



STAFF REPORT

City Council

Meeting Date:

2/27/2024

Staff Report Number:

24-034-CC

Consent Calendar:

Waive the second reading and adopt an ordinance amending the City's master fee schedule for aquatics fees

Recommendation

Staff recommends that the City Council waive the second reading and adopt an ordinance (Attachment A) amending the City's master fee schedule to include aquatics fees to become effective April 1.

Policy Issues

The City Council adopts fees to recover the cost for services to minimize the demand on general taxes for services that have an individual benefit.

Background

On Feb. 13, Council voted to introduce the ordinance amending the City's master fee schedule to include aquatics fees (Attachment B), with one revision and direction to staff, described in the Analysis section.

The master fee schedule reflects fees charged by all City departments. Amendments typically occur annually in order for fees to reflect the current costs of providing services; to bring fees closer to identified cost recovery targets; to add new fees when applicable for new City services; and/or to eliminate fees for discontinued services. The City imposes different categories of fees with different requirements regarding how fees are set or changed:

- Fees and charges for use of facilities, services and access to property: These fees are elective on the part of the customer/user. The purpose of these fees and charges is to generate revenues for access or use of the service or facility. The proposed aquatics fees fall into this category.
- Property development processing and impact fees: These include fees for building and use permits, variances, building inspections, map applications and planning services, and impact and capacity fees. These fees cannot exceed the reasonable cost of providing the service or providing the facilities necessary to serve the new development. Any new fee or increase to existing fees in this category can be effective no sooner than 60 days following City Council approval. There are no changes recommended for any fees in this category at this time.
- Fees relating to public records act requests and copies of documents and reports: These fees are limited to the actual cost of copying (not including personnel time to copy) or the statutory amount, whichever is less. There are no changes recommended for any fees in this category at this time.

Analysis

City Council reviewed and introduced an ordinance Feb. 13 to amend the City's master fee schedule to

include aquatics fees, with one revision from the staff recommendation: reduce the proposed subcontractor lane rental rate from \$18 per lane per hour to \$15 per lane per hour. Additionally, City Council provided direction to staff to revisit the aquatics fees for potential additional future revisions by the end of calendar year 2024. The revised proposed ordinance and fees in Attachment A incorporate City Council's Feb. 13 direction.

The fees adopted by this ordinance would become effective April 1 after its adoption.

Impact on City Resources

The aquatics operator agreement authorized by City Council on Sept. 12, 2023, established a public-private partnership that relieved the City of the significant cost, liability, and operational burdens associated with operating an aquatics program, and assigned these liabilities to a qualified and experienced aquatics operator selected by City Council through an extensive public process. The agreement requires the operator to charge fees as set forth in the City's Master Fee Schedule within six months of the agreement's effective date of Oct. 1, 2023.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Ordinance
- B. Hyperlink – "Introduce and waive the first reading of an ordinance amending the City's master fee schedule to include aquatics fees." City Council Feb. 13 staff report:
menlopark.gov/files/sharedassets/public/v/1/agendas-and-minutes/city-council/2024-meetings/agendas/20240213/l1-20240213-cc-master-fee-schedule-update-aquatics.pdf

Report prepared by:

Brittany Mello, Administrative Services Director

Sean S. Reinhart, Library and Community Services Director

ORDINANCE NO. XXXX

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
UPDATING CERTAIN FEES AND CHARGES FOR THE LIBRARY AND
COMMUNITY SERVICES DEPARTMENT TO INCLUDE AQUATICS FEES**

WHEREAS, the City has the authority to impose fees, charges, and rates to offset the costs for municipal services and regulatory programs under its police powers under California Constitution Article XI section 7; and

WHEREAS, the City Council has, through prior actions, adopted various fees and charges requested by individual City departments; and

WHEREAS, pursuant to Ordinance No. 1110, adopted on January 9, 2024, the City Council amended and adopted a fee schedule for the City of Menlo Park's library and community services department; and

WHEREAS, on January 9, 2024, the City Council adopted an Ordinance amending the Master Fee Schedule; the Ordinance modified previous fees but did not modify or adopt new fees related to City aquatics facilities; and

WHEREAS, this ordinance establishes fees related to City aquatics facilities, as set forth in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, it is the general policy of the City to charge for the full costs of services provided by the City when such services benefit individual users rather than members of the community as a whole; and

WHEREAS, the City Council deems it advisable and in the best interests of the City to adopt and update fees related to the City's aquatics facilities, included in the City's Master Fee Schedule; and

WHEREAS, if enacted, the Taxpayer Protection and Government Accountability Act will require all fees and charges, adopted after January 1, 2022, to be adopted by the City Council by ordinance; and

WHEREAS, the City Council may adopt any fee or charge by ordinance if it is permitted to adopt the fee or charge by resolution; and

WHEREAS, the City Council desires to comply with the Taxpayer Protection and Government Accountability Act to ensure that the Proposed Fees will remain valid in the event the Act is adopted; and

WHEREAS, the Proposed Fees are "exempt charges," within the meaning of the Taxpayer Protection and Government Accountability Act because they are (1) reasonable charges for specific local government services or products provided directly to the payor that are not provided to those not charged, and they do not exceed the actual costs to the local government of providing the service or product; (2) charges for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, or the administrative enforcement and adjudication thereof; or (3) reasonable charges for entrance to or use of local government property, or the purchase, rental, or lease of local government property; and

WHEREAS, Government Code section 66016 applies to the adoption or increase of fees for zoning variances, zoning changes, use permits, building inspections, building permits, filing and processing applications and petitions filed with the LAFCO, the processing of subdivision maps, and planning services; and

WHEREAS, Government Code section 66018 applies to the adoption or increase of 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, pursuant to Government Code section 66016, the data required to be made available to the public prior to increasing the amount of the fees by this ordinance was made available for public review at least ten (10) days prior to the date of this meeting; and

WHEREAS, notice of a public hearing on the new and increased user fees was published in accordance with Government Code sections 66018 and 6062a; and

WHEREAS, a duly noticed public hearing before the City Council was held on February 13, 2024, at which public testimony was received and duly considered on the proposed fees.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct, and incorporated herein by reference and each is relied upon independently by the City Council for its adoption of the Ordinance.

