



## Folsom City Council Staff Report

<b>MEETING DATE:</b>	4/22/2025
<b>AGENDA SECTION:</b>	Public Hearing
<b>SUBJECT:</b>	Resolution No. 11356 – A Resolution to Amend Resolution No. 11186 and 11235 and Adopt an Amended User Fee Schedule for Community Development Planning and Engineering Services
<b>FROM:</b>	Community Development Department

### **RECOMMENDATION / CITY COUNCIL ACTION**

Staff recommend that the City Council conduct the public hearing and adopt Resolution No. 11356 to amend Resolution No. 11186 and 11235 and adopt an amended user fee schedule for Community Development Planning and Engineering services.

### **BACKGROUND / ISSUE**

User and processing fees for the Community Development Department's services, including Building, Engineering and Planning, have not been comprehensively evaluated since at least 2006. Using a grant received from the State, the Department hired ClearSource Financial Consulting to analyze existing user fees, hourly rates, and staff time needed to perform fee-based tasks for Building, Engineering, and Planning services as well as for Special Event Permits. The study found that existing fees did not adequately cover the amount of staff time and resources associated with those processes and services. The study proposed a new fee schedule, with some modifications to the structure itself, to better capture the costs associated with fee-based services. New fees for Building and Engineering services were adopted by City Council Resolution on May 28, 2024 and went into effect on August 1, 2024. At that time, City Council recommended staff delay updating Planning and Special Event Permit fees until a later date for the reasons described below.

Councilmembers noted that proposed Special Event Permit fees were potentially too high and that more research was needed to determine what types of events and organizations, such as non-profits, should be charged for events with community or economic development benefit. Additionally, the special event process facilitated by Community Development Department may be better managed through other departments with clear thresholds and requirements. Staff have not yet had the capacity to do research on how to more fairly charge for special events or potentially improve the process, and so the current Special Event Permit fee is not proposed to be changed at

this time. Staff expect to bring forward recommendations on the Special Event Permit process and fees in the second half of this year depending on Council priorities.

For the proposed changes to the processing fees for Planning services, which include appeal fees, some Councilmembers stated that better explanations were needed for the various Planning processes and how often they are utilized to determine if all listed fees are still necessary. Some Council members also stated that the proposed appeal fees were too high even though they captured staff's level of effort involved in recent appeals. Based on these concerns, staff determined that it would be most effective to discuss Planning fees in tandem with the upcoming Zoning Code update. This update may come with modifications to, or even the elimination of, existing Planning processes that could in turn have effects on staff time and Planning fees. Staff believe that discussing proposed changes to processes in the Zoning Code update should go hand in hand with discussions of the fees associated with those processes to improve efficiency. However, the Zoning Code update has not progressed on its original schedule due to other pressing projects taking precedence. As such, in order to avoid further delays, and so that Planning can start collecting fees that better reflect the time required to process applications, staff are now proposing to update the Planning fees using current fee types, with the intent of coming back to the City Council to recommend adjusting fee types at a later date once processes are modified under the Zoning Code update.

Finally, after implementation of the Building and Engineering services updated fee schedule from May 28, 2024, Engineering and City Arborist staff found that a small number of their newly modified fees were not working as intended in terms of reflecting either the amount of staff time or the proposed cost recovery. As such, staff have also proposed a few minor updates to the Engineering fee schedule to adjust those fees accordingly.

### **POLICY / RULE**

The objectives of the fee study, the methodology used to complete the study, and the formulation of outcomes and recommended fee updates were significantly influenced by Article XIII C of the California Constitution, Propositions 218 (1996) and 26 (2010), and Section 66014 of the California Government Code.

Article XIII C states that, *“the local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payer’s burdens on, or benefits received from, the governmental activity.”* Additionally, Article XIII C identifies the following development processing fees as items that are not defined as taxes:

- A charge imposed for a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege [Art. XIII, C, 1(e)(1)].

- A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product [Art. XIII, C, 1(e)(2)].
- A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof [Art. XIII, C, 1(e)(3)].

