



**CITY OF NEWPORT BEACH
FINANCE COMMITTEE
STAFF REPORT**

Agenda Item No. 5A
March 10, 2022

TO: HONORABLE CHAIR AND MEMBERS OF THE COMMITTEE

FROM: Finance Department
Scott Catlett, Finance Director/Treasurer
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SUBJECT: FISCAL YEAR 2021-22 FEE STUDY UPDATE

SUMMARY:

Fees are regularly studied and updated, by department, to ensure the proper recovery for cost of services in accordance with the cost recovery rates established by the City Council. Departments are reviewed on a rotating basis such that each department's fees are comprehensively studied and updated every three to five years. This year, staff has comprehensively reviewed the fees for the following departments:

- Recreation and Senior Services
- Library
- Fire Prevention

Specific recommendations for each department are discussed in detail later in this report. Staff has also identified several necessary fee updates outside of the studied departments as follows:

- Harbor – Marine Activities Permit (MAP) – New Renewal Application Fee for Service Providers
- All Departments
 - Increase to the Notary Services Fee pursuant to Government Code Section 8211
 - New fee to charge full hourly and burdened rate in addition to City or department overhead for user services not otherwise identified
 - New fees for both successful and unsuccessful appeals (excluding appeals to fines) that are not otherwise identified

Subject to City Council approval, staff recommends that the fee schedule updates

become effective July 1, 2022. In addition to the proposed fee updates, staff is recommending modifications to the Newport Beach Municipal Code (NBMC) Sections 3.36.0202 (Definitions) and 3.36.030 (Cost Recovery Percentages) to facilitate the changes to authorized levels of cost recovery required by the fee changes that are recommended at this time.

RECOMMENDED ACTION:

Review and discuss the proposed fee updates discussed in this report and provide any recommendations for consideration by the City Manager and City Council.

DISCUSSION:

NBMC Section 3.36, Council Policy F-4 (Revenue Measures) and Item 12 of the Fiscal Sustainability Plan (FSP) provide staff and the City Council with policy guidance related to setting cost recovery targets and updating user fees. User fees, or cost-of-service fees, are charged to a private citizen or group for services performed or provided by a government agency on their behalf. If the service primarily benefits an individual or group of people, then the burden of that cost should be borne by the person receiving the benefit. NBMC Section 3.36.030 sets the cost recovery for user fees at 100%, with the exception of the subsidized fees listed in Exhibit "A" of that same section, as well as those limited by California or Federal statutes. A recommendation for less than a 100% cost recovery rate may occur when a service is beneficial to the community at large along with specific individuals or groups, and/or when there is an economic incentive, or disincentive, to do so. In these cases, another City revenue source – in most cases, the General Fund - subsidizes the service. Any newly proposed fee or fee increase that is not approved by the City Council will by default be subsidized by the General Fund.

The Schedule of Rents, Fines, and Fees (SRFF) primarily includes cost-of-services fees, which are designed to recover the City's cost to provide the related service. In order to establish fees on the basis of full cost recovery, it is necessary to determine the cost of services. Using well-established cost accounting methodologies, the City's consultant, MGT of America (MGT), conducts a comprehensive review and update of the Citywide cost allocation plan and direct user fee calculations for each department on a rotating basis every three to five years. This year, MGT studied the following departments at staff's direction:

- Recreation and Senior Services
- Library
- Fire Prevention

As part of this study, MGT meets with City staff from each studied department to discuss the services provided, the annual volume for those services, and the staff resources and time estimates for delivering the related services. In an effort to factor in both direct and indirect costs, MGT then calculates the department staff's fully burdened hourly rate, which includes both internal administrative as well as citywide overhead costs. The fully burdened hourly rates are applied to the time estimates provided by staff and the fee is calculated. Consistent with the City's round down policy and excluding Library Per Page

Copies, all fees proposed that are \$5 or more are rounded down to the nearest dollar and all fees proposed that are less than \$5 are rounded down to the nearest quarter. Based on the results of the fee study, it is not uncommon for some fees to increase while others may decrease. The most common reasons for fees to go up or down are: 1) costs changing over time, most often increasing 2) the staff performing the service changes, and/or 3) the amount of time to perform the service changes. Once the calculations are confirmed, department staff then recommends that the fee should either be fully recovered or subsidized. NBMC Section 3.36.030 Exhibit "A" subsidy changes are detailed in Attachment B.

