

ORDINANCE NO. 680

AN UNCODIFIED ORDINANCE OF THE CITY OF FOSTER CITY ESTABLISHING NEW FEES FOR SIDEWALK VENDING PERMIT AND FINES, NON-RESIDENT PARK RENTAL FEES, AND REVISING THE EXISTING PARK CANCELLATION FEE AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINE SECTION 15061(B)(3)

CITY OF FOSTER CITY

WHEREAS, the City of Foster 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 section 7; 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, to better achieve the City's cost recovery goals, the City Council deems it advisable and in the best interests of the City to adopt and update certain fees, included in the City's Master Fees and Service Charges; and

WHEREAS, the Community Development Department recommends establishing new fees for Sidewalk Vending Permit for administration and enforcement of the Sidewalk Vending Program; and

WHEREAS, the Parks and Recreation Department recommends establishing non-resident park rental fees to allow more use by non-residents and revising the existing park cancellation fee; and

WHEREAS, the Fees comply with Article XIII-C of the California Constitution because they are either (1) charges imposed for a specific government service or product that are not imposed on those not receiving the service or product and do not exceed the City's reasonable costs of providing the service or product; or (2) charges imposed for the reasonable regulatory costs to the City for issuing licenses and permits, performing investigations, inspections, and audits, and administrative enforcement and adjudication thereof; and

WHEREAS, if enacted, the Taxpayer Protection and Government Accountability Act ("Act") will require all fees and charges, adopted after January 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 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 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; or (2) charges for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing the adopted Fire Code, or adjudication thereof; and

WHEREAS, on May 22, 2024, a public hearing notice was duly published and posted in three public places pursuant to California Code Section 65090 for the City Council public hearing on June 03, 2024.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES ORDAIN AS FOLLOWS:

Section 1. The City Council does hereby find and determine based upon the aforementioned Record as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by this reference.
2. The Ordinance is exempt pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of having a significant effect on the environment as these are administrative matters.

Section 2. Amendment. The new fees for Sidewalk Vending Permit, non-resident park rentals and revised park cancellation fee as set forth in the attached Exhibit A, , which is attached hereto and incorporated herein by reference (hereinafter “Fees”), are hereby approved and adopted as the applicable fees that the City of Foster City.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption. Once effective, the Fees shall be incorporated into the City’s Fiscal Year (FY) 2024-2025 Master Fees and Service Charges Schedule.

Section 5. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

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Section 6. Conflicts. If there are conflicts between the Fees adopted in this Ordinance and the fees adopted by any prior resolution or fee schedule, the 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 7. Revisions to Fees. The Fees set forth in Exhibit A may be revised, amended or updated from time to time by resolution or ordinance of the City Council.

This Ordinance was introduced and read on the 3rd day of June, 2024, and passed and adopted on the 17th day of June, 2024, by the following vote:

AYES: Councilmembers Froomin, Hindi, Jimenez, Kiesel, and Mayor Sullivan

NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:  
*Patrick Sullivan*  
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\_\_\_\_\_  
PATRICK SULLIVAN, MAYOR

ATTEST:

DocuSigned by:  
*Priscilla Schaus*  
6131E59FA33B4AB  
\_\_\_\_\_  
PRISCILLA SCHAUS, CITY CLERK

**Exhibit A****1. Sidewalk Vending Permit**

| <b>Ref. No.</b> | <b>Revenue Title</b>  | <b>Fee</b> |
|-----------------|---|------------|
| <b>CDP-24</b>   | <b>Sidewalk Vending Permit Fee (one year permit)</b>  | \$100      |
| <b>CDP-25</b>   | <b>Sidewalk Vending Administrative Fines</b><br>For vending without a valid vending permit the following fines shall be applicable:   |            |
|                 | (i) first violation.  | \$250.00   |
|                 | (ii) second violation within one year of the first violation.   | \$500.00   |
|                 | (iii) third violation and each subsequent violation, within one year of the first violation.  | \$1,000.00 |
|                 | Upon proof of a valid permit issued by the City before such fines are due, the city would reduce the amount of the fines to one hundred and no/100ths (\$100.00) dollars for the first violation, two hundred and no/100ths (\$200.00) dollars for the second violation, and five hundred and no/100ths (\$500.00) dollars for each violation thereafter. |            |
| <b>CDP-26</b>   | For all violations of Foster City Municipal Code Chapter 12.44 other than vending without a valid vending permit as outlined above:   |            |
|                 | (i) first violation.  | \$100.00   |
|                 | (ii) second violation within one year of the first violation.   | \$200.00   |
|                 | (iii) third violation within one year of the first violation  | \$500.00   |
|                 | (iii) An administrative fine of five hundred and no/100ths (\$500.00) dollars for a fourth and each subsequent violation, and revocation of the vending permit. Revocation proceedings will be conducted in accordance with the rules and regulations established by the city.  | \$500.00   |
|                 | All fines shall be assessed and imposed in accordance with Section 12.44.100 of the Foster City Municipal Code  |            |

## 2. Non-Resident Park Rental Fees

Non-Residents shall rent currently rented City parks up to 90 days in advance at 25% above the resident rate.

## 3. Park Cancellation Fees

All Park renters shall receive a full refund of Park Rental Fees minus the then applicable Administration Fee in effect if cancellation occurs more than 14 business days in advance. Cancelling between 13 to 3 business days in advance will result in a 50% refund of the Park Rental Fees minus the then applicable Administration Fee in effect. If a park rental cancellation occurs less than 2 business days prior to reservation date, the Park Cancellation Fee shall be the entire cost of the park rental and no refund shall be given.

### Foster City Park Rental Rates

| Park   | FY 24/25                      | FY 24/25 Proposed<br>Non-Resident Rate |
|--|-------------------------------|--|
|  | Resident Rate                 |  |
| Gull, Marlin, Erckenbrack                        | \$82                          | Rate + 25%                             |
|  | Capacity 50 people            |  |
| Boothbay   | 25-50 people \$137            | Rate + 25%                             |
|  | 51-100 people \$191           |  |
|  | 101-150 people \$246          |  |
| Leo Ryan Patio Area                              | \$82                          | Rate + 25%                             |
|  | Capacity 50 people            |  |
| Leo Ryan Amphitheater                            | 1-100 people = \$164 flat fee | Rate + 25%                             |
| Four (4) hour maximum rental time                | 101-150 = \$273 flat fee      |  |
| Leo Ryan Gazebo Two (2) hour maximum rental time | \$44                          | Rate + 25%                             |
|  | Capacity 25 people            |  |
| Leo Ryan Grass West                              | \$44                          | Rate + 25%                             |
|  | Capacity 25 people            |  |
| Bridgeview and Shorebird Park                    | \$44                          | Rate + 25%                             |
|  | Capacity 30 people            |  |
| Catamaran, Farragut, Edgewater Park              | \$71                          | Rate + 25%                             |
|  | Capacity 30 people            |  |
| Food truck fee                                   | \$82 per park per truck       | \$82 per park per truck                |

- Parks are available to rent to Foster City residents one year before the event date, and to non-residents 90 days before the event date.

**Current (FY 23/24) Parks cancellation fee**

- Cancellations made more than 7 days prior to the event date will receive a full refund minus a \$10.40 processing fee. A \$26 cancellation fee is charged for park rentals cancelled less than 7 days in advance.

**Proposed Parks cancellation fee**

- Renters receive a full refund minus admin fee (\$11) if cancellation occurs more than 14 business days in advance. Canceling 13-3 business days in advance will result in a 50% refund and the loss of admin fee. Less than 2 business days cancellation will result in no refund.

[END OF EXHIBIT A]