

TO: Andrew P. Powers, City Manager

FROM: Jaime Boscarino, Finance Director

DATE: February 26, 2019

SUBJECT: 2019 Citywide User Fees, Fines, Penalties, Rates, and Assessments (User Fees), and Development Impact Fees

RECOMMENDATION:

1. Receive information on User Fees and Police Facilities Fee as presented at Public Meeting/Study Session and provide direction to staff.
2. Schedule a Public Hearing for April 23, 2019, with final decisions on User Fees adjustments to be made that evening.

FINANCIAL IMPACT:

Financial Impact to Be Determined. The current financial impact of the proposed fee adjustments outlined in the 2019 User Fee Manual – Draft A (available under separate cover and available for review in the City Manager’s Office Reading Area, the City Clerk’s Department and on the City’s website at: www.toaks.org/userfees) are outlined below:

1. Development related user fee revenue will see a slight adjustment, taking into account the same activity levels as the prior year, which will offset the cost to the City of providing the various services.
2. In general, non-development related fees (City Clerk, Community Development, Cultural Affairs, Finance, Library, Police, and Public Works) have been adjusted by a change in service level, cost of time and materials, or the Department of Labor’s Consumer Price Index (CPI) factor of 3.20 percent.
3. Police Facilities Fee is proposed to be adjusted by 1.12 percent.

BACKGROUND:

Budget Process: As part of the biennial budget process, City staff reviews and updates all User Fees based on the estimated cost of providing services. The last review and staff update was completed as part of the FYs 2017-19 budget process and was adopted by City Council on April 25, 2017. The current user fees were presented to the Finance Audit Committee on February 20, 2019. The City has approximately 274 user fees with a majority having sub-components, totaling over 700 fee items.

Consumer Price Index (CPI) Factor: Staff referred to the United States Department of Labor, Bureau of Labor Statistics, and calculated the change in CPI from December 2017 to December 2018, which was a 3.20 percent increase. The CPI selected was for all expenditure categories for Los Angeles-Riverside-Orange County, CA, which is the closest in proximity to Ventura County.

Staff's current strategy is to review and increase those fees that are not at full-cost recovery by the CPI and to have a comprehensive cost study prepared with the assistance of a consultant in FY 2019-20.

Other User Fees: For non-development related User Fees, staff began reviewing and updating the fees in December 2018. These fees cover services provided by the following departments: City Clerk, Community Development, Cultural Affairs, Finance, Library, Police, and Public Works.

Prior Comprehensive Cost Studies: Periodically, the City prepares and updates its comprehensive full-cost study on development related fees. In 2007 and 2010, the City, in consultation with a consultant, prepared full-cost studies. In 2007, Planning, Code Compliance, and Engineering fees were reviewed, and a report was finalized. In 2010, Building & Safety fees were reviewed, and a report was finalized. Prior to the above-mentioned development related full-cost studies, the last comprehensive Citywide full-cost study was conducted in 1999.

In 2013, a comprehensive review and update on all development related fees (Building & Safety, Planning, Code Compliance, and Engineering) was completed. The comprehensive study was required since operating costs, staffing levels, and activity had substantially changed over the previous five years. The update began in November 2012 and the results of costs and projected revenue for FY 2012-13 was used as a basis for the review of development related fees.

Taxes vs. Fees: Proposition 26 was approved by voters on November 2, 2010 and is a constitutional amendment that introduced, for the first time, a definition of what constitutes a local tax. Proposition 26 broadened the definition of a local tax to mean any “levy, charge, or exaction of any kind” imposed by a local government and paid by taxpayers.

Therefore, the definition of a tax encompasses almost any requirement imposed by a local government that results in the local government receiving revenues. This means that the local government would need to obtain a majority approval of the voters if the revenues are to be used for general governmental purposes, or a two-thirds voter approval if the revenues are to be used for a particular purpose. In contrast, a fee may be adopted by a majority vote of the City Council.

However, this definition of a local tax is tempered by seven exceptions set forth in Proposition 26. These exceptions encompass the majority of fees or charges that a city may want to impose. The seven exceptions are 1) The Special Benefit or Privilege Exception; 2) The Government Service or Product Exception; 3) The True Regulatory Charges (Licenses and Permits) Exception; 4) The User Charges (Local Government Property) Exception; 5) The Fines and Penalties Exception; 6) The Developer Charges (Property Development) Exception; and 7) The Benefit Assessments and Property-Related Charges (Prop. 218) Exception.