In addition to the City's cost-of-service fees, the SRFF includes fines & penalties, rents, and other charges imposed by the City or mandated by the State of California. The amount of these charges is determined in a variety of ways, most commonly market surveys when not mandated by a higher level of government. Where changes are recommended for these non-cost-of-service components of the SRFF herein, a description of the fee methodology and the reason(s) for a recommended change is provided.

The remainder of this report focuses on how studied fees are changing. Executive summaries of each department's studied fees can be found in Attachment A.

Recreation and Senior Services

The Recreation and Senior Services (RSS) Department was last studied in 2016, with some programmatic fee related updates approved by the City Council in subsequent years, such as fees relating to operational changes with the transition of the Marina Park boating program. As part of the prior fee study, the City Council approved revising NBMC Section 3.36 to set percentage recovery as a range, from a Council approved minimum amount up to 100%, in order to give the RSS Director and City Manager flexibility to adjust RSS fees as needed based on demand. As part of the current fee study, MGT and staff reviewed the percentage recovery ranges and determined these are still appropriate for both Recreation and Senior Services.

Recreation Services – While staff is not proposing a modification to the codified cost recovery percentages, staff are proposing to increase fees in four program areas – Youth Camps, Youth After School Programs, Preschool Camps & Programs, and Aquatics Programs. This increase is warranted given the increase in the City's costs to deliver these programs during the five-year period since the Recreation Services user fees were last studied and reflects an upward adjustment of approximately 10%. The fees have not been adjusted during this five-year period. This proposed increase on a programmatic level remains within the cost recovery percentage range established by the City Council and results in the following percentage increases in cost recovery by program:

Service Name	Cost Recovery Range	Current Cost Recovery	Recommended Cost Recovery
Youth Camps	20% - 50%	32%	35%
Youth After School Programs	20% - 50%	25%	27%
Preschool Camps & Programs	20% - 50%	26%	28%
Aquatics Programs	20% - 50%	20%	23%

The redline version of the SRFF that will be included in the fee resolution presented to the City Council in April will reflect an administrative reorganization and update of fees within the Adult Sports category in an effort to simplify the presentation of the fees in this program as well as to ensure the SRFF correctly captures all fees related to current operations. In line with this effort, there is one proposed additional fee in Adult Sports, Sports Classes. In an effort to ensure each fee listed correlates to the same programmatic area as where the revenue is recorded, staff is proposing to capture the per person sport related classes that are separate from the sport leagues, such as classes for pickleball. While this is not a new fee, this adjustment better aligns the SRFF with the departmental operations. In a similar effort to better align the SRFF with the departmental operations, the redline version of the SRFF will also reflect the elimination of seven fees under the Natural Resources category relating to beach clean-up and ISOpod special events and programs, as Recreation Services is no longer providing these programs. No other changes are proposed to the Recreation Services fees.

Senior Services – Similar to Recreation Services, staff is proposing to increase fees for Oasis Fitness Memberships by a similar amount of approximately 10%. This proposed increase on a programmatic level remains with the cost recovery percentage range established by the City Council (50%-90%) and results in a 5% increase in cost recovery, from 53% to 58%. No other changes are proposed to the Senior Services fees.

Appeal to City Council for Approval of Special Event Permits – MGT and staff completed a comprehensive review of the structure of the City’s types of appeals and the corresponding cost recovery for both successful and unsuccessful applicants. Generally, the City has included a cost recovery of less than 100% for both successful and unsuccessful applicants in order to not discourage potential appellants from exercising the right of appeal due to the fee(s) being cost-prohibitive. Similarly, in almost all cases, the City’s cost recovery for successful applicants is 0%. For consistency, staff is recommending modifying NBMC Section 3.36.030 Exhibit “A” to include this same provision for appeals to the City Council for approval of Special Event Permits as outlined in Attachment B.

