

**City of Piedmont
COUNCIL AGENDA REPORT**

DATE: July 19, 2004

FROM: Ann Swift, City Clerk

SUBJECT: **1st Reading of Ord. 651 N.S. Enacting Fees for Extraordinary
Project Costs**

RECOMMENDATION:

Approve a first reading of Ord. 651 N.S., attached, which will enact additional planning fees for projects which exceed the normal level of staff time.

BACKGROUND:

At a public hearing on June 3, 2004, Kate Black presented a staff report to the city council regarding a range of issues related to planning fees. Council chose to enact many fee increases as part of the FY 04-05 budget and, as a separate issue, directed staff to develop a mechanism to assess fees for extraordinary time spent by the planning staff, city attorney and city engineer above what is typically required for standard applications.

The attached ordinance was prepared by the city attorney to address this issue. Assessment of these fees is optional (see Section 17.29.3) but will allow the city to recoup costs for contentious projects.

Approval of a first reading at this meeting and a second reading on September 7 will make these fees effective on October 7, 2004.

ORDINANCE NO. 651 N.S.

AN ORDINANCE OF THE CITY OF PIEDMONT AMENDING
SECTION 17.29 TO THE PIEDMONT CITY CODE RELATING
TO PLANNING FEES AND COSTS

The City Council of the City of Piedmont does hereby ordain as follows:

SECTION 1.

The intent of the City Council in enacting this Ordinance is to update the provisions of the Piedmont City Code relating to planning fees, including providing for additional fees if standard flat fees have been exceeded.

SECTION 2.

Section 17.29 of the Piedmont City Code is hereby amended to read as follows:

"SEC. 17.29 FEES.

17.29.1 Basic Fee Determination

A fee shall be charged by the City for each application for any permit or approval, or renewal of same, required by this Chapter. A reasonable fee may also be charged whenever an application is returned by the City Council to the Planning Commission for further changes and review. The City Council shall establish the amounts of such fees from time to time. Fees may be either a flat fee or the actual cost incurred by the City in processing the application, which may include costs based on hourly billing rates of City employees, consultants or contractors, as well as reasonable overhead charges and other specific costs. Such fees shall be established by resolution of the City Council and may be modified at any time; provided, however, that once an application is filed and a flat fee paid, the fee for that specific application shall not be changed, except as provided in Section 17.29.3 hereafter.

17.29.2 Deposits and Extraordinary Costs.

If a fee is based on cost, the Director of Public Works may require that a deposit equal to the anticipated cost of processing the application be deposited with the City prior to processing the application. Extraordinary costs incurred by the City in processing an application under this Chapter, including but not limited to the cost of consultants and experts determined by the City Council to be necessary for a full and adequate hearing, shall be paid to the City by the applicant. If the actual cost is less than the deposit, the balance shall be refunded to the applicant within fifteen (15) working days after final action on the application. If it appears that the actual cost will be greater than the deposit, the Director of Public Works may require an additional deposit from the applicant and may direct the City staff to cease work on the application until such additional deposit is received. In any event, no permits may be issued under the application until the balance

is paid by the applicant. No application shall be considered complete until a fee or deposit is paid. (Ord. No. 488 N.S., 10/87; Ord. No. 547 N.S., 9/93).

17.29.3 Additional Fees/Flat Fee on Applications.

When a flat fee is established for a particular type of application, including where there is a sliding scale of flat fees, the flat fee will include an estimated number of hours of work by various City staff members, including but not limited to the work by the City Planner and the City Attorney, together with a reasonable additional charge based on overhead costs. When the estimated number of hours for any specific City staff member included in determining such flat fee has been exceeded, City may charge for any additional hours worked by such City staff member on the application, together with a reasonable overhead charge, to the applicant.

17.29.4 Applications With No Flat Fees.

In connection with any application which does not fit within a category for which a flat fee has been established, such applicant shall be charged based on the actual work performed by specific City staff members on such application at the hourly rate of that City staff member, together with a reasonable overhead charge applying to work performed, as well as any specific costs involved.”

SECTION 3.

This ordinance shall be posted at City Hall after its second reading by the City Council for at least thirty (30) days and shall become effective thirty (30) days after the second reading.