

ORDINANCE NO. 1117

**AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MENLO PARK ADOPTING CERTAIN FEES RELATING TO THE WIRELESS
FACILITIES PERMIT AND SITE LICENSE FEE**

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 §7; and

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

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

WHEREAS, Staff has determined that the costs of administering the Wireless Facilities Permit should be a time and materials contract similar to the City's Special Encroachment Fee. Typically, City staff spends approximately 55 hours reviewing and processing these applications. Staff anticipates that there will likely need to be assistance from technical consultants and the City Attorney's Office to process Wireless Facilities Permit applications. As such, staff is proposing a deposit amount for the Wireless Facilities Permit Fee of \$5,000 for each location/pole; and

WHEREAS, staff is proposing the adoption of a fee to recover the costs of City staff service to administer the Wireless Facilities Permit and a fee to recover the costs of City staff service to administer the Site License, which is a part of the Master License Agreement for wireless facilities installed on City structures; and

WHEREAS, if enacted, the Taxpayer Protection and Government Accountability Act will require all fees and charges, adopted after Jan. 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

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WHEREAS, these fees are not subject to compliance with Government Code §6600 et seq., because they are not fees relating to zoning variances, zoning changes, use permits, building inspections, building permits, filing and processing applications and petitions filed with the Local Agency Formation Commission (LAFCO), the processing of subdivision maps, and planning services; and

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.

Commencing Aug. 8, 2024 and July 1 of each fiscal year thereafter, the Proposed Fees, shall be administratively revised and increased annually based on changes in City hourly rates. Notwithstanding the foregoing, in no event shall the annual administrative revisions described in this Section 3 apply to any fees and charges established by other agencies or as otherwise may be prohibited by applicable law. The proposed changes must be approved by the City Council.

Section 4.

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 5.

Once effective, the Proposed Fees shall be incorporated into the City's Master Fee Schedule.

Section 6.

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.

Section 7.

The adoption of this ordinance is not a project under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15061(b)(3) (the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment), in that it can be seen with certainty that there is no possibility that the adoption of this ordinance and Resolution will result in a significant effect on the environment, because the proposed ordinance would establish an administrative permitting process and does not authorize any specific development or installation, and in the alternative, would be exempt pursuant to §§15301 (Existing Facilities, which allows alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use), 15303 (New Construction or Conversion of Small Structures, which allows the construction and location of new, small facilities or structures and the installation of small

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new equipment and facilities in small structures), 15304 (Minor alterations to land) and 15305 (Minor alterations in Land Use Limitations) of the CEQA Guidelines.

Section 8.

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 9. This ordinance shall be effective 30 days from the date of passage and adoption.

Section 10. The city clerk is directed to cause this ordinance to be published in the manner required by law.

INTRODUCED on the twenty-fifth day of June, 2024.

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

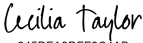
AYES: Combs, Doerr, Nash, Taylor

NOES: None


ABSENT: Wolosin

RECUSED: None

APPROVED:

DocuSigned by:

Cecilia Taylor, Mayor

ATTEST:

DocuSigned by:

Judi A. Herren, City Clerk

Exhibits:

A. Proposed fees

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Wireless facilities permit		
Fee type	Fee	Required deposit
Wireless Facilities Permit per Chapter 13.32	Actual cost (time and materials)	\$5,000/pole
Site license (per location)	\$270 per year	