Library Services

The Library Services Department was last studied in 2016. As further detailed below, the proposed fee updates do not result in any material changes. While this study focused on cost-of-service fees, Attachment A also provides a summary of the reorganization and refinement of the fee descriptions for certain fines and replacement costs to better reflect the current types of materials. The summary is inclusive of all changes.

Library Services – There are three new fees proposed within Library Services.

1. The first two fees are Per Page Copies (\$0.15 black and white; \$0.45 color) that cover copies from central printers. While the central printers are somewhat self-service, they slightly differ in the process, cost, type of equipment, and volume, relative to the existing copy fees for self-service copiers. To that end, it was necessary to separately calculate the cost of this service from the other copier fees to factor in the different replacement cost and useful life of the printers. However, staff recommends aligning these fees with the existing Per Page Copies (\$0.15 black and white; \$0.45 color) from the self-service copiers for consistency. As such, Attachment B proposes amending NBMC Section 3.36.030 Exhibit “A” to include a recovery for these services of less than 100%. As consistent with the City’s practice to round down, staff recommends continuing the practice to round these fees down to the nearest nickel for easy application. This recommendation will be included in the fee resolution presented to the City Council in April.
2. The third new fee covers a new service – Test Proctoring – the Library Department is adding based on an identified need of this service within the community. This fee is proposed at \$24. It is important to note that this service differentiates from the traditional test proctoring where it is 100% supervised. This service recovers staff time associated with application processing and occasional monitoring at a central workspace.

Similar to RSS, in an effort to align the SRFF with the current departmental operations and previously authorized changes by the Library Board of Trustees, there are additional updates, including the elimination of Materials Use – Best Sellers and the establishment of new fines for the new tech toys collection, which consists of technological items, such as GoPro camera, digital camera, synthesizer, and audio interface.

Passport Services – While the fee for the passport service is restricted by the US Department of State, MGT studied the cost of passport photos. While the full cost of this service is \$25.17, similar to staff’s recommendation as part of the prior fee study for the Library Department, staff recommends increasing the fee from \$10 to \$15 and recovering less than 100% of this cost based on the justification that the proposed \$15 is comparable to the passport photo rates in the surrounding area. Attachment B proposes amending NBMC Section 3.36.030 Exhibit “A” to include a recovery for these services of less than 100%.

Fire Department – Fire Prevention

The Fire Prevention fees were most recently studied in FY 2019-20. While Fire Prevention was not officially due to be studied this year, MGT and staff considered the relatively low City cost recovery stipulated in NBMC Section 3.36.030 Exhibit “A” and the corresponding high subsidy by the General Fund of approximately \$900,000. While recovering less than 100% of the total cost incurred by the City is to be expected for certain programmatic operations in the Fire Department that benefit the community at large in lieu of an individual, staff conducted a survey regarding cost recovery percentages for similar

services by other Orange County fire agencies. The results of this survey yielded that nearly all comparable agencies were fully recovering the cost of these services and had fees that were lower than what the City's fees would be at a 100% cost recovery level. Following staff's thorough analysis of the fee methodology with support from MGT, it was determined that the costs captured in these fees exceeded what was reasonable given the circumstances as further outlined below.

The proposed fees reflect the full cost of providing these services resulting in proposed fee increases and decreases, including adjusting the fee methodology for the fees as summarized below:

1. The staff completing the following annual inspections summarized in the table below was modified to only include staff time by Fire Life Safety Specialists, as these inspections are no longer completed by Fire Captains or Firefighter Paramedics. This resulted in either fee decreases or a significantly lower net increase in the proposed fees even with the recommendation to increase the City's cost recovery to 100%.