Section 66014(a) of the California Government Code includes the following, “*Notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; ...the processing of maps under the provisions of the Subdivision Map Act...; or planning services...; those fees may not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue*”.

The outcomes and recommendations of the fee study were intended to comply with applicable federal, state, and local laws including providing confirmation that the proposed fees (“charges”) recommended as a result of the fee study are not taxes as defined in Article XIII C of the California Constitution and that the proposed fees are no more than necessary to cover the reasonable costs of the City’s activities and services addressed in the fees. Additionally, the Planning fee study and modified Engineering Fee Schedule (refer to Attachments 2 and 4 respectively) show that the manner in which the costs are allocated to a payor bear a fair and reasonable relationship to the payor’s burdens on, or benefits received from the activities and services provided by the City.

## **ANALYSIS**

### **PLANNING CHANGES**

The Planning Division made several proposed modifications to the fee schedule to reflect costs associated with the permit and project reviews including:

- Flat Fees: Implementing flat fees for most Planning services rather than the existing deposit-based fees to better reflect the necessary level of staff effort to support review of the proposed projects and permits.
- Higher Fees for Complex Entitlements: Substantially increasing fees for larger Commission-level Planning entitlements (including Annexations, Development Agreement processing, Code Amendments, General Plan Amendments, Rezones, Specific Plans, Condominium Conversions, Multi-Family/Commercial Variances, and Landmark Tree Declassifications) to cover full costs.

- Lower Fees: Lowering fees that did not fall in line with estimated staff time spent (including Planned Development Modifications and Tentative Map Amendments), while still recovering full costs.
- Design Review Fee Changes: Increasing the cost for Design Review of new primary structures to recover full costs and increasing the cost of Design Review of existing primary structures and new accessory structures to recover partial costs.
- Appeal Fees: Increasing the fees for appeals to cover a more significant portion of staff time that goes into preparing appeals for Planning Commission and City Council and ensuring that the appeal fees are similar to those fees of comparable jurisdictions in the region.
- New Fee: Adding a new fee for staff-level Minor Administrative Modifications.

### **Flat Fees vs. Deposit-Based Fees**

Staff considered using mostly deposit-based fees that would reflect the actual staff time spent on each project or permit for Planning and Engineering fees. There are several jurisdictions in the area that utilize deposit-based fees, including Rancho Cordova, Elk Grove and Roseville. The City of Folsom's existing fee schedule currently lists the majority of fees for Planning services as deposit-based fees. However, CDD is not currently set up with the staffing, accounting bookkeeping, and monitoring resources to track both departmental hours and hours from other departments and process the refunds and invoices for the volume of project entitlements and permits that are seen annually. As such, it has not been feasible for staff to collect funds beyond the amount collected for the initial deposit. In accordance with these limitations, the majority of fees proposed are flat fees. These flat fees were developed based on the estimated time it takes to process an "average" project or permit of that type. Furthermore, the additional fee sub-types and fee schedule restructuring described above help provide a more realistic set of fees that better capture staff time spent processing and reviewing permits and projects.

While deposit-based fees were not deemed feasible for most permits and projects, staff did identify certain more complex projects to be administered using a "time and materials" billing approach. For these fees, staff would collect an initial deposit and bill against that deposit for the costs of outside consultant review and support, and in-house labor efforts, and either request replenishment of funds or refund the unused deposit amount as appropriate. Examples of deposit-based fees include annexations, development agreements, and specific plan processing, as well as environmental (CEQA) review. Staff has also included "time and materials" fees for costs associated with outside agency review/services, and outside expertise related to appeals that require additional resources beyond those covered in the scope of the fee schedule. These are considered pass-through fees with administrative oversight. If it's the Council's desire to pursue implementing a deposit-based fee structure, additional staffing would be needed to support that effort.

