



Item No. 14 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GEORGE RODERICKS, CITY MANAGER

THROUGH: ANTHONY SUBER, CITY CLERK

DATE: JUNE 19, 2019

SUBJECT: REVIEW FEES AND PENALTIES, INCLUDING THE ROAD IMPACT FEE AND CONSTRUCTION TIME LIMIT (CTL) PENALTY AND PROVIDE DIRECTION TO STAFF

RECOMMENDATION

Review, discuss and provide direction to staff for next steps with respect to a review of fees and penalties.

BACKGROUND

The Town last performed a Master Fee Study in 2013. At that time the Council received a detailed review that included a cost allocation plan, hourly rate calculation, and user fee study. The Master Fee Study includes all fees charged by all Town Departments. Prior to this, the Master Fee Schedule was last updated in FY 2009-2010.

As the Council is aware, the Government Code requires that fees represent actual costs and may not be set at an amount that exceeds actual cost. To determine that actual cost, agencies typically conduct Fee Studies that provide detailed cost analyses on which to base the new fee. Fees for at market rental of public spaces may be adjusted independent of a cost analysis.

The 2013 Study recommended that the Town consider a regular escalator based on a local Consumer Price Index in the periods between adoption of the fee resolution and the next comprehensive fee review. That recommendation was not adopted; instead, the Council opted to return the fee resolution to the Council for consideration as needed.

ANALYSIS

Master Fee Schedule

Attached is the Town's Fee Schedule. The Schedule sets the fees for Planning, Building, Engineering, Public Works, Administrative, Police, and Parks and Facility Rental. The fee schedule includes the fully loaded hourly rate for staff.

Valuation-driven fees, such as Building Permit fees, have remained consistent with the market since 2013. The Town has also reviewed and adjusted its Parks and Facility Rental fees. However, the remainder of the fees have not been significantly updated (corrections only) since 2013. Town hard costs may not have increased significantly during that period of time; but labor costs have had adjustments.

Fees for applications, application review, and individual inspections for Planning applications, Public Works Encroachment Permits and miscellaneous Inspection Permits, and land use Plan Check fees have not kept pace to labor costs. These non-valuation-driven fees for Planning, Building and Public Works total approximately \$775,000 (\$268,000 in land use fees, \$180,000 in non-valuation related building fees, and \$327,000 in encroachment permit fees). These are the fees that would benefit from an adjustment. However, staff does not recommend conducting a fee study at the present time as our overhead costs are in flux and it would be difficult for a consultant to reasonably assess what those costs might be.

Building Permit and Plan Check fees (valuation-driven) total approximately \$1.7 million. Because these fees are valuation based, they have kept pace with the market. Park and Facility Rental fees total approximately \$250,000 per year and were recently adjusted (2018). Staff does not believe adjustments are necessary at this time unless the Council wishes to direct the Park and Recreation Committee to undertake an additional survey of regional fees. However, it is important to note that with the presence of Town Hall at the Park, there are concerns related to parking and attraction of large events.

Staff recommends preparation of a Request for Proposal to do another fee study in FY 2020/21. At that time, the Town will have a better handle on its potential overhead costs associated with the new Town Center.

Construction Time Limit Ordinance

Currently, the Town establishes time limits for completion of building projects and failures to complete such projects in a timely manner. The Town's Ordinance imposes a penalty based on the size of the project and how far past the allowable completion date it takes to finalize the building permit. Currently, there is a cap on the penalty of a maximum of \$250,000.

Following Council direction in May, the City Attorney reviewed the Town's Construction Time Limit Ordinance and recommends the following adjustments for Council's consideration:

Review of Fees and Penalties

June 19, 2019

Page 3 of 4

- Revise the maximum penalty achievable after the 120th day of lateness by eliminating the ultimate maximum penalty achievable.
- Provide that if a property owner chooses to post a cash deposit, that any interest that accrues while in our possession is paid over to the owner once the permit is finalized.
- Include a civil penalty of up to \$5,000.