State-Mandated Inspections	Total Prior Cost	Current Cost Recovery %	Current Fee	New Fee @ 100% Cost Recovery	Variance
Care Facility 7-99 Clients	\$1,253	36.0%	\$451	\$442	(\$9)
Care Facility >99 Clients	\$1,430	40.8%	\$583	\$226	(\$357)
Commercial Day Care Facility (Tutor Time)	\$711	36.0%	\$255	\$260	\$5
Hotel/Motel 50-299 Rooms	\$711	36.0%	\$255	\$260	\$5

2. Operation Permit: Level 1 and Level 2 (new or renewal) Annual – MGT and staff evaluated the fee methodology of these services, which previously included the hourly rate based on the full Engine Company (combination of Captain, Engineer, and Firefighter). While the Engine Company may fully be onsite to complete inspections related to these permits, the Engine Company must remain on-call to respond to emergencies. If the Engine Company receives a call, it will respond; therefore, the entity being inspected should not bear the full cost of the Engine Company. As such, MGT and staff propose changing the methodology to include an average (in lieu of the total) of the hourly rates for the Fire Captain and the Firefighter Paramedic partially comprising the Engine Company, which amounts to approximately one-third of the rate and decreases the basis for the staff time of the Engine Company from \$960.29 to \$358.54. The table below summarizes the net impact of this change on the fees for these two permits.

Fee Description	Total Prior Cost	Current Cost Recovery %	Current Fee	New Fee @ 100% Cost Recovery	Variance
Operational Permit: Level 1* - New or Renewal	\$464	40.0%	\$185	\$236	\$51
Operational Permit: Level 2** - New or Renewal	\$908	38.1%	\$345	\$445	\$100

With these changes in the fee calculation methodology, staff is recommending increasing the City's cost recovery to 100% for all services within this division. Attachment B therefore proposes amending NBMC Section 3.36.030 Exhibit "A" to remove these services as an exception to the City's policy of recovering less than 100% of costs incurred.

Other Updates

Even when a department is not scheduled for a comprehensive fee study, occasionally, operations will change enough that the non-studied departments will request one or two fee study changes for consideration and adoption. As part of this study and in an effort to present a comprehensive and thorough update on the City's fees and current operations, staff considered the following additional updates outside of the departments scheduled to be studied:

Harbor Department – The Harbor Department was last studied in the prior fiscal year. Pursuant to NBMC Section 17.10, most commercial activity in the Harbor requires obtaining a Marine Activities Permit (MAP). As part of the prior study, Department staff worked with the Harbor Commission to identify two categories of the most common business types that would be required to obtain a MAP, including 1) Service Providers and 2) Charters, Boat Rentals, and Human-Powered Rentals. Fees were proposed and approved for the initial application for each business type, respectively. In addition, a single fee for a renewal application for either business type was approved. In further evaluating the staff time incurred to process a renewal for these applicants, MGT and staff is recommending differentiating between the renewals for each business type. The existing renewal fee of \$439 would be retained for the renewals for Charters, Boat Rentals, and Human-Powered Rentals, while a new fee would be added for the renewals for Service Providers of \$84.

All Departments / Other Municipal Code Revisions – As part of this fee study update, MGT and staff reviewed the fees in all departments for consistency with California or Federal Statute to ensure the fees in the SRFF align with the cost recovery set by the applicable statute. To that end, the Notary Services Fee is proposed to increase from \$10 to \$15 to correspond to the increase authorized by Government Code Section 8211.

In addition to this one statutory change, staff is proposing three new fees that would be applicable to all City departments:

1. User Services not otherwise identified in the SRFF – This fee is proposed to be based on actual cost and will utilize the full hourly and burdened rate of personnel as well as the City and departmental overhead rates established by the most recently completed cost allocation plan. This fee is intended to serve as a generic pass-thru fee that each department may use to charge on an hourly basis for unusual services. Staff anticipates that this will provide departments with additional flexibility and ensure the City is able to recover the cost of services in unique situations that would ordinarily

not be addressed by the fees included in the SRFF, whereas previously such services would need to be provided free of charge if a fee had not otherwise been specifically established. As outlined in Attachment B, the proposed redlines to the NBMC adjust the definition of “User Services” to cover the existing cost-of-service fees as well as this proposed additional fee. The Finance Department will provide guidelines for the use of these hourly rates to each department and will approve each use of this fee to ensure that it is appropriately applied. Any use of these hourly rates that becomes recurring in nature would require a full cost-of-service fee study at the next opportunity to create a user fee for the identified service.

