



STAFF REPORT

MEETING DATE: February 8, 2023

PRESENTER: Josefina Alvarez, Interim Finance Director

SUBJECT: User and Regulatory Fee Update

RECOMMENDATION: Staff recommends the City Council:

1. Waive full reading and introduce Ordinance Adding Chapter 1.36 To Title 1 of the Kerman Municipal Code Relating to a Master Fee Schedule and Amending Section 5.04.090 Of Chapter 5.04, Section 5.24.040 of Chapter 5.24, Section 5.26.030 of Chapter 5.26, and Section 12.28.050 of Chapter 12.28 Regarding User and Regulatory Fees.
2. Approve a resolution adopting a Master Fee Schedule regarding user and regulatory fees effective July 1, 2023.

EXECUTIVE SUMMARY:

Historically, the City has adopted fees (other than impact fees on an ad hoc basis). The City commissioned a user and regulatory fee study which was commenced in FY 2021/22 by ClearSource Financial Consulting (ClearSource).

On November 9, 2022, the City Council received findings and initial recommendations from the fee study. The study provides an up-to-date analysis of the City's current costs of providing fee-related services. This information can be used by the City Council as it considers potential updates to fees.

The proposed fees are set forth in a comprehensive Master Fee Schedule for consideration and adoption by Council resolution. For the most part, the proposed Master Fee Schedule remains unchanged from the draft reviewed during the November 9, 2022 meeting. The following minor changes have been made to address City Council feedback and enhance fee schedule clarity:

- Proposed appeal fees have been adjusted:
 - Appeal by Project Applicant
 - Current Fee = Ranges from \$300 - \$340 (8% cost recovery)
 - Proposed Fee = \$2,000 (approximately 50% cost recovery)
 - Appeal by Non-Applicant
 - Current Fee = Ranges from \$300 - \$340 (8% cost recovery)
 - Proposed Fee = \$3,780 (100% cost recovery)
- Refundable deposit policies have been clarified for persons or companies requesting to rent a water meter from the City during construction. The City will collect a deposit that is fully-refundable if the meter is returned in good working order by the end of the rental period.

- Home Occupation Permit reviews were inadvertently excluded from the proposed schedule. The permit review fee is an existing fee with only minor changes proposed.
 - Current Fee = \$140
 - Proposed Fee = \$142
- Certain facility rental rates were inadvertently excluded from the proposed schedule.

The schedule now includes a comprehensive list. All proposed adjustments align to those reviewed by the City Council in November.

User and regulatory fees are set at the direction of the City Council at the conclusion of a public hearing to consider adoption of any new fees or fee increases.

Staff also recommends the establishment of a Master Fee Schedule by ordinance which provides that all fees are to be set by resolution amending the Master Fee Schedule. Currently, the Municipal Code specifically identifies various fee amounts. The proposed code changes continue to reference fees for service. However, instead of identifying a specific amount, they indicate that fees will be established by resolution adopted by the City Council. This will allow for updates or new fees by resolution without numerous modifications to the Municipal Code. The proposed ordinance also makes edits to current Municipal Code provisions with fee language inconsistent with the proposed Master Fee Schedule. The proposed ordinance would be introduced at a first meeting and adopted at a subsequent regular meeting of the Council.

BACKGROUND

The services for which a city imposes a user or regulatory fee typically derive from an individual person or entity's action, request, or behavior. Therefore, except in cases where there is an overwhelming public benefit generated by a city's involvement in the individual action, a fee for service ensures that the individual bears most, if not all, of the cost incurred by the City to provide that service. When a fee targets "100% or full cost recovery," the individual is bearing the entirety of the cost. When a fee targets less than full cost recovery, another City revenue source – in most cases, the General Fund – subsidizes the individualized activity.

The proposed fees are intended to comply with applicable federal, state, and local laws including providing confirmation that the proposed fees and charges are not a tax as defined in Article 13C 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 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.