## Appeal Fees

For staff-level and Commission-level decisions, staff performed a regional analysis to see how other similarly sized jurisdictions were charging for Planning appeals. Staff found that the City of Elk Grove has a \$2,500 flat fee for third-party appeals and a \$3,000 deposit fee for applicant appeals with time-and-materials costs billed to the applicant. The Cities of Rocklin and Rancho Cordova both utilize flat appeal fees in the \$4,300 to \$5,300 range, and do not differentiate between applicants and third parties. The City of Roseville utilizes relatively low appeal fees, but those fees are meant to cover administrative costs only, and the project applicant is responsible for paying any subsequent time and material costs incurred by staff. Actual appeal fees for Roseville typically range from \$2,080 to \$5,530.

In addition to the fee adjustment for Planning appeals, staff also recommend consolidating the fee categories for the type of appellants. Currently, there are two categories of appellants: Owner-occupied and Developer/Other. These categories have occasionally led to confusion. As a result, staff recommend eliminating the two different categories for appellants and instead using one appeal fee based on the type of appeal (i.e., staff-level decision appeal or Commission-level appeal) as Roseville, Rocklin and Rancho Cordova have done.

**TABLE 1- REGIONAL FEE COMPARISON**

<b>Jurisdiction</b>	<b>Appeal of Staff-Level Decision</b>	<b>Appeal of Commission-Level Decision</b>
<b>City of Folsom (current)</b>	\$258 (admin)/\$515 (other) (flat)	\$257 (admin)/\$522 (other) (flat)
<b>City of Folsom (proposed)</b>	\$2,500 (flat)	\$4,200 (flat)
<b>City of Elk Grove</b>	\$2,500 (flat) for third parties/ \$3,000 (deposit) for applicants	\$2,500 (flat) for third parties/ \$5,000 (deposit) for applicants
<b>City of Roseville</b>	\$1,747 (deposit- applicant pays for additional T&M costs)	\$1,636 (deposit- applicant pays for additional T&M costs)
<b>City of Rocklin</b>	\$5,392 (flat)	\$4,682 (flat)
<b>City of Rancho Cordova</b>	\$4,383 (flat)	\$4,373 (flat)

## Minor Administrative Modification Fee

Along with the changes to the Appeal fees, Planning staff added a new fee for Minor Administrative Modifications (MAMs). As described in Section 13 of the Folsom Plan Area Specific Plan, MAMs are minor adjustments to the land use locations and parcel boundaries that are subject to a staff-level analysis. However, no specific fee had been established for these projects. Historically, staff charged applicants the site design review fee, but this new fee will make it clear to applicants and the public what the review cost is.

## Balancing Full Cost Recovery with Other City Objectives

Consistent with Section 3.50.040 of the Folsom Municipal Code (FMC), most of the Planning fee levels are now set at or near full cost recovery. However, there are a few exceptions as described below with the percentage of cost recovery listed in parentheses:

1. Appeal of a Staff Decision (58% cost recovery) and Appeal of a Commission Decision (69% cost recovery): Based on the feedback from Council and the public, staff reduced the amount of the fee. As shown in Table 1, the proposed City appeal fees are well within the range of appeal fees for other jurisdictions.
2. Design Review (62% to 85% cost recovery): Design review is important because the built environment as well as the natural environment make Folsom what it is. However, the challenge with design reviews, particularly those that require Commission review and approval, is that they do involve ample staff time, but keeping the fee at full cost recovery would result in fee levels that could discourage homeowners and small businesses from obtaining design review approval. It would also result in fees that are substantially higher than those of surrounding jurisdictions. As discussed below, this points to a need to change the City's design review process to bring staff time in line with design review fees. This is one of the objectives of the Zoning Code update that is underway.
3. Historic District Design Review Fees: Most projects in the Historic District require Commission-level design review which means that staff have to do research, prepare a staff report and presentation for each design review or demolition project. As a result, the amount of staff time is significant. Charging full cost recovery would deter most homeowners and small businesses from seeking design review. Instead, applicants may either avoid making improvements or may simply try to submit for building permits without getting design review approval first or avoid going through the City for approval altogether. When that happens, it actually takes staff and the applicant more time and effort. Instead, staff have set the Planning fees to be the same citywide regardless of whether the project is in the Historic District or not.
  - a. Existing Historic District Single- and Two-Family Dwelling/Accessory Structure/Demolition (15% cost recovery)
  - b. New Historic District Single Family, Two-Family Dwelling and Non-Exempted ADU (23% cost recovery)
  - c. Existing Historic District Multi-Family/Commercial Structure (64% cost recovery)
4. Entertainment Permit (46% cost recovery): Entertainment permits are required for businesses in the Sutter Street subarea of the Historic District that have live amplified music, dancing, karaoke, etc. The Entertainment Permit was put in place to set uniform rules and better manage nightclub-related activities, which have been problematic in the past. Typically, processing entertainment permit applications takes about 2 hours of staff time, which includes Planning staff and City Manager review, resulting in a full cost recovery fee of \$432. Since the City wants to encourage businesses to obtain an entertainment permit whenever they have nightclub-related activities, the fee was reduced to \$200. If the fee is set too high, businesses will likely avoid getting the permit, which then becomes a Code Enforcement matter, leading to additional staff costs.

