

RESOLUTION NO. ____-2019

RESOLUTION OF THE FORT BRAGG CITY COUNCIL ADOPTING FEES FOR SMALL CELL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the Fort Bragg City Council finds it appropriate to charge fees for certain miscellaneous services provided by the City; and

WHEREAS, the City maintains a comprehensive "Consolidated Fee Schedule" to provide members of the public and City staff with a convenient method for determining fees and charges that apply to certain City services; and

WHEREAS, included in the Consolidated Fee Schedule is a list of fees for miscellaneous services; and

WHEREAS, the City has conducted an analysis of its miscellaneous services and the costs reasonably incurred in providing those services, the beneficiaries of those services, and the revenues produced by those paying fees and charges for such services; and

WHEREAS, the City Council plans to standardize the City's permit process and fees related to small cell wireless facilities in the revision of Chapter 12.10 of the Fort Bragg Municipal Code; and

WHEREAS, the City's Public Works Department expects to expend a great deal of staff time and costs in processing permit applications for small cell wireless installations, as well as in administering such facilities; and

WHEREAS, on October 15, 2018, the Federal Communication Commission (FCC) published the *Declaratory Ruling and Third Report and Order in the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* (the FCC Ruling). The FCC Ruling, among other things, provided that fees imposed by cities as part of the regulation of small wireless facilities must be: (1) a reasonable approximation of the city's costs, (2) based only on objectively reasonable costs, and (3) no higher than the fees charged to similarly-situated competitors in similar situations; and

WHEREAS, the City Council wishes to set fees related to licensing, permitting, and administering small cell wireless facilities in the City's public right-of-way consistent with applicable laws, and City rules, guidelines, and standards; and

WHEREAS, the proposed Small Cell Wireless Facilities Fee Schedule has been prepared by City staff and consultants after approximating the objectively reasonable costs associated with licensing, permitting, and administering small cell wireless facilities in the City's public right-of-way to similarly-situated providers of wireless telecommunications services; and

WHEREAS, the creation of a funding mechanism by amending the City's Consolidated Fee Schedule to include fees related to licensing, permitting, and administering small cell wireless facilities in the City's public right-of-way is not a project as defined by the California Environmental Quality Act; and

WHEREAS, pursuant to Government Code section 66018, the specific fees to be charged for such miscellaneous services must be adopted by the City Council after providing notice and holding an open and public meeting; and

WHEREAS, the City Council opened a public hearing on August 12, 2019, following proper notice, to obtain comments on the proposed fee schedule changes and on that date obtained comments on the proposed fee schedule changes; and

WHEREAS, based on all the evidence presented at the time of the public hearing on this matter, the City Council finds as follows:

1. The foregoing recitations are true and correct, and are included herein by reference as findings; and
2. All notices and publications have been given in accordance with Government Code sections 6062a; and
3. Information regarding the proposed fee increases, including the cost or estimated cost required to provide the service for which a specific fee is levied, have been made available to the public for at least ten (10) days prior to the public meeting; and
4. The fees collected for providing miscellaneous services are not a source of additional general fund revenues nor are they a "special tax" as described in California Government Code section 50076; and
5. The proposed fees as identified in Exhibit "A" have been reviewed and are found to not exceed the estimated reasonable cost of providing the services for which the fees are levied.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby adopt the fees as shown on Exhibit "A," attached, showing the fees to be charged for the services described therein; and

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to update the Consolidated Fee Schedule to reflect the fees described in Exhibit "A"; and

BE IT FURTHER RESOLVED that these fees shall become effective October 11, 2019.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 12th day of August, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

WILLIAM V. LEE
Mayor

ATTEST:

June Lemos, CMC
City Clerk