The distinction between fees and taxes is frequently blurred, but generally fees are imposed in return for a benefit conferred or privilege granted, while taxes are simply intended to collect revenue. A fee must meet one of the Proposition 26 exceptions listed above, must specifically benefit those who pay the fee, and must be reasonable.

User fees are charged for the use of a public service or program, such as a fee charged for public document retrieval. All user fees may not exceed the “estimated reasonable cost” of providing the service, facility, or program or mitigating the impact of the fee payer’s activity.

To ensure that all user fees are compliant as a fee and not a tax, staff has reviewed each fee and has documented the Proposition 26 Exception for every user fee. The Proposition 26 Exceptions are noted on the detailed user fee sheet.

DISCUSSION/ANALYSIS:

City Council Policy and State Law: The User Fee program covers a range of items from False Alarms to Special Use Permits. City Council’s policy is to adjust fees with the goal of achieving “Full-Cost Recovery.” The cost of processing a permit or service includes the cost of personnel, materials, and overhead. If a fee does not cover the cost of providing the service, it is subsidized by other revenues, which reduces revenues available for other City provided services.

2019 User Fees and Development Impact Fees

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The City complies with State Law and the State Constitution for establishing and adjusting fees to ensure the amount charged for a particular user fee does not exceed the City's cost of providing the fee or service. Every fee has been reviewed, and departments have made reasonable recommendations on adjusting fees to ensure compliance with the law and the City Council's goal of achieving full-cost recovery.

User Fee Manual: Under separate cover and available for review in the City Manager's Office Reading Area, the City Clerk Department, and on the City's website at www.toaks.org/userfees, is the Draft 2019 User Fee Manual – Draft A. The Manual has two sections; the first section contains the fee detail sheet for each fee and the second section is a comparison of the 2017 Approved User Fee (adopted on April 25, 2017), listed as the "Current Fee" along with the Draft 2019 User Fee, listed as "Draft A Fee."

A breakdown of User Fees are as follows:

	# of Fees	% of Total Fees	# of New Fees	No Change in Fee	Change to Fee	Change
1 City Clerk	4	2%	0	4	0	N/A
2 Citywide	12	4%	0	7	5	Minor revisions to rental fees and additional fee for chair set-up.
3 CDD - Building	27	10%	0	19	8	Fees adjusted by CPI factor.
4 CDD - Planning	86	31%	0	23	63	Fees adjusted by CPI factor.
5 Cultural Affairs	48	18%	0	42	6	Minor update to the Facility and Miscellaneous Parking Fee, addition of Intelligent Lighting and Student Filming Fees, and removal of the Technical Services Manager and Use of the Scherr Forum Theatre Orchestra Shell Fee.
6 Finance	14	5%	0	12	2	Minor change to the State Mandated Fee and Print Shop Operator Fee.
7 Library	9	3%	0	7	2	Decrease the Processing for Lost/Damaged Material Fee and elimination of the Scanning Fee.
8 Police	7	3%	0	4	3	Minimal increase to Emergency Response Restitution and Noise/Loud Party Response, and decrease to Administration Fee for Towing.
9 Public Works	67	24%	0	31	36	Thirty-three fees are proposed to increase by CPI factor and three fees have been restructured.
	274	100%	0	149	125	
Percent to total number of fees:			0.0%	54.4%	45.6%	

New Fees: There were no new fees added to the Draft 2019 User Fee Manual.

City Council Exceptions (exceptions to Full-Cost Recovery): In prior reviews of the City's User Fees, City Council determined to price certain fees below "Full-Cost Recovery." These fees are primarily paid by existing homeowners. These proposed "Exception" fees for 2019 are included as Attachment #1.

Development Related Fees: As mentioned in the Background section, a comprehensive full-cost study of the development related fees were reviewed and updated in 2013. The study has assisted staff in proposing adjustments to fees for FY 2019-20 and FY 2020-21.