2. Appeals (excluding appeals to fines) – Applicant Unsuccessful and Applicant Successful – Similar to the approach outlined above, these two fees are proposed to be generic pass-thru fees and will be calculated utilizing the full hourly and burdened rate of personnel and the City and departmental overhead rates established by the most recently completed cost allocation plan. This fee will address any situations where a specific fee has not been established for atypical or infrequent types of appeals. For appeal fees, the City has generally included a cost recovery of less than 100% for both successful and unsuccessful applicants in order to not discourage potential appellants from exercising the right of appeal due to fee(s) being cost-prohibitive. To that end, Attachment B includes a modification to NBMC Section 3.36.030 Exhibit “A” proposing the City to recover 50% of the cost incurred by the City for appeals when the applicant is unsuccessful and 0% in cases where the applicant is successful, which is generally consistent with the City’s cost recovery for other appeals fees.

In addition to the updates specified above, staff is proposing to modify the NBMC to include the authority for the City Manager or Finance Director to waive fees for services up to an amount of \$5,000 per occurrence, which is comparable to the waiver limit staff identified in a survey of other comparable agencies. This waiver authority is intended to only be utilized in limited circumstances where an existing SRFF fee is incorrect, has been identified as higher than the cost incurred by the City, or should not be charged. Finance and City Attorney’s Office staff are proposing the following criteria under which a fee may be waived: the imposition of the fee would exceed the actual cost to the City, would result in duplicative fees for services rendered, or would impose a hardship. In cases where a fee is waived, and to the fullest extent possible, staff will document the reasons for the waiver.

Rental Fees - California law also allows the City to charge market rates for the use of government property, such as renting a room in a City facility. While restricted by City Council Policy B-13 Public Use of City Facilities and not included in MGT’s study of cost-of-service fees, as part of studying the Recreation Services and Library Services fees, department staff completed a market survey for applicable rental fees/deposits – facility and room, gymnasium field, and park rentals – to ensure that the City’s charges are in line with comparable jurisdictions. Rental fees within the Aquatics Program relating to both exclusive and shared use of the MBAC Pool use are proposed to increase upward

by approximately 10%. This increase is warranted given the results of the market survey as well as the increase in the City's costs to facilitate the use of the pool. The fees have not been adjusted during this five-year period since the Recreation Services fees were last studied. On a going forward basis, the MBAC Pool use rental fees have been adjusted to increase by the Consumer Price Index (CPI) similar to other Recreation Services rental fees within the SRFF. Staff is not proposing any other material updates to these fees. Excluding the MBAC Pool rental fees that will be increased by CPI effective July 1, 2023, applicable rental fees are set to increase effective July 1, 2022, by CPI.

CPI Updates - The applicable rental fees within each studied department as well as all applicable fees listed in the SRFF that are subject to CPI increases based on prior resolutions, will be increased by CPI effective July 1, 2022. The applicable cost-of-service fees within each studied department will be increased by CPI effective July 1, 2023. However, the percentage by which these fees, including the rental fees referenced above, will increase is not yet noted as the City's methodology in calculating the change in CPI is by using March of the prior year to March of the current year. The proposed increases will be included in the redline version of the SRFF that will be attached to the fee resolution when the fee study update is considered by the City Council in April.

CDD – The Community Development Department was last studied in FY 2019-20. The Department is currently working with Finance staff and MGT to calculate and propose fee(s) related to building permit extensions. The City Council previously set a three-year time limit from the issuance of the first or original building permit for one-unit or two-unit dwellings to complete construction. Subject to the City Council's consideration on March 8, 2022, in advance of the three-year deadline, if staff's recommendations are approved it is anticipated that permittees will be able to request an extension of one-year by review of the Building Official. Subsequent one-year extensions would be deferred to a hearing officer for consideration. Following City Council's direction related to the proposed Municipal Code revisions to reflect this process, fee(s) will be proposed to the City Council for approval either by way of a separate fee resolution or included in the fee resolution and recommendations as part of this fee study update in April.