Industry best practices and California statutes are in harmony: User and regulatory fees should be set according to the estimated reasonable cost of service and should bear a fair and reasonable relationship to the payer's burdens on, or benefits received from the activities and/or services provided by the City. Additionally, ongoing review and adjustment of fees provides multiple benefits, including:

- Increasing the availability of General Fund revenues to be used for services and activities available to all residents and businesses, such as public safety and parks services.
- Keeping pace with general cost inflation.
- Avoiding fee spikes that are more likely to occur when municipalities leave fees unchanged for a multi-year period.
- Providing fee payers, City Staff, and City policymakers with a pattern of consistency that provides information for forecasting and decision-making purposes.
- Helps meet fee-payer service level expectations by collecting fees to fund the existing level of services provided.
- Encouraging generational equity among fee payers by avoiding long-term stagnation of fees followed by significant fee increases.

Fee Categories that Were Examined in this Study

This study specifically examined fee categories including, but not limited to:

- **Administration and Finance Fees** – Fees for licensing and administrative services.
- **Building Fees** – Building plan review, permitting, and inspection for construction.
- **Code Enforcement Fees** – Discrete activities to encourage compliance with the City’s Municipal Code.
- **Land Development Engineering Fees** – Engineering/land development plan review and inspection.
- **Planning Fees** – Development review/current planning, other community permitting, and miscellaneous labor.
- **Police Fees** – Specialized response, community permitting, public safety, and miscellaneous labor.
- **Public Works Fees** – Encroachments review, permitting and inspection, operations and infrastructure services, community permitting, and miscellaneous labor.
- **Recreation and Community Services Facility Rental Fees** – Services include program participation and reserved facility use.

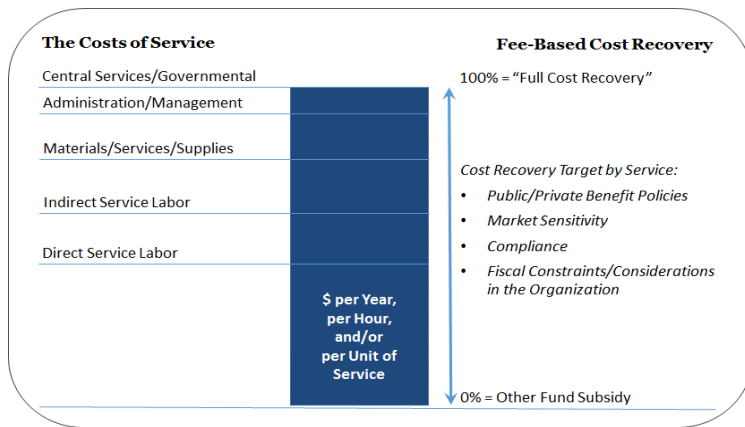
Items Not Examined in this Study

This study specifically excluded examination of the following:

- Development Impact Fees
- Taxes and Assessments
- Fines or Penalties
- Franchise Fees
- Utility Rates and Services Charges

These items are subject to different approval thresholds or are not subject to the same cost of service limitations as the fees examined as part of this study. Consequently, they are specifically excluded from the scope of this study.

Nearly every service for which a fee is imposed can be illustrated as follows, contrasting the components of the full cost of service, which is the maximum fee amount justified, against the local agency’s goals for cost recovery:



Based on the consultant’s experience working with municipalities throughout California, most fee-paying stakeholders and city councilmembers accept high cost recovery targets for development-related fees as long as:

- The elements of the cost of service and assumptions are clearly communicated.
- The city clearly communicates that only eligible costs are included in fees.

Primary Outcomes

During the course of study, information and analysis was generated and is discussed substantively throughout the attached User and Regulatory Fee Study Report its technical appendices. However, summarized in the following findings statements by broad fee category, are outcomes and proposals of particular interest to City policymakers.

Administration and Finance Fees

- Adjust Business License Application Review Fees, segregated into two primary categories:
 - Businesses with Physical Location in City Limits including Home Occupations
 - Business Located Outside City Limits
- Minor Recalibration to Various Finance Fees (i.e., changes of \$10 or less)
- Modify Business License Late Fee for Ease of Administration. Current Late Fee is Difficult to Administer and Escalates Rapidly:
 - Current fee is: 10% late fee after 30 days, additional 5% added every 10 days after the license becomes delinquent

- Proposed fee is: 10% per month

Animal Licensing and Regulation Fees

- Adjust Dog License Fees and Remain Compliant with State Requirements for License fees for Non-Spayed / non-Neutered animals
- Scale impound fees to encourage responsible animal ownership. Example:
 - First Impound: \$25
 - Second Impound: \$50
 - Third and Subsequent Impounds: \$75
- Animal regulation will continue be a primarily tax-funded public safety service

