

RESOLUTION NO. 20-0026

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ESTABLISHING ADMINISTRATIVE FEES APPLICABLE TO WIRELESS ENCROACHMENT PERMITS IN THE PUBLIC RIGHTS-OF-WAY AND AMENDING THE CITY'S COMPREHENSIVE COST RECOVERY FEE SCHEDULE

THE MANHATTAN BEACH CITY COUNCIL DOES HEREBY DECLARE, FIND, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City of Manhattan Beach ("City") is empowered to impose reasonable fees, rates, and charges for municipal services. California Government Code Section 66000 et seq. authorizes the City to adopt fees for municipal services, provided such fees do not exceed the cost to the City for providing the services. Periodically, the City Council determines that fees, rates, and charges should cover the costs reasonably borne or a substantial portion of the actual costs of the goods and services provided by the City.

SECTION 2. Ordinance 19-0012-U (Chapter 13.04) and Resolution 19-0044 authorize the establishment of administrative fees applicable to processing and administering wireless encroachment permits for small wireless facilities and eligible facilities in the public rights-of-way in the City; and require that applicants for small wireless facilities and eligible facilities submit payment of such fees as part of the permit application process.

SECTION 3. On September 27, 2018, the Federal Communications Commission ("FCC") issued a Declaratory Ruling and Third Report and Order which establishes fee amounts that are deemed to be presumptively fair and reasonable recurring and non-recurring compensation to be paid by small wireless facility applicants and permittees, effective January 14, 2019.

SECTION 4. The Ruling and Order provides that the fee amounts approved by the FCC for small wireless facilities may be exceeded upon the City finding that the higher amounts nevertheless represent all of the following: (a) "a reasonable approximation of costs"; and (b) "those costs themselves are reasonable", and (c) "are non-discriminatory."

SECTION 5. The City has conducted an extensive analysis of the costs reasonably borne by the City for analyzing and processing applications for wireless encroachment permits for small wireless facilities and eligible facilities. The City retained an independent consultant, Matrix Consulting Group ("Matrix"), to conduct the analysis of the City's services and related costs. Matrix collected data and interviewed City personnel as part of that analysis. Matrix completed that certain Comprehensive Cost Allocation Plan dated September 7, 2019 and that Cost of Services (User Fee) Study Report dated February 2020 (collectively "Studies"). The Studies are on file with the City Finance Department and are incorporated by this reference. In addition, the Finance Department analyzed the necessary services and related costs associated with the services necessary for processing wireless encroachment permit applications. The Studies and additional analysis set forth a

mechanism to ensure that wireless encroachment permit fees adopted by the City represent (a) “a reasonable approximation of costs”; and (b) “those costs themselves are reasonable”, and (c) “are non-discriminatory.”

SECTION 6. The City Council desires to amend the User Fee Table FY2020 (“Table”) attached as Attachment A to Resolution 20-0020 to establish small wireless facility administrative fees and eligible facilities administrative fees for wireless encroachment permits under Ordinance 19-0012-U (Chapter 13.04) and Resolution 19-0044.

SECTION 7. The adoption of this Resolution approves and sets forth a procedure for increasing reasonable costs, fines and penalties for the purpose of meeting increased operating expenses of City departments and is, therefore, exempt from the California Environmental Quality Act (Public Resources Code Sections 21080 et seq.) pursuant to Public Resources Code Section 21080(b)(8)(A).

SECTION 8. After conducting a duly noticed public hearing on February 18, 2020, the City Council hereby determines that the proposed fees, and charges for wireless encroachment permits represent (a) “a reasonable approximation of costs”; and (b) “those costs themselves are reasonable”, and (c) “are non-discriminatory.” The City Council further determines that fees, rates, and charges should cover the costs reasonably borne or a substantial portion of the actual costs of the goods and services provided by the City. The proposed fees and charges are attached hereto as Attachment A and incorporated by this reference.

SECTION 9. Based upon the foregoing, the City Council hereby establishes, the wireless encroachment permit fees identified in Attachment A, and directs staff to amend the Table to include such fees.

SECTION 10. The City Manager shall have the authority to interpret the provisions of this Resolution and the attached Amendment for purposes of resolving ambiguities.

SECTION 11. The fees listed on Attachment A shall take effect immediately.

SECTION 12. The City Clerk shall certify to the passage and adoption of this Resolution.

ADOPTED February 18, 2020.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

NANCY HERSMAN
Mayor

LIZA TAMURA
City Clerk

WIRELESS PROPOSED FEE

Category	Description	Additional Information	Total Cost	Proposed Fee
PLANNING FEES				
Telecomm. Antenna Permit	Review an application for a Telecommunications Antenna Permit in order to ensure that it conforms to code requirements.	New or Amendment to a Small Cell or eligible facility (Public or Private Property, and R-O-W)	\$2,307	\$2,307

Process Step Details:	Dept	Division	Position	Time to Complete	FBR (FY19)	Total
Intake	CDD	Building	Permit Tech / Sr. Permit Tech	0.75	\$ 129.05	\$ 96.79
Routing	CDD	Building	Permit Tech / Sr. Permit Tech	1.00	\$ 129.05	\$ 129.05
Review	CDD	Planning	Asst / Assoc. Planner	2.00	\$ 135.82	\$ 271.64
Review	CDD	Planning	Planning Mgr.	0.25	\$ 175.15	\$ 43.79
Review	CDD	Building	Plan Check Engineer	1.00	\$ 161.87	\$ 161.87
Review	CDD	Traffic	Traffic Engineer	0.75	\$ 159.12	\$ 119.34
Review	IT	IT	IT Manager	0.50	\$ 176.36	\$ 88.18
Review	PW	Civil Eng.	Public Works Inspector	0.50	\$ 109.79	\$ 54.90
Review	PW	Civil Eng.	Principal Engineer	1.00	\$ 159.15	\$ 159.15
Resubmittal	CDD	Planning	Asst / Assoc. Planner	1.50	\$ 135.82	\$ 203.73
Resubmittal	CDD	Planning	Planning Mgr.	0.25	\$ 175.15	\$ 43.79
Resubmittal	CDD	Admin	Comm. Dev. Director	0.25	\$ 194.14	\$ 48.54
Resubmittal	PW	Civil Eng.	Public Works Inspector	0.50	\$ 109.79	\$ 54.90
Resubmittal	PW	Civil Eng.	Principal Engineer	0.75	\$ 159.15	\$ 119.36
Follow Up	CDD	Planning	Admin Clerk II	0.50	\$ 95.10	\$ 47.55
Resubmittal	CDD	Planning	Asst / Assoc. Planner	0.75	\$ 135.82	\$ 101.87
Resubmittal	CDD	Building	Plan Check Engineer	0.50	\$ 161.87	\$ 80.94
Resubmittal	CDD	Traffic	Traffic Engineer	0.25	\$ 159.12	\$ 39.78
Resubmittal	IT	IT	IT Manager	0.25	\$ 176.36	\$ 44.09
Resubmittal	CDD	Planning	Planning Mgr.	0.25	\$ 175.15	\$ 43.79
Resubmittal	CDD	Admin	Comm. Dev. Director	0.25	\$ 194.14	\$ 48.54
Follow Up	CDD	Admin	Admin Clerk II	0.50	\$ 95.10	\$ 47.55
Permit Finalized	CDD	Building	Permit Tech / Sr. Permit Tech	2.00	\$ 129.05	\$ 258.10

Fee @ 100% Recovery **2,307.20**