These revisions would require a code amendment. By not adjusting the *amount of accrual* at each phase, the Town is not adjusting the penalty itself but rather extending the maximum penalty possible should the violation continue unabated.

Staff recommends that the Council direct that staff pursue revisions to the Construction Time Limit Ordinance as noted above.

Penalties for Working without a Permit (Building Code)

The Town's Municipal Code is silent with regard to penalties imposed on Owners or Contractors that conduct construction work without a permit. The Building Official retains the right to issue a Stop Work Order, which can carry a penalty that is 50% of the permit cost. Outside of this penalty, the Master Fee Schedule does not address work conducted without a permit. It has been the practice of the Town to work with residents who have performed unpermitted work in obtaining the proper and required permits in an effort to ensure compliance moving forward.

Staff reviewed several other municipalities' codes and fee schedules and a common practice is to charge the cost of the Building Permit Fee x 1 or for more frequent offenders escalate to as great as 10 times the amount of the Permit Fee. A review of California Building Codes reveals that the violations of Building Codes, which we includes "working without permits", will be subject to penalties as prescribed by law. The jurisdiction falls to local Ordinance or Resolution.

Staff recommends the Council consider adopting the appropriate ordinance or resolution to address penalties for working without a permit.

Road Impact Fees

After review by the City Attorney, the City Attorney has advised that imposing a Road Impact Fee conflicts with State of California Vehicle Code sec. 9400.8, which prohibits imposing any tax, permit fee, or other charge for privilege of using its streets or highways, other than for overweight or extra-legal roads. The Vehicle Code section goes on to define "overweight load" and is further complicated in evaluating the types of vehicles covered. Upon initial review it does not appear the definition will apply to many, if any vehicles used within Atherton's jurisdiction.

POLICY FOCUS

The City Council's policy discussion should revolve around discussion of setting fees for the areas described above. As a part of managing the expectations of the community and business that perform work within the community staff recommends any policy changes consider a community

information notice offered to local builders or developers in an effort broadly distribute the Town's plans and intentions.

FISCAL IMPACT

None at this time.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- ___ Audit/Finance Committee (meets every other month)
- ___ Bicycle/Pedestrian Committee (meets as needed)
- ___ Civic Center Advisory Committee (meets as needed)
- ___ Environmental Programs Committee (meets every other month)
- ___ Park and Recreation Committee (meets each month)
- ___ Planning Commission (meets each month)
- ___ Rail Committee (meets every other month)
- ___ Transportation Committee (meets every other month)

ATTACHMENTS

1. Master Fee Schedule (updated 10-18-2018)

Appendix B: Planning Fees

Town of Atherton

Town of Atherton Planning Fees

Unit Cost Summary

Fee Name	Unit	Fee
PLANNING FEES		
Conditional Use Permit/Special Structure Permit		\$ 2,600
Variance		\$ 2,600
Heritage Tree Removal Permit		\$ 2,000
Exception Review		
Excessive Height		
Lot Line Redesignation		\$ 2,600
Lot Line Adjustment		\$ 1,500
Tentative Parcel Map		\$ 2,600
Final Parcel Map		\$ 2,600
Appeal		\$ 750
School Master Plan		\$ 750
Initial Review/Negative Declaration		\$ 2,000
Zoning Ordinance Amendment		\$ 5,000
General Plan Amendment		\$ 5,000
Zoning Review for Home Occupation Business		\$ 95
Pre-Application Review		\$ 45
Street Easement Vacation		\$ -
Code Enforcement - Administrative (Penalty)		\$ 949
Initial Review (2 reviews for fee amount; additional reviews billed hourly):		
a. Fence	Per app	\$ 160
b. Accessory Structures (includes pools)	Per app	\$ 450
c. Accessory Buildings	Per app	\$ 950
d. Additions	Per app	\$ 975
e. New Construction	Per app	\$ 1,400
Revisions to Previously Approved Plans		
Technology Surcharge (upgrade and maintain development technology) (3.24% of fee)		3.24%
POSITION HOURLY RATES		
Town Planner:	Hourly	\$ 225
Deputy Town Planner:	Hourly	\$ 177
Senior Planner:	Hourly	\$ 168
Associate Planner:	Hourly	\$ 135
Administrative Staff:	Hourly	\$ 119
Composite Rate for Fee Setting:	Hourly	\$ 161

