



DATE: May 1, 2023

TO: Mayor and Members of the City Council

VIA: Stefan Chatwin, City Manager

FROM: Ramon Towne, Interim Public Works Director/City Engineer
Laura Galli, Engineering Manager

DEPARTMENT: Public Works

SUBJECT: AN ORDINANCE OF THE CITY OF FOSTER CITY AMENDING
SECTION 12.40.080 PERMIT—RENEWAL, OF CHAPTER 12.40
WORK WITHIN PUBLIC PLACES, OF TITLE 12 PUBLIC
PROPERTY OF THE FOSTER CITY MUNICIPAL CODE TO SET
THE FEE BY COUNCIL RESOLUTION

RECOMMENDATION

It is recommended that the City Council introduce by title only and waive further reading of the attached ordinance amending section 12.40.080, Permit-Renewal, of Chapter 12.40, Work Within Public Places of Title 12, Work Within Public Places, of Title 12, Public Property of the Foster City Municipal Code to set the fee by Council Resolution.

EXECUTIVE SUMMARY

Encroachment Permits are used by the City to regulate the process by which private entities can operate in the public right-of-way. Fees are established to recover the cost of administering the permits and inspecting the work.

While most Encroachment Permit Fees can be set by City Resolution, the fee for renewing expiring Encroachment Permits was set by ordinance.

Aligning the Encroachment Permit Renewal Fee with the other Encroachment Permit Fees in the Master Fees and Service Charges Schedule would be less confusing and

more transparent for both staff and the public and would provide flexibility in the event that the City Council wishes to amend the fee in future.

BACKGROUND/ANALYSIS

Chapter 12.40 Work Within Public Places was added to the Foster City Municipal Code in 1972 and generally regulates the process by which private entities can operate in the public right-of-way. This regulation is important in order to maintain public safety and to ensure that the City's infrastructure is not damaged or otherwise harmed.

The major mechanism by which this work is regulated is through Encroachment Permits, which are issued and monitored by the Public Works Department. Fees are established to recover the cost of administering the permits and inspecting the work.

The Municipal Code allows most Encroachment Permit Fees to be set by City Council Resolution. These fees are then included in the Master Fees and Service Charges Schedule and reviewed annually and adjusted if necessary. However, the fee for renewing expiring Encroachment Permits, which can be found at Foster City Municipal Code section 12.40.080, was set by ordinance at ten percent (10%) of the original permit fee. As such, the fee for renewing expiring Encroachment Permits can only be adjusted through an ordinance amendment.

During the preparation of the User Fee Study, staff recommended that the fee be adjusted from ten percent (10%) to fifteen percent (15%). This adjustment was included in the recommended User Fees which was reviewed by the City Council on April 10, 2023. It was highlighted as a "new" fee in the User Fee Study, although, as stated, this fee has been in place since 1972, but not in the Master Fees and Service Charges Schedule.

Regardless of whether the City Council chooses to increase the fees for Encroachment Permit renewals for Fiscal Year 2023-2024, staff believes that amending the ordinance to align the Encroachment Permit Renewal Fee with the other Encroachment Permit Fees in the Master Fees and Service Charges Schedule would be less confusing and more transparent for both staff and the public and would provide flexibility in the event that the City Council wishes to amend the fee in future. Attachment 2 shows the recommended, "red-lined" amended language in the context with other related sections.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et. seq.), including without limitation, Public Resources Code section 21065 and California Code of Regulations 15378 as this is not

a “project” that may cause a direct, or reasonably foreseeable indirect, physical change in the environment.

FISCAL IMPACT

There is no direct fiscal impact to making this ordinance amendment. However, moving this fee to the Master Fee Schedule will allow for it to be adjusted more readily which could have a minor effect on future revenues.

CITY COUNCIL VISION, MISSION, AND VALUE/PRIORITY AREA

City Council Operations and Improved Community Engagement

ATTACHMENTS:

Attachment 1 – Ordinance

Attachment 2 – Excerpt from Foster City Municipal Code Chapter 12.40