5. Landmark Tree Classification (25% cost recovery): Given the City's motto of "distinctive by nature", its focus on tree preservation, and its General Plan policy goals, the Landmark Tree Classification fee was set at about 25% of actual staff time to encourage property owners to nominate more trees for landmark status and protection.
6. Opinion on a Planning Matter (46% cost recovery): The purpose of both the Opinion on a Planning Matter fee and the Preliminary Project Review fee is to provide applicants with early input to ensure that they prepare a complete application. This benefits not only the applicant but CDD staff, since staff are more likely to receive a complete and comprehensive application. As a result, staff are proposing to actually lower this fee from \$258 to \$200 as we want to encourage applicants to reach out to us early to reduce staff time later in the process after they've applied for their entitlements.
7. Preliminary Project Review (39% cost recovery): As noted above, Preliminary Project Reviews are very helpful to staff and applicants on complex entitlement projects. These reviews are something that the Community Development Department wants to encourage because it reduces the amount of work involved after application submittal. Nonetheless, staff is proposing to increase the fee from \$656 to \$1,000; however, raising the fee further to cover 100% of staff costs would result in few projects using this beneficial early review process.
8. Sidewalk Vendor Permit (12% cost recovery): This permit was created as a result of Council direction due to community concerns over unlicensed street vendors that were selling food and merchandise on City sidewalks. To encourage vendors to apply, the fee was initially set to \$0. Staff are now proposing to raise the permit to \$50. While this covers only a fraction of staff time, a fee that is any higher would discourage vendors from applying. As it is, few vendors have applied for this since this permit was created in 2021. Most vendors are handled by Code Enforcement instead.
9. Variance Review – Single Family Dwelling (48% cost recovery): The fee for a variance for single-family home has been increased from \$1,686 to \$2,500. However, this still does not cover the entire cost of staff time given that this involves research, preparation of a staff report and a presentation to either the Historic District Commission or the Planning Commission. While staff proposes full cost recovery for variances on non-single-family properties, we are proposing a decreased cost for single-family properties to avoid over-burdening individual homeowners that are attempting to improve a property that may have unique physical characteristics that could warrant a variance.

Overall, staff has tried to strike a balance between full cost recovery and encouraging homeowners and developers to follow City regulations. Increasing fees beyond those of other similar jurisdictions to cover staff times risks deterring individuals from doing business in Folsom, but more importantly it raises important questions about the City's development processes. For example, one of the biggest factors affecting the amount of staff time involved in development

review processes such as design review is whether the review needs to go to a Commission for review and approval. As noted previously, given the need to prepare staff reports and presentations, as well as holding the Commission meetings themselves, this increases the amount of staff time and cost. Changes to processes would help bring some of these fees closer to full cost recovery. Staff is currently evaluating these changes as part of the Zoning Code Update.