Staff's recommendations are summarized below:

- 1. Community Development Fees (Planning & Code Compliance).** In most instances, the user fees are below full-cost recovery, partially because City Council has implemented exceptions to full-cost recovery on many of the Planning permit fees. Staff reviewed each fee and where appropriate, adjusted the fee by a 3.20 percent CPI factor. These adjustments are considered reasonable, but less than full-cost recovery.
- 2. Community Development Fees (Building & Safety).** The 2013 comprehensive study showed that current City fees were less than the costs for staff to provide services to homeowners/builders/contractors. During the 2013 User Fee update, fees related to Building, Mechanical, Plumbing, and Electrical Permit Fees were adjusted approximately 9.0 percent to bring them closer to full-cost recovery. During the 2019 review, staff proposes an adjustment of eight of the 27 fees by the 3.20 percent CPI factor. Community Development staff believes that there will be a decrease in Permit Fees in the upcoming two years.
- 3. Public Works (Engineering) Fees.** Development related engineering user fees are proposed to be adjusted by the 3.20 percent CPI factor. In most instances, user fees are close to full-cost recovery.

Non-Compliance Fees: Non-Compliance Planning and Engineering fees are charged when an applicant engages in work without City-required permits or approvals.

Non-Compliance fees were discussed at the FY 2013 Study Session and City Council directed staff to include these fees in the User Fee Manual. These fees reflect the penalty by either doubling the proposed fee or the fee's full-cost recovery, whichever is less. In no case does the fee exceed full-cost recovery. Staff also included Building & Safety Division Code information related to Non-Compliance Fees. The Non-Compliance fees are included in the separately attached User Fee manual.

Non-Development Related City Fees: For non-development related User Fees, staff reviewed each fee and either maintained the current fee, increased it by a change in service levels, updated change in time and materials, or used a 3.20 percent CPI factor. This factor was used to adjust most fees.

1. **City Clerk.** No adjustments to fees.
2. **Citywide Fees.** Minor increase to the fee for various rental facilities, along with the addition of a Chair Set-Up fee for the Thousand Oaks Grant Brimhall Library (CW-04). The Cameron Center (CW-07) adjusted its fee for non-profits on weekends and holidays based on staff review of the size of the facility in comparison to the other City facilities that charge a similar fee.
3. **Community Development Fees (Planning & Code Compliance).** A majority of non-development related fees are recommended to be adjusted by the CPI factor.
4. **Cultural Affairs Fees.** The Cultural Affairs Department recommends an update to six various user fees, which includes a slight increase to Facility Fees (CA-18), the Technical Services Manager has been removed from the Technical Services Fee (CA-22), the Orchestra Shell Use Fee (CA-31) no longer has a fee for the Scherr Forum, the Intelligent Lighting Fee (CA-32A) now includes a weekly fee for ten (10) intelligent lights, the Film Location Fee (CA-34) proposes a student filming rate, and a slight revision to the Miscellaneous Fees (CA-39).
5. **Finance Fees.** The Finance Department recommends maintaining twelve fees at current rates and updating two fees. The Tax Certificate Renewal Processing Fee (F-05B) was increased due to an increase in the State Mandated Fee from \$1 to \$4. The Print Shop Services Fee (F-10) is being adjusted due to increases in operator costs.
6. **Police Fees.** Three Police Department fees were updated due to a change in service. Emergency Response Fee (LE-03) and Noise/Loud Party Response (LE-05) were increased by \$0.16/per minute and Tow Fees were reduced by \$5 to \$180 to be consistent with the County of Ventura's Tow Fee.
7. **Library Fees.** Review of the Library fees resulted in a reduction in the Processing for Lost/Damage Materials (LI-07), based on a time and materials study, performed by Library staff and elimination of the Scanning Fee (LI-09).
8. **Public Works Fees.** A majority of non-development related fees are recommended to be adjusted by the 3.2 percent CPI factor.

- 9. Water and Wastewater Fees.** The Public Works Department is in the process of reviewing the Water and Wastewater Rates. The City's financial consultant will be updating the Water and Wastewater Financial Plans. A review of specific Financial Plan recommendations will be made in conjunction with the budget process. Changes to utility rates will not be known until the consultant has completed work on the Financial Plans.

Development Impact Fees: Development Impact Fees include those fees charged to new development for public capital improvements and are subject to the Mitigation Fee Act. The fee is based on the developer's fair share, based on the impact they place on the City's current infrastructure. These fees include Road and Traffic Fees, Police Facilities Fee, Library Facilities Fee, and Water and Wastewater Plant Improvement and Connection Fees.