Building Fees

- Restructure fees to enhance correlation between services provided and fees collected
- Established fixed fees for the City's most commonly requested minor permits.
- Fee schedule will allow applicants to easily estimate permit fees and works well for online permitting scenarios
- Proposed fees scale to reflect project magnitude and complexity
- Full cost recovery is targeted for most fees. Less than full cost recovery targeted for minor residential permits:
 - Residential HVAC Change-Out
 - Residential Water Heater Change-Out
 - Residential Re-Roof

Code Enforcement Fees

- Develop Fee Schedule that Allows the City to recover portion of Code Enforcement costs (Example Below)
 - Inspection / Re-Inspection
 - First Inspection – No Charge
 - Second Inspection to Verify Violation Corrected – No Charge
 - Each Additional Inspection - \$70
- Fees are intended to encourage property owner compliance with Municipal Code

Land Development Engineering Fees

- Recalibrate fees and deposits to target full cost recovery of contract Engineer support for private development related review such as:
 - Grading Plan Review

- Improvement Plan Review
 - Streets
 - Sidewalks
 - Storm drain, etc.

Planning Fees

- Planning is a detailed process - projects may take a significant amount of resources over a multi-month and potentially multi-year timeframe, depending on project complexity and magnitude.
- Current cost recovery for Planning services varies widely
 - Current fees result in very low cost recovery for some services (e.g., 10% cost recovery)
 - Current fees result in full cost recovery for some services (e.g., large environmental review targets 100% cost recovery)
- Fees are proposed to be adjusted to establish more consistent cost recovery
 - 50% Cost Recovery for Minor Reviews, Administrative Projects
 - 75% Cost Recovery for More Complex Projects, Projects Requiring Planning Commission Review, Subdivision Review, etc.
 - 100% Cost Recovery for Large Scale Projects and CEQA Reviews

Police Fees

- Police Services are almost entirely tax funded (General Fund)
- Some fees are collected for discrete services provided. For these services the study recalibrates and proposes to establish fees to recover portion of cost of service.
- Establish fees that allow for recovery as needed for:
 - Recurring False Alarm Response to Same Address
 - Recurring Noise Disturbance to Same Address
 - DUI-Related Collision Cost Recovery
 - Special Requests for Police Services (e.g., outside event support)

Public Works Fees

- Public Works Monitors Requests for Encroachment in the City Right-of-Way (e.g., utility work)
 - Current encroachment permit fee is \$59
 - Fee does not scale to well to reflect service provided
- Restructure fees to enhance correlation between services provided and fees collected
- Proposed fees scale to allow for lower fees for less complex projects and higher fees for more complex projects

Recreation and Facility Rental Fees

- Community Services and Recreation Departments throughout the State are facing significant challenges.
 - Multi-year modification of services due to COVID-19
 - Increases in labor, benefit, utility costs, services and supplies, and insurance related costs
 - Providing access to facilities and programs that are safe to use and align to community standards (health and safety).
 - Minimum wage increases over the last several years = 25% increase since 2019
- Fees are generally proposed to be adjusted by approximately 10%. Proposed change aligns to recent regional cost inflation

Fee Comparison Information

Similar fees are collected by communities throughout the region and the State. The proposed fee amounts do not exceed the City's cost of service and are in-range of amounts charged by other jurisdictions.

FISCAL IMPACT:

Additional revenues expected from the Proposed Master Fee Schedule are intended to offset the cost of providing existing services associated with those fee-related regulatory functions and other programs. Additional fee revenue is not intended to fund new services. Fairly allocating costs to the services provided and recovering some, or all, of these costs from service recipients creates value and predictability for City customers and reimburses the City for services provided to a single party, as compared to the public at large. Recovering costs:

- Increases the availability of General Fund revenues to be used for services and activities available to all residents and businesses, such as public safety and public works services.
- Helps meet fee-payer service level expectations by collecting fees to fund the existing level of services provided.

ATTACHMENTS:

- A. Ordinance
- B. Resolution
- C. Comprehensive Citywide User and Regulatory Fee Study including Appendix A Master Fee Schedule