Public Works – The Public Works Department was last studied in the prior fiscal year. As part of this study, the full cost of the RGP Dredging Permit fee presented at the Finance Committee meeting on February 18, 2021, was \$3,203, up from the prior existing fee of \$1,900. However, after the Finance Committee meeting, the fee consultant discovered a formula error in the allocation of consultant costs to projects; Anchor QEA refined the breakdown of their costs, which increased the originally projected costs; and finally, time estimates for the City's Administrative Manager were reviewed and reduced. These adjustments resulted in the cost of the RGP Dredging Permit increasing to \$7,766. However, in accordance with staff's recommendation, the City Council approved a cost recovery percentage of 42% to maintain the fee at \$3,262, more closely aligned to the amount reviewed and approved by the Finance Committee. This approval was contingent upon staff returning to the City Council as part of this fee study update with a refined methodology to support either retaining, or proposing an adjustment to, the City's cost

recovery for this permit based on discussions with the Harbor Commission and the collection of additional data over a one-year period to better understand the program and the fee related impacts to the permittees.

Since the Council's direction to collect additional data, operational limitations have prevented the collection of adequate data for City staff to fully analyze the program for the Harbor Commission's consideration. Existing dredging permittees that have been authorized to initiate dredging activities in May 2022 have been on hold for approximately 1.5 years and paid the permit fee that was in place prior to July 1, 2021. Since the new fee became effective, there have been no new applications. Dredging activities were placed on hold due to the identification of invasive algae in the harbor, which halted all dredging activity. With the identification of this algae, regulations will only allow for dredging to take place from May to December. Additionally, new regulatory requirements resulting from the algae's identification place a significantly higher financial burden on applicants, including the completion of three surveys that are approximately \$1,500 each in addition to the fee that is paid to the City. As this upcoming window where dredging activity is permitted will only include permittees who paid the prior fee, applicants under the new, higher fee will not be permitted to dredge until May 2023. Therefore, staff recommends deferring any changes to the fee or the level of cost recovery until the next time the Public Works Department fees are studied in Fiscal Year 2023-24, which should coincide with when staff will have one year of data to analyze per the Council's prior request.

Fee Schedule Format Changes – Over the next year, staff will be researching the format of fee schedules used in other comparable local government agencies that focus on simple, effective communication. Staff will continue to utilize the existing SRFF as an internal mechanism to track critical fee related information, such as the last studied date, the fees eligible for CPI increases, and the historical increase/decrease of each fee. However, as the SRFF is a customer service document, staff anticipates creating a separate version that would be available on the City's website with the goal of improving this communication tool by simplifying the information presented to be that which is most useful to the community. As the current SRFF available on the City's website is 28 pages with 1,131 lines, many columns, and small print, staff have received concerns and heard frustration from constituents concerning the SRFF's lengthy and complex nature. While the SRFF is intended to be a resource for constituents, the document is often a bit overwhelming, and in lieu of identifying the information needed, constituents end up contacting the City for assistance in confirming fee and fine information. In addition, staff will be completing a Request for Proposals (RFP) for the Fee Study and Citywide Cost Allocation Plan in the next few months. To that end, whether a new consultant is selected, or staff continues with MGT, staff will be reviewing in concert with the selected consultant the most effective presentation delivery methods of fee study updates to the Finance Committee and the City Council, which may result in some formatting changes with the information and the executive summaries that are presented before the Committee as part of this update. Staff welcomes any feedback from the Committee on the format of the public copy of the SRFF and/or the format of the fee study executive summaries and

materials presented to them and the City Council.

CONCLUSION:

Subject to City Council approval of the fees as recommended, it is estimated that approximately \$180,622 of additional revenues will be generated for the General Fund. However, this projection does not account for any fees where volume statistics are unavailable. The City Council's policy of ensuring regular review of the City's cost-of-service fees and adequate cost recover will continue to ensure adequate cost recovery from users of the City's fee-related services. This then facilitates the redirection of general tax revenues currently subsidizing fee-supported services to maintaining and enhancing non-fee supported services and programs.

Staff will present the proposed fee recommendations to the City Council for formal consideration in April and will incorporate any feedback received from the Finance Committee into staff's final recommendations.

Prepared and Submitted by:

/s/ Amber Haston

Amber Haston
Senior Budget Analyst

Attachments:

- A. Fiscal Year 2021-22 Studied Department Changes
- B. Newport Beach Municipal Code Section 3.36.030 Changes