



Agenda Report

October 29, 2018

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: AMENDMENTS TO THE FISCAL YEAR 2019 GENERAL FEE SCHEDULE TO ADD COMMERCIAL CANNABIS FEES

RECOMMENDATION:

It is recommended that the City Council:

- 1) Find that the proposed action is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the State CEQA Guidelines and, as such, no environmental document pursuant to CEQA is required for the action; and
- 2) Adopt a resolution amending the Fiscal Year 2019 General Fee Schedule to add Commercial Cannabis fees as detailed in the "Proposed Fee Schedule Amendments" section of this report.

BACKGROUND:

The General Fee Schedule includes all charges that have been established based on the cost to provide the service such as processing land use approvals and building permits. While the General Fee Schedule is typically reviewed and updated annually, revisions may be made periodically throughout the year as needed.

On June 5, 2018, Pasadena voters approved Ballot Measures CC and DD. Measure CC allows a limited number of cannabis (marijuana) retailers, cultivators, and testing labs to operate within specific zoning areas in the City. Measure DD levies a business license tax on commercial cannabis businesses of up to \$10/canopy square foot (for cultivation) and between 4-6% of gross receipts (for retail sales).

In California, local government is granted the authority to impose user and regulatory fees for services by the State Constitution. As defined by Article XIII C, section 1, a fee may not exceed the estimated reasonable cost of providing the service. For a fee to qualify under this authority, it must relate to a service or activity requested by an individual. If this request causes the local agency to perform service that is either

discretionary or subject to regulation, then it is considered a user fee.

Several City Departments are involved with developing an application procedure, permittee selection process, and general administrative procedures for the issuance of commercial cannabis permits and the collection of taxes on cannabis products. The departments involved include: the City Manager's Office, the City Attorney's Office, the Police Department, the Health Department, the Finance Department, the Information Technology Department, and the Planning and Community Development Department.

Proposed Fee Schedule Amendments

The adopted Ordinance regulating commercial cannabis activity requires administrative regulations and processes be in place no later than January 1, 2019. It is necessary to amend the fee schedule now, so the new fee will be in effect on January 1. The City will host a workshop on November 13, 2018 in preparation for a January 2019 launch of the 30-day commercial cannabis application window. The City engaged a financial consultant, MGT Consulting Group, to conduct a fee service study. MGT Consulting Group has experience with a number of local governments who have implemented cannabis regulations and programs.

MGT Consulting Group met with key departments to determine costs, developed a fee methodology, and documented City processes associated with commercial cannabis. They reviewed the adopted ordinances and ballot measures to calculate the full cost of anticipated City activities associated with the new cannabis regulations. Following is a description of two new fees that are recommended for adoption.

Commercial Cannabis Application Fee

The City will have a 30-day application window, during which time interested operators would be required to file a complete application and pay the necessary Commercial Cannabis Application fee. The application fee is calculated based on direct City staff time and resources necessary to establish the application materials, review applications submitted for completeness, and scoring of applications against established evaluation criteria using an independent panel. Consultant costs are also included to assist with evaluation of the applications where subject matter expertise is not available with in-house staff. Costs that were incurred to develop and enact the ordinance are also factored into the fee amount. A fee of \$13,654 is recommended to recover costs associated with the Commercial Cannabis Application fee.

Separate Livescan fees for background screening and City review of background results will use the City's existing fee schedule. The number of background checks to be performed will be based on the number of owners/managers per business and the overall number of applications.

Commercial Cannabis Permit Processing Fee

Based on the limited number of commercial cannabis licenses that would be issued in the City only the top ranked operators would be eligible to identify business locations and seek land use entitlements. The timeline to receive entitlements will vary but are estimated to take 3-9 months. Those top ranked operators would pay a Commercial Cannabis Permit Processing Fee and proceed with the next phase of the process.

Permits that are issued would be non-transferrable and would not run with the land. All permitted businesses would be subject to a mandatory review after nine months of operation, and all permits would require renewal on an annual basis to ensure operations are compliant with all requirements. For purposes of estimating staff time and resources to process a new Commercial Cannabis Permit, the existing process and requirements for a conditional use permit were referenced for the fee calculation.

A fee of \$10,639 is recommended to recover costs associated with the Commercial Cannabis Permit Processing Fee. The permit processing will involve additional resources including but not limited to: City staff from the Planning and Community Development Department, Police Department, City Attorney's Office, Department of Information Technology, and consultant costs.

Pasadena allows three types of licenses: retail, cultivation, and lab testing. Each has location restrictions and operational requirements. A Retailer License would allow up to six commercial cannabis businesses to operate where cannabis and/or cannabis products are offered for retail sale, including deliveries as part of retail sale. A Cultivation License would allow up to four locations where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or any combination of those activities is conducted. A Testing Laboratory License would allow up to four locations to operate a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products that is both accredited by an independent accrediting body and licensed by the California Bureau of Cannabis Control. If necessary, potential amendments to the zoning map may be presented to City Council for consideration.

Following land use approvals, an operator would be required to obtain any other relevant approvals, including those required by the Public Health Department. Once those approvals are granted, and the operator obtains a business license from the City for tax revenue collection purposes, the operator would then be eligible to complete the State's commercial cannabis license process and begin operation.