Appendix C: Building Fees

Town of Atherton
Town of Atherton - Building Fees

		Unit Cost Summary	
Fee Name	Unit	Fee	
Flat Fees			
			0.00%
			0.00%
			0.00%
			0.00%
Permitted Value of Construction			
New Habitable Construction	Valuation base: per SF	\$	350
Remodeled Habitable Construction	Valuation base: per SF	\$	300
New or Remodeled Non-Habitable Construction	Valuation base: per SF	\$	125
Valuation - non defined project	Valuation base	\$	1
Non-habitable construction: ie. Patio covers & gazebos (> 1000 Sq Ft or attached to new construction)	Valuation base: per SF	\$	100
Flat Fees **			
Swimming pools (first 1000 sf)	Plan check and inspection	\$	1,095
Swimming pools (Over 1000 sf)	Plan check and inspection	\$	1,313
Patio covers & gazebos (up to 1000 Sq Ft)	Plan check and inspection	\$	813
Drive way gates	Plan check and inspection	\$	661
Non Habitable new pool house including cabanas (up to and including 1500 sf)	Plan check and inspection	\$	1,336
Other Building (Flat) Fees			
Plumbing, Mechanical, Electrical (MP&E) Permit (single inspection)		\$	143
MP&E each additional inspection		\$	97
MP&E plan check (min .5 hour)		\$	88
Demolition Permit Fee		\$	286
Landscape Screening Permit Fee		\$	389
Water Well Permit Fee		\$	397
Solar Panels Permit Fee *		\$	500
Heritage Tree Removal - Staff Level (First Tree)		\$	261
Heritage Tree Removal - Staff Level (Each Additional Tree)		\$	103
Dead Tree Permit Refunded if ONLY identified and approved by the Town Arborist			
Excavation Permit			
Plan check revision Fee (1 hour min)	Hourly	\$	198.00
Address Change		\$	275.00
Property Search (plus photocopying and/or printing posts and excludes public records searches)	Hourly	\$	92.00
Reactivation of an Expired Permit (Up to One-Half the Amount Required for a New Permit for Such Work)			(Up to One-Half the Amount Required for a New Permit for Such Work)
Code Enforcement - Administrative (Penalty)	Hourly		
Second Utility Deposit (Ordinance 15.04.040)		\$	5,000
Landscape Screening Deposit (Ordinance 17.50.060)		\$	5,000
Temporary Occupancy Deposit:		\$	5,000
		\$	176
Administrative Fee (TOC)		\$	176
Excavation Road Deposit (Ordinance 15.04.045)		\$	5,000

Town of Atherton
Town of Atherton - Building Fees

Unit Cost Summary		
Fee Name	Unit	Fee
Recycled Deposit		\$1000 Min & \$500 Min for reroof permits
Reinspection and additional inspections exceeding the normal number of inspections	T&M	\$ 120
Unusual custom projects not reflected in the fee schedule	T&M	
Technology surcharge (to fund updates and new acquisition of permit systems and digital storage of plans) (3.3% of fee)		3.30%
Storm water compliance review/inspection	T&M	\$ 500
Tree protection verification (deposit) + COP	T&M	\$ 2,500
Tree protection administration for flat fee permits (initial inspection)		\$ 229
Tree protection administration for flat fee permits (full inspection)		\$ 573
Surcharge for General Plan Maintenance and Update (2.0%)		2%
Reroofing < 5000SF	Per app	\$ 328
Reroofing > 5000SF	Per app	\$ 458
Reroofing requiring additional inspections	Per insp.	\$ 130
Reroofing requiring plan check (min one hour)	Per PC	\$ 176
SMIP Fee (State Mandate)		Residential: valuation amount X 0.00013 Commercial: valuation Amount X 0.00028
Building Standards Administration Special Revolving Fund (Senate Bill No. 1473 State Mandate)		Permit Valuation: \$1-25,000 = \$1; \$25,001-50,000 = \$2; \$50,001 - 75,000 = \$3; \$75,001 - 100,000 = \$4; Every \$25,000 or fraction thereof above \$100,000 = Add \$1

