



CITY OF

NEWPORT BEACH

City Council Staff Report

July 28, 2026
Agenda Item No. 24

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Jason Al-Imam, Administrative Services Director/Treasurer - 949-644-3126, jalimam@newportbeachca.gov

PREPARED BY: Abigail Marin, Senior Budget Analyst - 949-644-3042, amarin@newportbeachca.gov

TITLE: Ordinance No 2026-11: Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages, and Resolution No. 2026-56: Adopting Certain Fees Within the Schedule of Rents, Fines and Fees

ABSTRACT:

Consistent with best practices and City Council Policy, the City of Newport Beach (City) performs cost of service studies to ensure fees do not exceed the cost of providing services. As part of this study, staff reviewed the Administrative Citations Hearing process to establish appropriate cost recovery figures and evaluated three new permit fees — Tobacco Retailer Permit, Wireless Facility Permit, and an Eligible Facilities Request (Section 6409(a)) Permit —for inclusion in the Schedule of Rents, Fines and Fees. Staff is also recommending modifications to Newport Beach Municipal Code (NBMC) Section 3.36.030 (Cost Recovery Percentages) to streamline the authorized levels of cost recovery.

RECOMMENDATIONS:

- a) Conduct a public hearing;
- b) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- c) Adopt Resolution No. 2026-56, *A Resolution of the City Council of the City of Newport Beach, California, Establishing a Tobacco Retailer Permit Fee, a Wireless Facility Permit Fee, Incorporating Fee Modifiers from Former Exhibit A of Section 3.36.030 (Cost Recovery Percentages) of the Newport Beach Municipal Code, and Revising Administrative Hearing Fees in the Schedule of Rents, Fines and Fees*; and
- d) Introduce Ordinance No. 2026-11, *An Ordinance of the City Council of the City of Newport, California, Amending Section 3.36.030 (Cost Recovery Percentages) of the Newport Beach Municipal Code and Repealing Exhibit A of Section 3.36.030 (Cost Recovery Percentages) of the Newport Beach Municipal Code, and pass to second reading on August 25, 2026.*

DISCUSSION:

Following the Fiscal Year 2025–26 fee study update and the adoption of the FY 2026–27 Schedule of Rents, Fines, and Fees (SRFF) at the May 12, 2026, City Council meeting, the City Council expressed interest in reviewing the cost-recovery percentages currently reflected in NBMC 3.36.030 for Administrative Citation Hearings. Staff subsequently reviewed the current cost-recovery percentages to evaluate opportunities to recover a greater share of the cost of providing these services and to minimize ongoing subsidy. Accordingly, staff conducted a cost-of-service analysis of the Administrative Citation hearing process with the assistance of ClearSource Financial Consulting (ClearSource) to determine whether to assess a fee for the process. In addition, three permitting processes – Tobacco Retailer Permit, Wireless Facility Permit, and an Eligible Facilities Request (Section 6409(a)) Permit – were also analyzed as part of this cost-of-service study due to recent ordinance changes that necessitated a review of the associated proposed permit fees, the findings of which are further outlined in this report. An ordinance change is also recommended to amend Newport Beach Municipal Code Section 3.36.030.

Administrative Citation Hearings

NBMC 1.05.020 (Authority and Administrative Citation Fines) establishes fine amounts for administrative citations across multiple violation tiers, resulting in a broad range of potential citation fines.

The fully burdened cost to the City to conduct an Administrative Citation Hearing is \$926 per hearing. Under NBMC Chapter 3.36.030, the City currently charges no fee for Administrative Citation Hearings regardless of the outcome—whether the appeal is successful or unsuccessful—representing a 0% cost recovery rate for this service. Staff is recommending the adoption of a flat hearing appeal fee of \$185.00 for unsuccessful appeals, representing approximately 20% of the City's cost to conduct an Administrative Citation Hearing. The proposed fee partially offsets the City's cost of providing this service while continuing to substantially subsidize the Administrative Citation Hearing process to preserve meaningful access for individuals seeking to appeal an administrative citation.

The proposed fee structure is not intended to be punitive, nor is it designed to discourage individuals from exercising their right to contest an administrative citation through the Administrative Citation Hearing process. The City of Newport Beach is committed to ensuring a fair and impartial Administrative Citation Hearing process, and the purpose of an administrative hearing is to provide individuals with the opportunity for due process by allowing an impartial evaluation of the validity of a citation.

For individuals who may lack the financial resources to participate in the Administrative Citation Hearing process, the NBMC provides the following protections:

- Advance Deposit Hardship Waiver – Any responsible person who is financially unable to make the required advance deposit of the fine may file a request for an

advance deposit hardship waiver within 15 days from the date of service of the citation.

- Written Request Requirement – The request must be in writing and describe with particularity the responsible person's actual financial inability demonstrating why all or part of the fine cannot be paid.
- Sworn Affidavit – The written request must be accompanied by a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the City's Administrative Services Director, or his or her designee, the responsible person's actual financial inability.
- Stay of Deposit Requirement – Once a complete written request for an advance deposit hardship waiver is filed, the requirement of depositing the full amount of the fine is stayed until the City's Administrative Services Director, or his or her designee, determines whether to grant, grant in part, or deny the request.

The Administrative Citation Hearing fees are proposed to be effective 30 days after adoption of ordinance.