There are ten Road and Traffic Development Impact Fees, which were last updated on April 23, 2013, by City Council Resolution 2013-028. The update was based on the annual California Construction Cost (CCC) Index, as provided in the City Council resolution that approved the fees. The last comprehensive review for a majority of the Road and Traffic Development Impact Fees took place in 2001.

City Council approved an agreement with a consultant to assist in a Traffic Mitigation and Impact Fee Study on September 12, 2017. The Study will be brought back to City Council in April 2019 and will discuss the review process and the proposed Road and Traffic Development Impact Fees.

The Police Facilities Fee is proposed to be adjusted by 1.12 percent, which is based on the City's average investment returns over the past five years. This fee reimburses the City for advancing funds for the construction of the East Valley Law Enforcement Facility.

Water and Wastewater Plant Improvement and Connection Fees are adopted by resolution and will be included in the Adopted User Fee manual.

Schedule for Adoption: At the conclusion of this Public Meeting/Study Session, staff recommends City Council give direction on any of the proposed fee adjustments, as well as schedule a Notice of Public Hearing for Tuesday, April 23, 2019.

At the Public Hearing, a resolution will be presented to City Council to adopt the User Fees as contained in the FY 2019 User Fee Manual; and a resolution for the adjustment of the Police Facilities Fee. It should be noted that City Council can make additional changes to the proposed fees at the April 23, 2019 Public Hearing.

COUNCIL GOAL COMPLIANCE:

Meets City Council Goal B:

- B. Operate City government in a fiscally and managerially responsible and prudent manner to ensure that the City of Thousand Oaks remains one of California's most desirable places to live, work, visit, recreate, and raise a family.

PREPARED BY: Brent S. Sakaida, Budget Officer

Attachment:

Attachment #1 – City Council “Full Cost” Exceptions

Document Provided Under Separate Cover:

#1 – Draft 2019 User Fee Manual (FYs 2019-20 & 2020-21)

**City of Thousand Oaks
2019 User Fee
City Council Exceptions**

	Fee #	Name	2017 Current Exception	2019 Proposed Exception
1.	B-03B	Disable Access Board Appeal	\$ 815.00	\$ 840.00
2.	P-04	Block Party	\$ 40.00	\$ 40.00
		Special Event (1 day or more)	\$ 136.00	\$ 140.00
3.	P-08	Farm Animal	\$ 52.00	\$ 53.00
4.	P-11A	Oak/Landmark Tree – Permit Administration		
		Type A – Dead or hazardous trees	No Fee	No Fee
		Type B – Simple encroachments, no grading /pruning	\$ 100.00	\$ 100.00
		Type C – Permits for existing single family, townhomes & condo projects	\$ 100.00	\$ 100.00
5.	P-11B	Oak/Landmark Tree – Plan. Comm. Process		
		Dead or hazardous trees	No Fee	No Fee
6.	P-11C	Oak/Landmark Tree – Minor Mod		
		Dead or hazardous trees	No Fee	No Fee
		Mod at existing single family dwelling	\$ 225.00	\$ 225.00
7.	P-11D	Oak/Landmark Tree – Major Mod		
		Dead or hazardous trees	No Fee	No Fee
		Mod at existing single family dwelling	\$ 262.00	\$ 262.00
8.	P-23C	SUP Type C Ham Radio Tower	\$ 1,093.00	\$ 1,127.00
9.	P-27B (1)	PPD-Existing Home	\$ 566.00	\$ 584.00
10.	P-32A	Minor Mod-Outdoor Dining	\$ 918.00	\$ 947.00
11.	P-32B	Minor Mod- Ham Radio	\$ 1,039.00	\$ 1,072.00
12.	P-53	Appeal of Admin Decision	\$ 1,400.00	\$ 1,444.00
13.	P-54	Appeal of Planning Comm. Decision	\$ 1,508.00	\$ 1,555.00
14.	P-66	Zoning Clearance	\$ 73.00	\$ 75.00
15.	PW-25	Appeal of Admin Decision	\$ 1,400.00	\$ 1,444.00
		Appeal of Traffic Comm. Decision	\$ 1,508.00	\$ 1,555.00
16.	PW-46	Parking Permit	\$ 8.00	\$ 8.25

(1) Fee at existing single family dwelling