* State mandated limit of \$500

** Current fee = comparable average current valuation based fee

POSITION HOURLY RATES			
Chief Building Official	Hourly	\$	194
Building Inspector	Hourly	\$	127
Building Plans Reviewer	Hourly	\$	172
Building Technician	Hourly	\$	89
Town Arborist	Hourly	\$	68
Code Enforcement	Hourly	\$	54

Table for 10.43% increase

Total Valuation	Building Permit Fee	Plan Review Fee
\$1.00 to \$500	\$24.70	65% of Building Permit Fee
\$501 to \$2,000	\$25.95 for the first \$2,000, plus \$3.37 for each additional \$1,000, or fraction thereof, to and including \$2,000	65% of Building Permit Fee
\$2,001 to \$25,000	\$76.47 for the first \$2,000, plus \$15.46 for each additional \$1,000, or fraction thereof, to and including \$25,000	65% of Building Permit Fee
\$25,001 to \$50,000	\$432.06 for the first \$25,000, plus \$11.15 for each additional \$1,000, or fraction thereof, to and including \$50,000	65% of Building Permit Fee
\$50,001 to \$100,000	\$710.89 for the first \$50,000, plus \$7.73 for each additional \$1,000, or fraction thereof, to and including \$100,000	65% of Building Permit Fee
\$100,001 to \$500,000	\$1,097.40 for the first \$100,000, plus \$6.18 for each additional \$1,000, or fraction thereof, to and including \$500,000	65% of Building Permit Fee
\$500,001 to \$1,000,000	\$3571.03 for the first \$500,000, plus \$5.25 for each additional \$1,000, or fraction thereof, to and including \$1,000,000	45% of Building Permit Fee
1,000,001 and up	\$6,193.74 for the first \$1,000,000, plus \$4.03 for each additional \$1,000, or fraction thereof.	45% of Building Permit Fee

Appendix D: Engineering Fees

Town of Atherton

Town of Atherton Engineering Fees

Unit Cost Summary		
Fee Name	Unit	Fee
Encroachment Permits		
Class A - One Inspection Required:	Per app	
Driveway Connection to Street:	Per app	\$ 211
Additional Plan Check	Per app	\$ 48
Additional Inspection	Per app	\$ 71
	Per app	
Class B - Two Inspections Required:	Per app	
Driveway Connection to Street:	Per app	\$ 281
Additional Plan Check	Per app	\$ 48
Additional Inspection	Per app	\$ 71
	Per app	
Class C - Three or More Inspections Required:	Per app	
Driveway Connection to Street - Asphalt/Pavers:	Per app	
Without Driveway Culvert (up to 3 inspections)	Per app	\$ 352
Additional Plan Check	Per app	\$ 48
Additional Inspection	Per app	\$ 71
	Per app	
With Driveway Culvert (up to 4 inspections)	Per app	\$ 438
Additional Plan Check	Per app	\$ 63
Additional Inspection	Per app	\$ 71
	Per app	
Driveway Connection to Street - Concrete:	Per app	
Without Driveway Culvert (up to 4 inspections)	Per app	\$ 438
Additional Plan Check	Per app	\$ 63
Additional Inspection	Per app	\$ 71
	Per app	
With Driveway Culvert (up to 5 inspections)	Per app	\$ 509
Additional Plan Check	Per app	\$ 63
Additional Inspection	Per app	\$ 71
	Per app	
Class D - Public Right of Way	Per app	
Right-of-Way Landscaping, Fence, Etc. - Minor Construction (up to 2 inspections)	Per app	\$ 284
Additional Plan Check	Per app	\$ 96
Additional Inspection	Per app	\$ 96
	Per app	
Right-of-Way Landscaping, Fence, Etc. - Standard (up to 2 inspections)	Per app	\$ 379
Additional Plan Check	Per app	\$ 96
Additional Inspection	Per app	\$ 96
	Per app	
Connection to Storm Drain or Atherton Channel:	Per app	
a. In Pavement	Per app	\$ 471
Additional Plan Check	Per app	\$ 96
Additional Inspection	Per app	\$ 71