Tobacco Retailer Permit Fee

On May 26, 2026, the City Council introduced Ordinance No. 2026-06 amending Title 5 (Business Licenses and Regulations) and Title 20 (Planning and Zoning) for Tobacco Retailer Businesses and Cigar Lounges, and adopted the ordinance at the June 9, 2026, City Council meeting. The ordinance establishes the Tobacco Retailer Permit program requirements. Consistent with those regulations, staff is proposing a new Tobacco Retailer Permit fee to recover the City's cost of administering the permit process.

The proposed Tobacco Retailer Permit fee is a new administrative permit fee established in connection with comprehensive regulations for tobacco retailer businesses, requiring any business that sells, offers for sale, distributes, or otherwise exchanges tobacco products, tobacco paraphernalia, or tobacco-related items in the City to obtain a permit reviewed and issued by the Newport Beach Police Department. The fee supports the City's cost recovery for administering the permit process, which includes an annual renewal requirement and compliance review to ensure tobacco retailers adhere to all applicable local, state and federal laws, separation requirements, and operational standards. The applicant must obtain any required state licenses independently.

Wireless Facility Permit and Eligible Facilities Request (Section 6409(a)) Permit

On June 9, 2026, the City Council introduced Ordinance No. 2026-07, which updates Titles 20 (Planning and Zoning) and 13 (Streets, Sidewalks and Public Property) related to personal wireless service facilities, and adopted the ordinance at the July 14, 2026, City Council meeting. Consistent with those updates, staff is proposing new Wireless Facility Permit and Eligible Facilities Request (Section 6409(a)) Permit fees to recover

the City's costs associated with reviewing, processing, and administering permit applications for personal wireless service facilities proposed to be located in the City's public right-of-way.

The Eligible Facilities Request (Section 6409(a)) Permit applies to certain modifications to existing wireless facilities that federal law requires local governments to review under an expedited approval process. These applications generally involve collocations, equipment replacements, removals or similar modifications that do not substantially change the physical dimensions of an existing wireless facility. By contrast, the Wireless Facility Permit generally applies to new wireless facilities or modifications that fall outside the scope of Section 6409(a).

The proposed fees are intended to ensure that the costs of permit review — including staff time for application processing, radio frequency compliance review, site evaluation, and ongoing regulatory oversight — are borne by the applicant rather than subsidized by the general public. Each permit category includes an initial application fee as well as fees for permit renewals or extensions.

The Wireless Facility Permit fee and the Eligible Facilities Request (Section 6409(a)) Permit fee are proposed to become effective 60 days after the adoption of Ordinance No. 2026-07.

Other Updates

In addition, staff is proposing that Exhibit A to Newport Beach Municipal Code Section 3.36.030 be removed from the Code entirely. Under the existing framework, Exhibit A has historically served as the mechanism within the Code for listing specific user services subject to cost recovery percentages below the default 100% rate. The proposed change would eliminate Exhibit A as a codified component of NBMC Section 3.36.030, streamlining the Municipal Code and removing the need for a formal ordinance amendment each time cost recovery percentages are adjusted. Going forward, the resolution adopted by the City Council that approves the Schedule of Rents, Fines, and Fees would serve as the sole and authoritative basis for determining which fees are subject to cost recovery and at what percentage – including any subsidized fees such as the 100% subsidy applied when an appellant is successful. This approach is consistent with the City Council's existing authority under NBMC Section 3.36.030 (c), which already permits the City Council to modify the fee resolution to amend fee amounts without a separate Code amendment, and would extend that flexibility to cost recovery percentage determinations as well.

FISCAL IMPACT:

The proposed fee adjustments and new permit fees are expected to increase cost recovery revenues over time by recovering a portion of the City's costs associated with administrative citation hearings and the administration of certain permit programs. However, because the Tobacco Retailer Permit, Wireless Facility Permit, and Eligible

Facilities Request (Section 6409(a)) Permit are new programs established following ordinances adopted by the City Council in May and June 2026, insufficient historical data exists to reasonably estimate the amount of revenue that will be generated from these fees.

Revenue generated from the proposed Administrative Citation Hearing fee will vary depending on the number of hearing requests received and the outcome of those hearings. Over the past two years, the City has conducted approximately 190 administrative citation hearings annually. Accordingly, while the proposed fee is expected to improve cost recovery, the amount of additional annual revenue will depend on the number of hearing requests received, the outcome of those hearings, and any approved hardship waivers.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). Additionally, the agenda item has been noticed according to Government Code Sections 66018(a) and 6062(a) (published for 10 days, on two publication dates separated by at least five days between them: notices were published on July 17, 2026, and July 24, 2026), Government Code Sections 66016(a) (notice mailed at least 14 days prior to the meeting to any interested party who files a written request: notices were mailed to AT&T, Building Industry Association of Southern California, Southern California Edison, and Southern California Gas Company on July 13, 2026), and the Brown Act (72 hours in advance of the meeting at which the City Council considers the item)

ATTACHMENTS:

Attachment A – Cost of Service Studies
Attachment B – Redlined NBMC 3.36.030
Attachment C – Redlined Schedule of Rents, Fines, and Fees for FY 2026-27
Attachment D – Resolution No. 2026-56
Attachment E – Ordinance No. 2026-11