

## **DRAFT RESOLUTION A**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO ADDING NEW FEES AND AMENDING “*FEES FOR PLANNING AND CITY SERVICES*” (ATTACHMENT A TO RESOLUTION 2006-080)**

**WHEREAS**, the City wishes to comply with both the letter and the spirit of Article XIII B of the California Constitution and limit the growth of taxes; and,

**WHEREAS**, the City of Atascadero provides various planning and building development services to the public including, but not limited to, processing applications, reviewing plans and maps, issuing permits and reviewing development agreements (the “Planning Services”); and,

**WHEREAS**, the City of Atascadero desires to establish a policy for recovering some portion of the costs reasonably borne by providing special services, including but not limited to park and recreation services, rental of city property, police and fire services, and other miscellaneous city services, of a voluntary or limited nature, such that general taxes are not diverted from general services of a broad nature and thereby utilized unfairly and inequitably such special services (“City Services”); and,

**WHEREAS**, City Council intends to collect various fees (the “Fees”) and, in certain cases, require advance deposit of the Fees, to offset the costs associated with providing the Planning Services and City Services; and,

**WHEREAS**, City Council desires to collect fees fairly and thereby gives authority to the City staff, with the approval of the Director of Administrative Services, to waive certain fees that arise as a result of a staff error; and,

**WHEREAS**, because some of the Fees are described in Government Code section 66014, (i) notice of the time and place of this meeting as well as a general description of the matter to be considered are to be mailed at least 14 days prior to the date of this meeting to those parties (if any) who have filed requests for such notification, and since no requests were filed no notices were mailed and (ii) data indicating the amount of the estimated cost required to provide the Services and the resources anticipated to fund the Planning Services were made available to the public at least 10 days prior to the date of this meeting, all in accordance with Government Code section 66016; and,

**WHEREAS**, Government Code Section 66016 applies to fees authorized in Government Code sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014 and 66451.2, Health & Safety Code sections 17951, 19132.3 and 19852, Public Resources Code section 41901 and Public Utilities Code section 21671.5 consisting of primarily fees for zoning variances, zoning changes, use permits, building inspections, building permits, filing and processing applications and petitions filed with LAFCo, the processing of subdivision maps, tentative, final and parcel maps and planning services to be charged for development projects; and,

**WHEREAS**, Government Code Section 66018 applies to the adopting or increasing fees to which a specific statutory notice requirement does not apply; and

**WHEREAS**, pursuant to Government Code sections 66016 and 66018 the enactment or increase

in any fees to be charged for services must be adopted by the City Council by ordinance or resolution, after providing notice and holding a public hearing; and,

**WHEREAS**, the City Council finds that the Additions and Amendments to the Fees for Planning and City Services detailed in Exhibit 1 attached hereto are consistent with the City of Atascadero General Plan; and,

**WHEREAS**, pursuant to Government Code sections 66016 and 66018, the data required to be made available to the public prior to increasing the amount of the fees by this resolution was made available for public review at least 10 days prior to the date of this meeting; and,

**WHEREAS**, pursuant to Government Code sections 66014, 66106, 66018 and 6062a, notice of a public hearing on the increase to the amount of fees was published in the Atascadero News twice, with at least five days intervening the two publications, commencing at least ten days prior to the date of this meeting; and,

**WHEREAS**, a duly noticed public hearing before the City Council was held on September 23, 2008, at which public testimony was received and duly considered on the proposed Planning Services and City Services Fees; and,

**WHEREAS**, the City Council has previously adopted Resolution No. 2006-080 setting forth such fees, and desires to amend and restate portions of that resolution without rescinding said adoption; and,

**WHEREAS**, the amount of the Fees do not exceed the true cost of providing the Planning Services and City Services; and,

**WHEREAS**, the increase to the amount of the fees is not a “project” subject to the California Environmental Quality Act because it is a funding mechanism having no physical effect on the environment.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Atascadero :

Section 1. Recitals. The foregoing recitals are true and correct and the City Council so finds and determines.

Section 2. Establishment of the Fees. The fees as established in Attachment A of Resolution 2006-080, “Fees for Planning and City Services” are amended and added to as detailed in Exhibit 1 to this Resolution for the purpose of funding the cost of providing the Services.

Section 3. Collection of the Fees. The Fees levied pursuant to this resolution shall be paid to the City either at the time the Planning Service or City Service is requested or required or shall, in certain cases, be advanced to the City in the form of an advance deposit as further detailed on Exhibit 1.

Section 4. Constitutionality. If any portion of this Resolution is declared invalid or unconstitutional then it is the intention of the City Council to have passed the entire Resolution and all its component parts, and all other sections of this Resolution shall remain in full force and effect.

Section 5. Repealer. All resolutions and other actions of the City Council in conflict with the contents of this Resolution are hereby repealed.

Section 6. Effective Date. This resolution shall take effect 60 days after the effective date of this Resolution, and shall remain in effect, until revised by the City Council.

On motion by Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

\_\_\_\_\_  
Mike Brenner, Mayor

ATTEST:

\_\_\_\_\_  
Marcia McClure Torgerson, C.M.C.  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian Pierik, City Attorney