



City of Huntington Beach

File #: 21-172

MEETING DATE: 3/1/2021

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Oliver Chi, City Manager

PREPARED BY: Ursula Luna-Reynosa, Director of Community Development

Subject:

Adopt Resolution No. 2021-17 (Supplemental Fee Resolution 12), establishing Fees and Charges for Use and Operator Permits for Group Homes and Sober Living Homes and Hourly Billing Rates for Code Enforcement Services

Statement of Issue:

The City has established regulations, standards, and a permitting process for Group Homes and Sober Living Homes. The attached resolution establishes fees intended to offset the costs of permit processing and regulation of group homes and sober living homes. Additionally, a schedule of hourly billing rates for Code Enforcement services is proposed to be adopted and incorporated into the City's Master Fee Schedule.

Financial Impact:

The anticipated revenue impact of adopting fees for processing use permit and operator permit applications for group homes and sober living homes is:

- Initial Year: \$400,000
- Future Years: \$145,000

These figures represent a full cost recovery of the staff time expected to process each application received. Revenues will offset the costs of permit application review and processing, and are based on total staff hours for each application as identified in the Cost of Service Analysis (Attachment No. 2). Actual revenues will vary based on permit applications received. In the first year of implementation, staff anticipates receiving approximately 110 applications for a Special Use Permit (for facilities with 6 or fewer residents), and approximately 30 applications for a Conditional use Permit and Operator's Permit (for facilities with 7 or more residents), based on Code Enforcement figures of both known and suspected operating facilities.

Initial year revenue projections are anticipated to exceed future year revenue projections, because Special Use Permits, Conditional Use Permits, and Operator Permits are one-time fees. If regulation is required beyond the level assumed for typical permit review and approval, staff may bill hourly for code enforcement regulatory efforts as the projected fee revenue will only cover the time to process

applications and does not include enforcement.

Recommended Action:

Adopt Resolution No. 2021-17, "A Resolution of the City Council of the City of Huntington Beach Establishing and Updating Use Permit and Operator Permit Fees for Group Homes and Sober Living Homes and Hourly Billing Rates for Code Enforcement Services by Amending Resolution 2016-59, as amended pursuant to Resolution Nos. 2017-28, 2017-44, 2017-46, 2018-01, 2018-29, 2018-48, 2018-55, 2019-07, 2019-19, 2019-87 and 2020-37, Which Established a Consolidated Comprehensive Citywide Master Fee and Charges Schedule" (Supplemental Fee Resolution 12).

Alternative Action(s):

Do not approve the recommended action and direct staff accordingly.

Analysis:

On July 20, 2020, the City Council adopted Ordinances 4212, 4213, 4214, 4215, and 4216 that together established a set of regulations for Group Homes, Sober Living Homes, and Residential Care Facilities affecting Residential Districts Citywide.

The proposed regulations are currently in effect and upon adoption of applicable permitting fees, will be fully implemented. Pursuant to the regulations adopted by the City Council, three new permit processes were established:

1. Special Use Permit (SUP): In all Residential Districts, a Group Home or Sober Living Home with six (6) or fewer residents is required to obtain a ministerial Special Use Permit from the Community Development Director.
2. Conditional Use Permit (CUP): In all Residential Districts except Residential Low Density (RL), a Group Home or Sober Living Home with seven (7) or more residents requires a Conditional Use Permit (CUP) from the Planning Commission; and
 - a. Operator's Permit: An Operator's Permit that complies with Huntington Beach Municipal Code (HBMC) Section 5.110.

The proposed permit fees for a Special Use Permit, Conditional Use Permit, or Operator's Permit are intended to recover the full costs of staff time to review each application. Additionally, the costs of software and systems used to assist the City with receiving, processing, and acting upon said permit applications are included in the cost of service calculations. For residential properties with Group Home or Sober Living Home operations that require code enforcement regulation beyond the level assumed in the base permit fees, staff may use hourly billings for cost recovery purposes.

