

RESOLUTION NO. 2611-10

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
ESTABLISHING THE AMOUNT OF USER FEES AND REGULATORY FEES
FOR MISCELLANEOUS DISCRETIONARY SERVICES AND REPEALING
PREVIOUSLY ADOPTED AND CONFLICTING USER FEES AND
REGULATORY 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 fees and regulatory 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, 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 fees and regulatory fees set forth in the schedule of fees adopted by this Resolution are 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 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 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, pursuant to Government Code Sections 66016, 66017 and 66018, the specific fees to be charged for such miscellaneous discretionary services must be adopted by the Town Council by ordinance or resolution, after providing notice and holding a public hearing; and

WHEREAS, in accordance with the Government Code Section 66016, the cost of service analysis that supports user fees and regulatory fees which will be increased pursuant to this Resolution was available for public review and comment for ten days prior to the public hearing at which this Resolution was adopted; and

WHEREAS, in accordance with Government Code Section 66016, at least 14 days prior to the public hearing at which the Town Council first considered adoption of the fees established by this Resolution, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the Town for mailed notice of meetings on new or increased fees; and

WHEREAS, 10 days advance notice of a public hearing at which this Resolution was adopted has been provided per California Government Code Sections 6062a and 66016, oral and written presentations made and received, and the required public hearing held; and

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

WHEREAS, it is the intention of the Town Council to update a master schedule of miscellaneous user fees and regulatory fees based on the Town's budgeted and projected costs of the services; and

WHEREAS, the nature of the user fees and regulatory fees for miscellaneous discretionary services, which are described by Exhibit "A" attached, are hereby determined to be reasonable in that the amounts thereof do 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, adoption of the user fees and regulatory fees set forth in Exhibit "A" of this Resolution 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); and

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 and regulatory fees set forth in Exhibit "A" of this Resolution, attached hereto and incorporated herein by reference, 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. Each 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, the testimony received at the noticed public hearing, and all correspondence received, the Town Council hereby approves and adopts the miscellaneous discretionary user fees and regulatory fees.

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 fees and regulatory fees 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 fees based thereon.

Section 6. Annual Adjustment. Adopted fees 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 fees down to the nearest whole dollars.

Section 7. Repealer. These user fees and regulatory fees shall supersede the corresponding fees previously established and adopted by the Town Council. All previously adopted and conflicting user fees and regulatory fees and all Resolutions and other action of the Town Council are hereby repealed.

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

Section 9. Severability. The individual fees set forth in Exhibit "A" of 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. Should any of the user fees or regulatory fees be adjudged to be invalid and unenforceable by a body of competent jurisdiction, the remaining fees shall be and continue in full force and effect, except those fees that have been adjudged invalid.

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

Section 10. Effective Date. This Resolution becomes effective immediately. The user fees and regulatory fees shall become effective immediately; provided that in accordance with Government Code Section 66017, the user fees and regulatory fees upon a development project, as defined in Government Code Section 66000, which applies to the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use shall be effective no sooner than 60 days following the effective date of this Resolution.


PASSED, APPROVED AND ADOPTED this 20th day of January 2010, by the following vote:

**AYES: COUNCILMEMBERS ALLEN, FUDGE, GOBLE, SCHOLAR AND
MAYOR SALMON**

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



SAM SALMON, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK

Attachment: Exhibit "A"

EXHIBIT "A"

January 20, 2010

TOWN OF WINDSOR

Amendment to Master Fee Schedule, 2009-10

<u>Service/Activity Category & Description</u>	<u>Fee</u>	
<u>Administration</u>		
Returned Check Fee		
First Incident	\$25.00	per returned check
Subsequent Incidents	\$35.00	per returned check
 <u>Police</u>		
Copy of Police Report	\$17.10	per report
Copy of CAD Dispatch Incident Report	\$17.10	per report
 <u>Engineering</u>		
Improvement Plan Check and Inspection		
Revision to Improvement Plan During Construction	\$207.00	per revision plus cost of consulting services
 Encroachment Permit		
Review, Minor	\$50.00	per application
Daily Transportation Permit	\$16.00	per application per year
 Special Studies		
Consultant Report	\$207.00	per application plus cost of consulting services
Consultant Peer Review	\$207.00	per application plus cost of consulting services
 Cost Recovery for Professional Consulting Services		
For any activity requiring professional consulting services, the applicant shall reimburse the Town for actual costs incurred to employ professional consulting services. The Public Works Director shall determine the appropriate deposit to be submitted by the applicant for recovery of professional consulting costs.		
 <u>Public Works</u>		
Water Efficient Landscape Ordinance Fees		
Hydrant Pressure Testing Fee	\$86.00	per test
Landscape Inspection Fee	\$195.00	per inspection
Landscape Re-inspection Fee	\$65.00	per re-inspection

Community Services

Park
Use

Individual and Group Events

25-50

Non-profit Resident Use Permit	\$89.00	per event
Business / Private Resident Use Permit	\$99.00	per event
Business / Private / Non-profit Non-resident Use Permit	\$109.00	per event

51-150

Non-profit Resident Use Permit	\$132.00	per event
Business / Private Resident Use Permit	\$147.00	per event
Business / Private / Non-profit Non-resident Use Permit	\$161.00	per event