## **ENGINEERING AND TREE PERMIT CHANGES**

In addition to the changes to Planning fees, the Engineering Division and City Arborist are requesting the following updates to their fees that were previously approved in May 2024 based on feedback from customers and an internal review:

1. Engineering fees that are based on staff time were updated to reflect that going forward they will be adjusted based on the Consumer Price Index (CPI) as the City does for all other fees. Fees based on project valuation will remain unchanged.
2. Engineering is requesting that the fee for Lot Line Adjustments be modified since the current fee did not cover the typical amount of staff time necessary for review of those.
3. Engineering is proposing language to clarify that the Certificate of Compliance fee also covers the review and approval of parcel mergers.
4. Staff previously proposed that the landscape review fee for production homes be changed from fee based on project valuation to a fixed fee back in May 2024. However, staff discovered that the fixed fee approach did not consider the number of landscaping schemes/master plans that are submitted for production homes (i.e., tract homes). The amount of staff time can vary depending on the number of landscaping schemes submitted. As a result, staff is recommending to maintain the current \$2,300 fee for up to 4 landscaping schemes but increase the fixed fee to \$2,500 for 5 schemes plus an additional 10% of the fee for each additional landscaping scheme beyond five.
5. Staff is also recommending that the landscape review fees for Model Home Complexes, Commercial, Streetscape, Other Development Projects, as well as Development and Civil Improvements be eliminated given that those projects are already covered by the Engineering and Landscape Plan Check and Inspection fee.
6. Based on staff experience and feedback from homeowners, the City's Urban Forester/Arborist is proposing a few specific changes to tree permits as follows:
  - a. Currently, a flat rate of \$100 is used for both tree removal and pruning when it involves two (2) trees or less. However, the fee jumps to \$1,200 for tree work or removal involving three (3) or more trees. Both the \$100 fee and the \$1,200 fee are a significant barrier to homeowners trying to prune and maintain their trees. As a



result, staff is proposing to create a new fee of \$40 for a tree work permit if that tree work involves pruning or cabling a tree.

- b. In addition, staff is recommending reduction of the fee for removal of 4 or more trees for homeowners from more than \$1,200 to \$150 plus 10% of the fee for each tree above 5 trees. These changes are more consistent with the level of staff work involved in these situations.

### **Conclusions**

ClearSource performed a reasonableness test on the proposed fees using historical permit volume to forecast anticipated revenue from the fees. This test confirmed that the forecasted revenue from the fees did not exceed the actual staff costs associated with this work and should therefore be in line with State law. As with the previous Engineering and Building fee changes, the Planning fee study recommends monitoring permits, entitlement projects, and application volume and applicant feedback to determine if any of the fee modifications are resulting in any unanticipated changes in project frequency and to provide greater detail for future revenue forecasting. The study also recommends that fees should continue to be updated on an annual basis using the Consumer Price Index (CPI). This is typical of other jurisdictions in the region and also similar to how other City fees are administered in Folsom. As noted in the Engineering and Building fee study from May, the Planning fee study also recommends that a comprehensive fee study should be conducted periodically to ensure fee levels remain at or below legal limits and are consistent with evolving practices and local conditions.

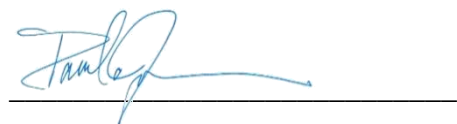
### **FINANCIAL IMPACT**

The fee study concluded that the proposed new Planning and Engineering fees could result in an estimated additional \$120,000 annually for the General Fund, based on historical permit volume and development activity. Fee revenue could be higher or lower if actual experience differs from the assumptions used in the fee study.

### **ATTACHMENTS**

1. Resolution No. 11356 – A Resolution to Amend Resolution No. 11186 and 11235 and Adopt an Amended User Fee Schedule for Community Development Planning and Engineering Services
  - a. Exhibit A – Amended Planning User Fees
  - b. Exhibit B – Amended Engineering and Arborist User Fees
2. Development Processing Fee Study- Planning Fees, dated April 2025
3. Development Processing Fee Study- Building and Engineering Fees, dated May 2024
4. Existing and Proposed Engineering Fees
5. Public Comments Received

Submitted,



PAM JOHNS

Community Development Director