



ADMINISTRATIVE REPORT

File #: 17-612

Meeting Date: 12/18/2017

Report Prepared by: Kim Espinosa, Planning Manager, Development Services Department

SUBJECT: Public Hearing - Adoption of New Application Fees for Commercial Cannabis Business Permits and New Annual Regulatory Fees for Commercial Cannabis Businesses

REPORT IN BRIEF

The City Council will consider the adoption of a resolution establishing new application fees for Commercial Cannabis Business Permits and new annual regulatory fees for Commercial Cannabis Businesses as called for in the newly adopted Cannabis Ordinance.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2017-67**, "A Resolution of the City Council of the City of Merced, California, Approving Application Fees for Commercial Cannabis Business Permits and Annual Regulatory Fees for Commercial Cannabis Businesses."

ALTERNATIVES

1. Approve the resolution as recommended by City staff; or,
2. Approve a modified resolution as revised by the City Council; or,
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in City Council motion); or,
5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

Section 20.44.170(O) of recently adopted Ordinance No. 2480 calls for the establishment of application and regulatory fees for commercial cannabis businesses by City Council resolution.

CITY COUNCIL PRIORITIES

On March 29, 2017, the City Council held a study session on priorities and medical marijuana regulations were listed under "City Administration-Current Projects."

DISCUSSION

Background

On November 20, 2017, the City Council introduced Ordinance No. 2480, which established regulations for Commercial Cannabis Businesses and the cultivation of cannabis for personal use in the City of Merced. The Ordinance was adopted on December 4, 2017, and will be effective 30 days

later or on January 3, 2018.

Ordinance No. 2480 included Section 20.44.170(O), which set forth that non-refundable initial application fees and non-refundable application renewal fees to cover the cost of processing an application were to be established by the City Council by resolution. Section 20.44.170(O) also required that Commercial Cannabis Regulatory Fees, based on estimated additional costs of enforcement and monitoring associated with cannabis operations, also be established by the City Council by resolution.

Draft Fee Schedule and Methodology for CCBP Application Fees

Based on their experience with other cities, SCI Consulting estimated the amount of hours of City staff time that would be involved in processing the applications for the Commercial Cannabis Business Permits (CCBP). The fees were then calculated by multiplying the hours by the “fully-loaded” hourly rates for various City staff members that include salary, benefits, and overhead. Direct costs, such as the cost of mailing and publishing public hearing notices and performing Live Scans, were also added into the costs.

For example, it was estimated to take approximately 6.75 hours of total City staff time to process one application for a CCBP for Phase 1. Tasks included taking in the application and fees, reviewing it for completeness, verifying the zoning and distance from sensitive uses, etc. Based on the hourly rates for the various City staff members involved (mostly Planning staff) and the direct costs, a fee of \$964 was proposed.

The same methodology was used for Phase 2 applications, one fee for the non-merit-based applications for non-dispensary cannabis businesses and one fee for the merit-based applications for dispensaries that had a limited number of permits available which was higher because of the extra staff time involved in rating the merit-based applications. Tasks included reviewing/verifying the application materials, preparing detailed background checks of the owners (Police Department task), preparing public hearing notices, preparing staff reports, attending Planning Commission meetings, etc. A fee for the annual renewals of CCBP’s and for appeals of a denial of a CCBP or annual renewal are also included. The proposed fee schedule is Exhibit A of Attachment 1, the City Council Resolution. The fees range from \$374 for an appeal to \$8,577 for a merit-based dispensary application in Phase 2.

The non-refundable application fees are due and payable when the CCBP applications are submitted by the applicant. Just like other Planning application fees, the application fees shall be adjusted each January 1st (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI).

Draft Fee Schedule and Methodology for Cannabis Regulatory Fees

Section 20.44.170(O) also required that Commercial Cannabis Regulatory Fees, based on estimated additional costs of enforcement and monitoring associated with cannabis operations, also be established by the City Council by resolution. According to the Ordinance, the Regulatory Fee is to be due and payable prior to opening the business and thereafter on or before the anniversary date.

The Regulatory Fee may be amended from time to time based upon actual costs. Like the application fees above, these fees will be adjusted annually per the CPI.

Again based on their experience with other cities, SCI Consulting estimated the number of hours that would be involved in an inspection of a cannabis business once in operation. Tasks involved in an inspection included verifying whether the business is meeting all the requirements of the City's Ordinance and State Law, including items such as insurance, record-keeping, the "track and trace" system, employee training, community complaints, signage, storage, security monitoring, fire code inspections, etc. Based on the estimated hours of City staff and consultant time since the City anticipates hiring consultants to do the majority of the inspections and the hourly rates, a cost for one inspection was established. The number of inspections each year for each type of cannabis business was then established to arrive at the final fee. The proposed fee schedule can be seen as Exhibit A of Attachment 1. The fees range from \$6,259 for testing labs to \$32,595 for a manufacturing facility.

Fee Comparison with Other Cities

SCI Consulting provided City staff with information about what other cities are charging the cannabis industry at Attachment 2. Although not a comprehensive list, it does provide some context for Merced's proposed fees. The annual regulatory fees for monitoring and compliance range widely from \$1,969 for a distribution business in Shasta Lake to up to \$201,100 for any cannabis business in Grover Beach.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed. However, adoption of the Ordinance will likely increase the time commitments of City staff toward cannabis activities at the expense of other priorities or projects. Depending on the level of interest, the number of applications for Commercial Cannabis Business Permits may be significant, impacting mostly Planning Division staff, but will also impact the City Manager's office, the Police Department, Finance Department, and others. Ongoing resources will also need to be devoted to inspections and regulatory and enforcement activities of approved Commercial Cannabis businesses.