Town of Atherton

Town of Atherton Engineering Fees

Unit Cost Summary		
Fee Name	Unit	Fee
Encroachment Permits		
Utility - Minor (One Inspection Required):	Per app	\$ 259
Additional Plan Check	Per app	\$ 48
Additional Inspection	Per app	\$ 71
	Per app	
Utility Connect/Disconnect:	Per app	
a. In Pavement	Per app	\$ 352
Additional Plan Check	Per app	\$ 48
Additional Inspection	Per app	\$ 71
	Per app	
b. Outside Pavement	Per app	\$ 281
Additional Plan Check	Per app	\$ 48
Additional Inspection	Per app	\$ 71
	Per app	
Utility Main:	Per app	
a. In Pavement	Per app	\$ 471
Additional Plan Check	Per app	\$ 96
Additional Inspection	Per app	\$ 71
	Per app	
b. Outside Pavement	Per app	\$ 400
Additional Plan Check	Per app	\$ 96
Additional Inspection	Per app	\$ 71
	Per app	
Telecommunication and Utilities Installation Permit (25 ft or less):	Per app	
i. Without Trenching	Per app	\$ 1,758
ii. With Trenching	Per app	\$ 1,829
iii With Trenching > 25 LF (per 100 LF or fraction thereof)	Per app	\$ 333
Property Improvement Permits and Reviews	Per app	
Grading and Drainage:	Per app	
a. Without Detention System	Hourly/mi n	\$ 1,272
b. With Detention System	Hourly/mi n	\$ 1,272
c. With Multiple Detention Systems	Hourly/mi n	\$ 1,696
	Per app	
Detention System Annual Report Filing	Per app	\$ 424
Detention System Annual Report - Submittals Out of Compliance	Per app	\$ 424
StormWater Permit Compliance Review/Inspection Deposit	Hourly	\$ 500
StormWater Permit Compliance Review/Inspection	Hourly	
Stop Work Order (Penalty)	50% of permit	
Code Enforcement - Administrative (Penalty)	Hourly	
	Per app	
Public Works application fee	Per app	\$ 117

Town of Atherton

Town of Atherton Engineering Fees

Unit Cost Summary		
Fee Name	Unit	Fee
Encroachment Permits		
Oversized load permit (outside of right of way)	Per app	\$ 333
Technology Surcharge (upgrade and maintain development technology) (1.9% of fee)	Per app	1.86%
Additional work not reflected above - at cost	Hourly	

Town of Atherton

Town of Atherton Engineering Fees

Unit Cost Summary		
Fee Name	Unit	Fee
Encroachment Permits		
PW Staff Hourly Rates		
Public Works Superintendent	Houly	\$ 133
Asst/Assoc Engineer	Houly	\$ 133
Eng Tech	Houly	\$ 133
Office Specialist	Houly	\$ 92
PW Director/Engineer		\$ 133