Section 2. The proposed fees, set forth in Exhibit A, which is attached hereto and incorporated herein by reference, are hereby approved and adopted.

Section 3. If there are conflicts between the proposed fees adopted in this Ordinance and the fees adopted by any prior resolution or fee schedule, the proposed fees adopted pursuant to this Ordinance shall control. This Ordinance does not supersede any previous resolution or ordinance setting fees that are not included in Exhibit A to this Ordinance.

Section 4. Pursuant to Government Code section 66017, the proposed fees adopted in this Ordinance shall go into effect 30 days after the ordinance is adopted, or otherwise noted or required by statute for the library and community services department. Once effective, the proposed fees shall be incorporated into the City's Master Fee Schedule.

Section 5. If any action, subsection, sentence, clause or phrase of this Ordinance or the fees levied by this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, or the fees levied by this Ordinance that can be given effect without the invalid provisions. All other fees contained in the Master Fee Schedule, which were not changed or eliminated by this amendment, remain as adopted.

Section 6. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA"). This action is not a project within the meaning of the CEQA Guidelines Section 15378 and 15061(b)(3) as it has no potential for physical effects on

the environment because it involves the adoption or amendment of certain fees and/or charges imposed by the City, does not commit the City to any specific project, and said fees and/or charges are applicable to future development projects and/or activities, each of which future projects and/or activities will be fully evaluated in full compliance with CEQA when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (see CEQA Guidelines, Section 15004(b)(1)). Pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause significant effect on the environment, is not defined as a "project" under CEQA. Therefore, approval of the fees and/or charges is not a "project" for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a "project" under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the fees and/or charges may have a significant effect on the environment.

Section 7. The Proposed Fees, set forth in Exhibit A, may be revised, amended, or updated from time to time by resolution or ordinance of the City Council.

Section 8. This Ordinance shall be published once, in full or in summary form, after its final passage, in a newspaper of general circulation, published, and circulated in the City of Menlo Park, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those City Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of Menlo Park, County of San Mateo, State of California.

INTRODUCED on the thirteenth day of February, 2024.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the _____ day of _____, 2024, by the following votes:

AYES:

NOES:

ABSENT:

RECUSED:

APPROVED:

Cecilia Taylor, Mayor

ATTEST:

Judi A. Herren, City Clerk

Exhibits:

A. Master fee schedule for library and community services - aquatics

Library and Community Services – Aquatics

Aquatics fees in this section shall take effect April 1, 2024.

Proposed Library and Community Services – aquatics fees	
Fee title	Proposed fee
Memberships	
Lap and open swim (per month)	
General resident	\$65
General non-resident	\$72
Senior resident	\$52
Senior non-resident	\$61
Hyperlocal resident*	\$42
Masters (per month)	
General resident	\$114
General non-resident	\$125
Senior resident	\$91
Senior non-resident	\$100
Hyperlocal resident*	\$74
Aqua fit (per month)	
General resident	\$88
General non-resident	\$97
Senior resident	\$70
Senior non-resident	\$77
Hyperlocal resident*	\$57
Drop-in	
Lap swim (per visit)	
General resident	\$9
General non-resident	\$10
Senior resident	\$8
Senior non-resident	\$9
Hyperlocal resident*	\$6
Open swim (per visit)	

Proposed Library and Community Services – aquatics fees	
Fee title	Proposed fee
General resident	\$9
General non-resident	\$10
General hyperlocal resident*	\$6
Child resident	\$5
Child non-resident	\$6
Child hyperlocal resident*	\$3
Family resident	\$24
Family non-resident	\$28
Family hyperlocal resident*	\$16
Spectator resident	\$3
Spectator non-resident	\$5
Masters (per visit)	
General resident	\$20
General non-resident	\$22
Hyperlocal resident*	\$13
Aqua fit (per session)	
General resident	\$20
General non-resident	\$22
Hyperlocal resident*	\$13
Bundle discount	
Register for one aquatics program, and the same registrant may be eligible to register for a second program up to 50% off select programs.	Varies
Swim lessons (per ½ hour)	
Group lessons - resident	\$29
Group lessons - non-resident	\$32
Group lessons - hyperlocal resident*	\$19
Private lessons - resident	\$79
Private lessons - non-resident	\$87
Private lessons - hyperlocal resident*	\$51
Fee-assisted scholarship (residents only)	\$5
Youth bridge program (per ¾ hour)	

Proposed Library and Community Services – aquatics fees	
Fee title	Proposed fee
Youth bridge program - resident	\$24
Youth bridge program - non-resident	\$26
Youth bridge program - hyperlocal resident*	\$16
Youth camps (per hour)	
Youth camps - resident	\$23
Youth camps - non-resident	\$25
Youth camps - hyperlocal resident*	\$15
Group programming (per hour)	
Group programming - resident	\$24
Group programming - non-resident	\$26
Group programming - hyperlocal Resident*	\$16
Subcontractor lane rental (per hour per lane)	
Subcontractor lane rental	\$15

*The hyperlocal fee rate applies to residents who live or attend K-12 school within the neighborhood service area of the Belle Haven Community Campus.