinance establishes an Inclusionary Housing In-Lieu fee which may be paid by developers in-lieu of providing affordable housing units under the Town’s inclusionary housing ordinance; and

WHEREAS, the Town has established Development Impact fees to finance public facilities to mitigate the impacts caused by new or future development in the Town, both residential and non-residential; and

WHEREAS, it is the intention of the Town Council to update the miscellaneous user fees and regulatory fees for discretionary services, as set forth in the Master Fee Schedule 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 and regulatory 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 fees and regulatory fees are proposed to be rendered; and

WHEREAS, it is the intention of the Town Council to update the Inclusionary Housing In Lieu fees to ensure adequate funding for affordable housing; and

WHEREAS, it is the intention of the Town Council to update the Developer Impact fees based on the Town’s budgeted and projected costs of services attached hereto and incorporated by this reference; and

WHEREAS, the Inclusionary Housing In Lieu fees and Developer Impact fees are hereby determined to be reasonable in that the amount thereof does not exceed the estimated reasonable costs for which the Inclusionary Housing In Lieu fees and Developer Impact fees are proposed to be rendered; and

WHEREAS, adoption of the fees set forth in Exhibit “A” 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 (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 fees set forth in Exhibit “A” are 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 fees set forth in this Resolution shall be separately imposed for each service 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 fees and regulatory fees, as set forth in Exhibit "A", the Inclusionary Housing In Lieu fees and Developer Impact fees.

Section 4. Application. The Master Fees Schedule, the In-Lieu Fee Schedule and the Impact Fee Schedule 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, 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 fees as determined and set forth 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.

A. The adopted user fees and regulatory fees for miscellaneous discretionary services set forth in Exhibit "A" shall be adjusted for inflation by the Town Council on July 1 of every year by applying 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 may round the adjusted fee down to the nearest whole dollar amount.

B. The adopted Inclusionary Housing In Lieu fees set forth shall be adjusted for inflation by the Town Council on July 1 of every year by applying an inflation factor equal to the percent increase in the median home sales price in the Town over the previous three (3) years. In years when the percent change in rolling three-year average of median home sales price is negative, the in-lieu fee shall remain unchanged.

C. The Development Impact fees set forth shall reference the annual adjustment by applicable Resolutions 1864-17, 1865-17, 3339-17, 3340-17, 3341-17, 3342-17, 3343-17, 3344-17, 3345-17, 3558-19 and 3590-20 to the corresponding Development Impact fee.

Section 7. Repeal. The fees adopted under this Resolution shall supersede the corresponding fees previously established and adopted by the Town Council. All previously adopted and conflicting user fees are hereby repealed, and the Town Manager is authorized to take all actions necessary to carry out the intent of this Resolution.

Section 8. Use of Fee Revenue.

A. The revenues received by payment of the user fee and regulatory fee established by this Resolution shall be used to fund the reasonable cost of providing the miscellaneous discretionary services for which the fee is charged, and such fee shall not be used for general revenue purposes.

B. The revenues received by payment of the Inclusionary Housing In Lieu fees established by this Resolution shall be placed in a reserve account used for the exclusive purpose of providing housing affordable to very low, low and moderate-income households in the Town of Windsor.

C. The revenues received by payment of the Developer Impact fees established by this Resolution shall reference the use of fee by applicable Resolutions 1864-17, 1865-17, 3339-17, 3340-17, 3341-17, 3342-17, 3343-17, 3344-17, 3345-17, 3558-19 and 3590-20 to the corresponding Development Impact fee.

Section 9. Severability. The user fees and regulatory fees 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 or the user fees and regulatory fees in Exhibit "A". The Town Council hereby declares that it would have passed this Resolution and the user fees and regulatory fees set for 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 this Resolution.

PASSED, APPROVED AND ADOPTED this 21st day of July 2021, by the following vote:

**AYES: COUNCILMEMBERS FUDGE, LEMUS,
VICE MAYOR REYNOZA AND MAYOR SALMON**
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE


SAM SALMON, AT-LARGE MAYOR

ATTEST:


MARIA DE LA O, TOWN CLERK

Attachment:

- **Exhibit A - Proposed Summary of Changes to the Master Fee Schedule Changes FY2021-22**

EXHIBIT A

TOWN OF WINDSOR
Summary of Proposed Changes to the Master Fee Schedule for FY 21/22

Service/Activity Category - Existing Fee and/or Description	Existing Fee	Proposed Fee and/or Description	Proposed Fee
IV. Engineering			
Improvement Plan Check and Inspection			
Additional Plan Check (above 4 checks included in the original fee)	1.4% of engineer's estimate	Additional Plan Check (over 4 reviews)	1.4% of engineer's estimate
Revision to Improvement Plan During Construction	\$276.00 per revision plus consulting services	Revision to Improvement Plan During Construction	\$286.00 per revision plus consultant services
Special Projects and Inspections (cost recovery)		Special Projects and Inspections (cost recovery)	Actual Consultant costs
Traffic Impact Study			
Consultant Report:		Consultant Report	Actual consultant rate per hour
Level 1, Less than 50 peak hour trips/2 study intersections	\$7,623.00 per study	Level 1, Less than 50 peak hour trips/2 study intersections	\$7,623.00 per study
Level 2, 51-100 peak hour trips/4 study intersections	\$9,899.00 per study	Level 2, 51-100 peak hour trips/4 study intersections	\$9,899.00 per study
Level 3, 101-250 peak hour trips/6 study intersections	\$12,039.00 per study	Level 3, 101-250 peak hour trips/6 study intersections	\$12,039.00 per study
Special Studies			
Consultant Report	\$276.00 per application plus consulting services	Consultant Report	\$286.00 per revision plus consultant services
Consultant Peer Review	\$276.00 per application plus consulting services	Consultant Peer Review	\$286.00 per revision plus consultant services
Storm Water Low Impact Development (SWLID)	\$276.00 per application plus consulting services	Storm Water Low Impact Development (SWLID)	\$286.00 per revision plus consultant services
Declaration of Covenants for Storm Water Facilities (SWDOC)	\$276.00 per application plus consulting services	Declaration of Covenants for Storm Water Facilities (SWDOC)	\$286.00 per revision plus consultant services
Water Efficient Landscape Ordinance (WELO)	\$276.00 per application plus consulting services	Water Efficient Landscape Ordinance (WELO)	\$286.00 per revision plus consultant services
V. Building			
Building Plan Check Fee			
ADD	Existing Fee	Building Plan Check Fee	Proposed Fee
			0.65 * Building Permit Table
VI. Public Works			
Water/Waste			
Water/Waste Violation	Existing Fee	Water/Waste Violation	Proposed Fee
First Written Warning	\$0.00 per notice	First Violation	\$0.00 per violation
Second Written Warning	\$0.00 per notice	Second Violation	\$0.00 per violation
Subsequent Warnings	\$139.00 per notice plus citation	Third Violation	\$100.00 per violation
		Fourth Violation	\$200.00 per violation
		Fifth Violation	\$500.00 per violation
		Subsequent Violations	Disconnection of water service and/or penalties
VII. Parks and Facilities			
Adult Activities			
Resident	Existing Fee	Adult Activities	Proposed Fee
Non-Resident	\$42.00 per hour per field	Resident	\$42.00 per hour per field/court
	\$46.00 per hour per field	Non-Resident	\$46.00 per hour per field/court