Staff recommends a fee of \$1,753 for a Special Use Permit, \$4,765 for a Conditional Use Permit, and \$2,193 for an Operator's Permit. These amounts are based on the time involved by the Planning Division and Code Enforcement Division in processing each application.

For the purposes of comparison, staff surveyed other cities that have enacted ordinances regulating

Group Homes and Sober Living homes and impose permit application fees. Those fees are:

CITY	FEE DESCRIPTION	FEE	COST RECOVERY
Newport Beach	Use Permit - Conditional (No SUP or OP Required)	\$5,271	100%
Costa Mesa	Special Use Permit (Max. 6) CUP (7+) - Operator's Permit (Required for CUP)	\$5,500 \$7,500 \$1,000	71.99% 74.26% 100%
County of Orange	Group Home Permit (Max. 6) Use Permit (7 +) to PC	\$500 \$5,000 (Deposit)	100% Unknown
Anaheim	Operator's Permit (No SUP or CUP Required)	\$966	75%
Encinitas	Group Home Permit (Max. 6) CUP (Major - 7+)	\$250 \$6,000	100% Unknown

The proposed fee of \$1,753 for a Special Use Permit, \$4,765 for a Conditional Use Permit, and \$2,193 for an Operator's Permit are comparable to those of other cities with similar regulations.

The services for which a city imposes a user or regulatory fee typically derive from an individual person or entity's action, request, or behavior. Therefore, except in cases where there is an overwhelming public benefit generated by a city's involvement in the individual action, a fee for service ensures that the individual bears most, if not all, of the cost incurred by the city to provide that service. When a fee targets "100% or full cost recovery," the individual is bearing the entirety of the cost. When a fee targets less than full cost recovery, another City revenue source - in most cases, the General Fund - subsidizes the individualized activity.

Industry best practice and California statute are in harmony: User and regulatory fees should be set according to the estimated reasonable cost of service, and should bear a fair and reasonable relationship to the payer's burdens on or benefits received from the activities and/or services provided by the City. The permit fees are intended to recover the typical staff effort to review use and operator permit applications for group homes and sober living homes requesting to operate within the City.

Hourly billing rates for Code Enforcement are intended to be adopted and incorporated into the City's Master Fee Schedule. Staff may use hourly billings for cost recovery purposes for enforcement. For example, an entity may be operating without any of the requisite permits and code enforcement will spend time enforcing the City's regulations. The only way to recoup costs associated with those enforcement efforts will be to bill the offenders on the City's actual costs to enforce.

The proposed fees are intended to comply with applicable federal, state, and local laws including providing confirmation that the proposed fees (charges) are not a tax as defined in Article 13C of the California Constitution and that the proposed fees are no more than necessary to cover the reasonable costs of the City's activities and services addressed in the fees. Additionally, the manner in which the costs are allocated to a payor bear a fair and reasonable relationship to the payor's burdens on, or benefits received from the activities and services provided by the City.

Environmental Status:

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment or is otherwise not considered a project as defined by CEQA Statute §21065 and CEQA State Guidelines §15060(c)(3) and §15378. The approval of the resolution meets the above criteria and is not subject to CEQA. No additional environmental review is required.

Strategic Plan Goal:

Community Engagement

Attachment(s):

1. Resolution No. 2021-17," A Resolution of the City Council of the City of Huntington Beach Establishing and Updating Use Permit and Operator Permit Fees for Group Homes and Sober Living Homes and Hourly Billing Rates for Code Enforcement Services by Amending Resolution 2016-59, as amended pursuant to Resolution Nos. 2017-28, 2017-44, 2017-46, 2018-01, 2018-29, 2018-48, 2018-55, 2019-07, 2019-19, 2019-87 and 2020-37, Which Established a Consolidated Comprehensive Citywide Master Fee and Charges Schedule" (Supplemental Fee Resolution 12)."
2. Cost of Service Analysis