For comparison, following is a table of commercial cannabis fees in other jurisdictions. The difference in fee amounts per application is due to the range of oversight, review, and materials processed with each jurisdiction along with different entitlements needed per jurisdiction.

City	Commercial Activity	Application Fee	Permit Processing and Other Regulatory Fees
Culver City	Retail, Cultivation, Lab testing, and delivery	\$7,879-\$20,673	\$3,061 and other planning permit fees
Long Beach	Retail, Cultivation, Lab testing, and distribution	\$530	\$5,545
Santa Ana	Retail, Cultivation, Lab testing, and distribution	\$1,690	\$12,086
West Hollywood	Retail and delivery	\$5,025-\$9,880	\$223-\$1,630 and other permit fees
Pasadena	Retail, cultivation, and lab testing	\$13,654	\$10,639

ENVIRONMENTAL REVIEW:

The action proposed herein is the establishment of a fee schedule for cannabis businesses. This action does not approve any such business, and therefore is not a "project" subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378.

COUNCIL POLICY CONSIDERATION:

The City Council's strategic planning goal of maintaining fiscal responsibility and stability will be advanced by updating the General Fee Schedule and by ensuring that, where appropriate, the City is reimbursed for the cost of providing selected services.

FISCAL IMPACT:

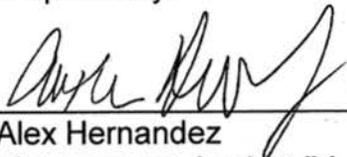
The proposed fees are expected to offset costs associated with processing the applications.

Respectfully submitted,



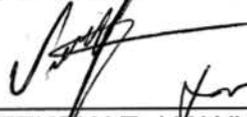
DAVID M. REYES
Director of Planning & Community
Development Department

Prepared by:



Alex Hernandez
Management Analyst IV

Concurred by:



MATTHEW E. HAWKESWORTH
Director of Finance

Approved by:



STEVE MERMELL
City Manager

Attachment: (1)

Attachment A – Amended Fee Schedule

FISCAL YEAR 2019 GENERAL FEE SCHEDULE

		<i>As of August 27, 2018</i>	<i>As of October 29, 2018</i>
FEE	DESCRIPTION	FY 2019 ADOPTED FEE	FY 2019 REVISED FEE
	Zoning Permits		
466	Zoning Permit as defined in Planning Admin Policy 2005-001.	\$76.00	\$76.00
467	Zoning Fees [P.M.C. Sec. 16.04.070] - Fee for Written Opinion to Determine Property's Conformance with Zoning and Subdivision Laws	\$449.00	\$449.00
468	Zoning Parking Credit Application Processing	\$785.00	\$785.00
469	Short Term Rental Permit	\$100.00	\$100.00
470	Commercial Cannabis Application Fee	New	\$13,654.00
471	Commercial Cannabis Permit Processing Fee	New	\$10,639.00
	Historic Preservation		
472	Replacement Building Permit Relief-Staff Review	\$412.00	\$412.00
473	Relief from Replacement Building Permit - Commission Review	\$1,285.00	\$1,285.00
	Category 1 Reviews (See Planning Division Administrative Procedure No. 2008-003)		
474	Alteration or relocation (Staff review)	\$412.00	\$412.00
475	Demolition - Primary structure	\$1,285.00	\$1,285.00
476	Demolition - Accessory or non contributing structure	\$105.00	\$105.00
	Category 2 Reviews		
477	Alteration or relocation (Staff Review)	\$412.00	\$412.00
478	Executing Historic Property Contract - Mills Act (See Planning Division Administrative Procedure No. 2008-03 regarding eligible waivers)	\$2,338.00	\$2,338.00
479	Variance Historic Resources (See Planning Division Administrative Procedure No. 2008-003 regarding eligible waivers)	\$3,879.00	\$3,879.00
480	Individual Landmark and Historic Designation Application (See Planning Division Administrative Procedure No. 2008-003 regarding eligible waivers)	\$3,879.00	\$3,879.00
	Design Review		
	Residential (Consolidated Review)		
481	Preliminary Consultation-Staff Review	\$387.00	\$387.00
482	Preliminary Consultation-Commission Review	\$732.00	\$732.00
483	Nine (9) units or fewer units (Staff Review)	\$2,409.00	\$2,409.00
484	Ten (10) units or more	\$3,726.00	\$3,726.00
	Concept Design		
485	Minor Projects (Less Than \$20,000 Valuation for Cost of Exterior Work)	\$382.00	\$382.00
486	Intermediate Projects (Between \$20,000 and \$100,000 Valuation for Exterior Work)	\$2,718.00	\$2,718.00
487	Major 25,000 to 50,000 Square Feet New Construction	\$4,873.00	\$4,873.00
488	Major 51,000 to 100,000 Square Feet New Construction	\$8,250.00	\$8,250.00
489	Major 101,000 Square Feet New Construction	\$12,414.00	\$12,414.00
	Consolidated Design Review		
490	Minor projects- signs, awnings, paint color or similar minor alterations	\$279.00	\$279.00
491	Minor projects - new/replace store fronts	\$663.00	\$663.00
492	Major alterations/rehab on existing building (staff)	\$2,282.00	\$2,282.00
493	Major alterations/rehab on existing building (commission)	\$4,072.00	\$4,072.00
494	New construction (staff)	\$2,282.00	\$2,282.00
495	New construction (for commission review)	\$4,074.00	\$4,074.00