






Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Richard Thompson, Director of Community Development
Laurie B. Jester, Planning Manager  

DATE: October 21, 2008

SUBJECT: Consideration of a Resolution Adopting Tree Removal Permit Fees

RECOMMENDATION:

Staff recommends that the City Council **ADOPT A RESOLUTION APPROVING THE FEES.**

FISCAL IMPLICATION:

There would be a minor decrease in revenues if Tree Permit fees are reduced for dead or dying trees, and waived for emergency removals.

BACKGROUND:

At the September 16th City Council meeting a resident raised the issue of the cost of Tree Permits. He felt that it was not equitable for someone that wants to remove a dead or dying private property protected tree to be charged the same fee as someone that wants to remove a healthy tree. Prior to July 1, 2008 the Tree Permit fee was \$57.50 and fees were waived if Public Works required emergency or safety removals. On July 1st, all City fees were increased, and the Tree Permit was increased to \$425 plus the document imaging costs, which averages about \$15.

DISCUSSION:

In April the City Council conducted a public hearing, reviewed a very comprehensive and detailed fee study, and adopted increased fees for various services provided by the City. The new fees represent cost recovery for the services provided. The fees for the Tree Permit cover staff and City Arborist costs for the review, site visit, report, documentation and permit. Prior to the adoption of these new fees the cost of providing the service was subsidized. Additionally, the prior fee structure allowed a waiver of the permit fee if the tree was required to be removed by the Public Works Department due to emergency or safety concerns. This waiver was used once or twice a year.

The Council requested that staff consider a tiered fee structure for Tree Removal Permits. The resident that spoke at the September 16th meeting suggested a fee of about \$100 be required to remove a dead or dying tree if the property owner had a report from an independent certified arborist verifying that the tree was dead or dying. The current fee of \$425 would be assessed for trees that are healthy that a property owner wishes to remove.

Staff and the City arborist would need to make a determination if the dead or dying tree was caused by abuse or neglect of the property owner, or if the tree is just old and dying due to natural causes. Trees that are not properly watered, fertilized, or cared for, or are severely pruned, are poisoned, or damaged would be considered to be abused or neglected. In these instances the owner would be in violation of the tree ordinance, Section 10.52.120 B. 2. which states that "No person shall directly or indirectly neglect, abuse, damage, mutilate, injure or harm any protected tree...". Additionally, construction can be very stressful for trees and the signs of this stress may not show until the tree declines or dies several years later.

On the other hand, trees do have a finite lifespan and even trees that are well cared for die. A tree may be dead or dying even though the owner has properly cared for it, but it dies due to old age, untreatable or unpreventable disease, or a weakness in the structure of the tree. It can be very difficult to determine if a tree is dead or dying due to neglect or due to natural causes. The history of the care of the tree can help in making this determination. Additionally, if there is an imminent emergency, as defined by Section 10.52.120 H 1., or a public nuisance, as defined by Section 10.52.120 H 2., staff feels that Tree Permit fees should also be waived in these situations.

Staff would suggest that the City Council pursue a three-tiered fee structure. First would be a fee of \$100 for a request to remove a tree that is dead or dying due to natural causes. The property owner would need to submit historical documentation from arborists and/or horticulturists or other experts that substantiate that the tree was well cared for and was dead or dying due to natural causes and not due to abuse or neglect. Sometimes the owner may have no documentation, particularly if they have owned the property for a short time. The City arborist and staff would review the documentation, conduct a site inspection and write a report. The City would need to subsidize the cost of these permits as this type of extensive review would not be covered by the fee.

Secondly, if removal is necessary due to an imminent emergency as determined by the Director of Community Development, or the tree is a public nuisance, as determined by the Director of Public Works, then the fee would be waived. The City would also subsidize these permits.

Lastly, trees that a property owner wishes to remove that are healthy, or that have been abused or neglected, would require the higher existing fee of \$425. Again the City arborist and staff would review the documentation, conduct a site inspection and write a report. The existing fee is structured to cover the cost of these services plus staff time.

CONCLUSION:

Staff recommends that the City Council adopt the attached Resolution that establishes a lower fee for Trees Removal Permits for trees that are dead or dying due to natural causes, not due to abuse or neglect, and waives fees for tree removals that are an imminent emergency or public nuisance.

EXHIBITS:

- A. Draft Resolution No. 6163

RESOLUTION NO. 6163

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ESTABLISHING FEES FOR TREE REMOVAL PERMITS, FOR DEAD OR DYING TREES DUE TO NATURAL CAUSES, IMMINENT EMERGENCIES AND PUBLIC NUISANCES

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY DECLARE, FIND, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby makes the following findings:

- A. Some of the goals of the Tree Preservation Ordinance (Chapter 10.52) are to preserve and protect trees and to minimize the spread of disease to healthy trees; and
- B. The Tree Ordinance also strives to preserve and enhance tree canopies on individual residential properties as well as throughout neighborhoods to maintain neighborhood character; and
- C. The Tree ordinance requires new trees to be planted for new houses and substantial remodels; and
- D. To encourage trees that are dead or dying due to natural causes, imminent emergencies (as defined by Section 10.52.120 H 1.) and public nuisances (as defined by Section 10.52.120 H 2.) and not due to neglect, abuse, damage, mutilate, injure or harm (as defined by Section 10.52.120 B 2), to be removed and replaced with new healthy trees, it is important to reduce or waiver Tree Permit fees in these situations; and
- E. Tree Permit fees for the removal of trees that do not meet the criteria defined above shall be governed by Resolution No. 6129 or the most current fee Resolution.

SECTION 2. The City Council hereby adopts the following fees for Tree Permits as defined above:

| Task | Description | Department | Reference: | Fee |
|---------------------|--|-----------------------|--|-------|
| Tree Permit-Removal | If tree is dead/dying due to natural cause, and not due to neglect, abuse or harm. | Community Development | MBMC 10.52 | \$100 |
| Tree Permit-Removal | If tree removal is an imminent emergency, or tree is a public nuisance. | Community Development | MBMC 10.52.120 H 1. MBMC 10.52.120 H 2. | None |

SECTION 3. Specific fees adopted under this resolution supercede all prior like and applicable fees from any and all previous resolutions and ordinances to the extent that they are inconsistent with the fees hereby adopted. Any and all fees and resolution provisions not inconsistent with the provisions of this resolution shall continue in full force and effect.

SECTION 4. The City Manager shall have the authority to interpret the provisions of this resolution for purposes of resolving ambiguities. The City Manager shall have the authority to authorize and require reasonable compensation for the temporary use of City property or receipt of City services not otherwise provided for in this resolution or other applicable resolutions or ordinances.

SECTION 5. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

SECTION 6. This resolution shall take effect immediately.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect

PASSED, APPROVED AND ADOPTED this 21st day of October, 2008.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 

City Attorney