The City Council is now being asked to adopt application fees to cover the cost of processing the Commercial Cannabis Business Permits and annual regulatory fees to cover the costs of ongoing inspections. A ballot measure to consider a tax related to cannabis is also anticipated in 2018.

ATTACHMENTS

1. Resolution 2017-67
2. Regulatory Fee Comparison with Other California Cities (October 2017)

RESOLUTION NO. 2017-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING APPLICATION FEES FOR
COMMERCIAL CANNABIS BUSINESS PERMITS
AND ANNUAL REGULATORY FEES FOR
COMMERCIAL CANNABIS BUSINESSES**

WHEREAS, the City Council of the City of Merced held a noticed public hearing on November 20, 2017, on proposed Ordinance No. 2480, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding proposed Ordinance No. 2480, which amended the Zoning Ordinance (Title 20 of the Merced Municipal Code) to regulate all commercial cannabis activities and the cultivation of cannabis for personal use in the City of Merced; and

WHEREAS, after hearing all the evidence and testimony, on November 20, 2017, the City Council introduced Ordinance No. 2480. Ordinance No. 2480 was subsequently adopted on December 4, 2017, and will become effective 30 days later on January 3, 2018; and

WHEREAS, Ordinance No. 2480 included Section 20.44.170(O), which set forth that non-refundable initial application fees and non-refundable application renewal fees to cover the cost of processing an application and Commercial Cannabis Regulatory Fees, based on estimated additional costs of enforcement and monitoring associated with cannabis operations, shall be established by the City Council by resolution. The Regulatory Fee to be due and payable prior to opening the business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. Both the application fees and regulatory fees shall be adjusted annually each January 1st (starting in January 1, 2019) for the cost of inflation based on the Consumer Price Index (CPI); and

WHEREAS, after reviewing the estimated time and cost of City staff, including consultants if applicable, to process Commercial Cannabis Business Permit applications and to conduct enforcement and monitoring inspections of Commercial Cannabis Businesses in the City of Merced at appropriate intervals, a fee schedule was prepared; and

WHEREAS, the City Council of the City of Merced held a noticed public hearing on December 18, 2017, on the proposed fee schedule, at which time all

those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the proposed fees.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. That certain document entitled "Application Fees for Commercial Cannabis Business Permits and Annual Regulatory Fees for Commercial Cannabis Businesses in the City of Merced", attached hereto as Exhibit "A," is hereby approved.

SECTION 2. The fees herein shall become effective sixty (60) days within the date of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2017, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
CITY CLERK

BY: _____
Assistant Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

K. Flores 12.4.17
City Attorney Date



City of Merced
Commercial Cannabis Business Permit (CCBP) Application Fees and Cannabis
Business Annual Regulatory Fees

<u>CCBP Application Fees</u>	<u>Proposed Fee</u>
Phase 1 (All Types)	\$964.00
Phase 2 (Merit-Based)	\$8,577.00
Phase 2 (Non-Merit Based)	\$6,250.00
Annual CCBP Renewal	\$2,232.00
Appeal of a CCBP	\$374.00
Appeal of a CCBP Renewal	\$473.00

Note: Application fees are due and payable upon submittal of a Commercial Cannabis Business Permit Application. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.

<u>Annual Regulatory Fees</u>	<u>Proposed Fee</u>	<u># of Inspections/Year</u>
Cultivation--Up to 10,000 SF	\$18,193.00	4
Cultivation--Nursery Only	\$15,275.00	4
Distribution	\$12,556.00	4
Manufacturing	\$32,595.00	4
Retail Sales	\$20,920.00	6
Testing	\$6,259.00	2

Note: The Regulatory Fee is to be due and payable prior to opening the business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.

Regulatory Fees, as of October 2017													
Davis	Greenfield	Shasta Lake	Grover Beach	San Jose	n/a	Berkeley	Cathedral City	Hayward	San Francisco	n/a	n/a	n/a	Hollister
Yolo	Monterey	Shasta	SLO	Santa Clara	Marin	Alameda	Riverside	Alameda	San Francisco	Humboldt	Monterey	Trinity	San Benito
City/County	Application Fees												
Application	\$2,800 with deposit	\$7,830 Application Fee: \$115 Processing Fee: \$7,715	\$581	\$8,100 plus \$750 owner background check (per owner)	\$3,874 App Rcpt Fee: \$184 App Processing Fee: \$3,703	\$6,000	\$6,744 Paid in 3 installments: Round 1: \$848 Round 2: \$2,948 Round 3: \$2,948	\$5,000 (proposed fee)	\$8,973 new site \$4,908 existing	\$5,162 (Use permit) \$4,690 (Special permit)	\$4,474	\$4,000 \$5,000 plus \$1,000 toward General Plan Update	\$7,492 (Prelim Eval. \$1,500)
Zoning Verification Letter				\$1,403									
Renewal		\$3,795						\$5,000	\$4,354		\$1,028		
Appeal		\$2,328			\$1,200								
Monitoring and Compliance													
Annual License Monitoring	x	x	x	\$201,100	\$131,846	\$12,000							x
Cultivation	n/a	60,758	\$3,300 \$5,000	x	x	x							
Manufacturing	\$40,818 \$42,359	\$33,936	\$5,365	x	x	x						n/a	
Distribution	n/a	n/a	\$1,969	x	x	x						n/a	
Testing	\$20,805	n/a	\$14,702	x	x	x						n/a	
Retail	\$40,630	\$60,758		x	x	x						n/a	
Misc. / More Specific Fees													
Retail with Delivery	\$41,758			x									
Local Delivery Only	\$28,034			x									
Out of town Deliveries	\$8,330			x									
Amendment Registration		\$962	\$1,280										
Community Public Health, Safety, Welfare, and Quality of Life		\$15 \$20 per s/f.											