Appendix E: Police Fees

Town of Atherton

Town of Atherton - Police Fees

Fee Name	Unit	Fee
Copy of Police Report:		
Without Photos or Tape Copies		\$ 0.25
With Photos or Tape Copies	Hourly	\$ 50
Vehicle Releases		\$ 65
Vehicle Repossession Fee		\$ 15
Initial Alarm Registration		\$ 100
Alarm Annual Permit Fee		\$ 50
Alarm Alert Signs		\$ 40
Garage Sale/Estate Sale Permits		\$ 21
Fingerprints (plus DOJ processing of \$53)		\$ 75
Solicitor Permit (Valid for six months; business license required)		\$ 31
After Hours Emergency Construction Permits		\$ 62
Special Service Request:		\$ 21
Administrative Fee		\$ -
On-Site Personnel Fee	Hourly (2 Hr min)	\$ 260
Clearance Letter		\$ 21
Microfilmed Reports	Hourly	\$ 62
Code Enforcement - Administrative (Penalty)	Hourly	\$ -
False Alarms: (up to 3 false alarms annually)		
4th false alarm		\$ 200
5th false alarm		\$ 300
Each additional false alarm after 5		\$ 400
Records/Communications Staff:	Hourly	\$ 106
Patrol/Investigations Staff:	Hourly	\$ 141

Requires Town ordinance

Appendix F: Parks and Facility Rental Fees

Town of Atherton

Town of Atherton

Unit Cost Summary

Fee Name	Unit	Fee
Park Rental Fees		
The Main House		
(Monday - Thursday afternoon)		
Half day		\$ 400
Full day (until 4:00PM)		\$ 700
Evenings (5:00 PM to midnight)		\$ 700
Friday evening (5:00 PM to midnight)		\$ 700
Saturday & Sunday day use (full day)		\$ 1,500
Saturday & Sunday day use (per Hour) 2-hr. min.		\$250 per hour
Saturday & Sunday evenings (5:00 PM - midnight)		\$ 1,500
Carriage House		
(Monday - Thursday afternoon)		
Half day		\$ 400
Half day (OVER 100 People)		\$ 800
Full day (until 4:00PM)		\$ 700
Full day (until 4:00PM; OVER 100 people)		\$ 1,100
Evenings (5:00 PM to midnight)		\$ 700
Friday evening (5:00 PM to midnight)		\$ 700
Saturday & Sunday day use (half day)		\$ 400
Half day (OVER 100 People)		\$ 800
Saturday & Sunday day use (full day)		\$ 700
Saturday & Sunday day use (full day; OVER 100 people)		\$ 1,100
Saturday & Sunday evenings (5:00 PM - midnight)		\$ 700
Jennings Pavalion		
(Monday - Thursday afternoon)		
Half day		\$ 800
Full day (until 4:00PM)		\$ 1,200
Evenings (4:00 PM to midnight)		\$ 1,200
Friday (until 4 pm)		\$ 1,500

Friday evening (4:00 PM to midnight)		\$	4,000
Saturday & Sunday day use (half day until 4 PM)		\$	2,250
Saturday & Sunday day use (full day)		\$	4,000
Saturday & Sunday evenings (4:00 PM - midnight)		\$	4,000

Security Deposit		
Main House and Carriage House		\$ 500
Jennings Pavalion		\$ 1,000
Tennis Courts		
Key Purchases:		
1 Standard Key	Resident	\$ 50
1 Clay Key **	Resident	\$ 50
**Resident Clay Court Access included in Clay Court Key Charge		
1 Standard Key	Non-Resident	\$ 200
Clay Court Access	Non-Resident	\$30 Per Hour
Baseball Field (Per Hour)		
\$30 Per Hour		
Other Fields		
\$25 Per Hour		
Staff labor rates		
Facility maintenance staff for services related to facility maintenance and preparation (Before & After Events)		\$ 100
Facility attendant staff for services related to on-site availability during event		\$ 50
Drone Application Fee/Day		\$ 150
CLASSES: INDOOR		\$25/hour
CLASSES: OUTDOOR		\$40/hour

Administration Percentage Disclaimer Fee

30% Administration fee will be added at time of booking,
Town of Atherton Residents will have a 15% administration fee added at time of booking

Day Use Permit Fees Holbrook-Palmer Park		
13-25 people	Residents	\$ 75
13-25 people	Non-Residents	\$ 100
26-50 people	Residents	\$ 150
26-50 people	Non-Residents	\$ 200
Penalty fee for failure to obtain Day Use Permit		\$ 100