



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: OCTOBER 24, 2023**
FROM: COMMUNITY & ECONOMIC DEVELOPMENT **WARDS: ALL**
DEPARTMENT

SUBJECT: AN ORDINANCE AMENDING CHAPTER 3.30 OF THE RIVERSIDE MUNICIPAL CODE TO ADD AN ADDITIONAL CATEGORY TO THE SCHEDULE OF REGULATIONS, PRODUCTS AND SERVICES AND A RESOLUTION AMENDING THE CITY'S FEES AND CHARGES SCHEDULE PROVIDING FOR STOREFRONT RETAIL COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATION FEE AND SITE REVIEW FEE

ISSUE:

Adopt an Ordinance amending Chapter 3.30 Section 3.30.030IV of the Riverside Municipal Code (RMC) to add an additional category to the Schedule of Regulations, Products and Services and a Resolution amending the City's Fees and Charges Schedule providing for a Storefront Retail Commercial Cannabis Business Permit Application Fee of \$13,842 per application and Site Review Fee of \$17,864 per application.

RECOMMENDATIONS:

That the City Council:

1. Hold a public hearing to adopt an Ordinance amending Chapter 3.30 Section 3.30.030IV of the Riverside Municipal Code to add an additional category to the Schedule of Regulations, Products and Services titled Cannabis Sales Permit Fee;
2. Adopt a Resolution amending the City's Fees and Charges Schedule providing for two Storefront Retail Commercial Cannabis Business Permit application fees: (1) an Application Fee and (2) a Site Review Fee; and
3. Provide direction to staff to return at a later date for Council to consider amendments to the Ordinance to establish fees related to Annual Renewal, Appeal, Change of Business Location, and Transfer of Permit.

BACKGROUND:

On February 28, 2023, the City Council introduced and on March 14, 2023, adopted Ordinance 7628, amending Title 5 (Business Taxes, Licenses and Regulations) of the RMC, and replacing Chapter 5.77 (Cannabis Business Activities) in its entirety, Ordinance 7629 amending Title 9 (Peace, Safety and Morals) of the RMC, and Ordinance 7630 amending Title 19 (Zoning) of the RMC.

- Chapter 5.77 of the RMC regulates Cannabis Business Activities in the City of Riverside, including the types of businesses and maximum number permitted within the City. The City of Riverside allows up to 14 storefront retail cannabis businesses as well as an unlimited number of manufacturing, distribution, and testing laboratories. All commercial cultivation operations and microbusinesses are prohibited. In addition to the types and number of cannabis businesses permitted, Chapter 5.77 also provides for Council to establish the procedure guidelines and review criteria as well as fees related to the process and permit.

On October 17, 2023, the City Council adopted Storefront Retail Commercial Cannabis Business Permit Procedure Guidelines and Application Review Criteria (Guidelines and Criteria). The Guidelines and Criteria outline the procedures to apply for a Storefront Retail Commercial Cannabis Business Permit including a requirement for the applicant to pay an Application Fee. Applicants receiving Provisional Approval are required to submit a Site Review Fee as part of the final review process.

DISCUSSION:

The City desires to establish fees to cover the reasonable regulatory costs to the City associated with the review and issuance of Storefront Retail Commercial Cannabis Business Permits. In September 2023, the City engaged MGT of America Consulting, LLC (MGT), to prepare a permit application fee study to develop a fee structure and calculate the full cost of City activities associated with developing and implementing a Storefront Retail Commercial Cannabis Business Permit application process. The approach to establishing the fee has been based on several factors including:

1. Review and analysis of other city's fees for similar services
2. Tasks in the Guidelines associated with staff time and materials

1. Review and Analysis of Other City's Fees

MGT conducted a survey of comparable cities in Southern California with established cannabis programs. The survey reviewed the agency's application fee, permit fee, maximum number of retail permits and total first year fee amount. The review also looked for similarities and differences in the processes of the surveyed agencies. The fee study results help the City better understand its costs to develop, process, and issue storefront retail commercial cannabis business permits and serve as a basis for making an informed policy decision regarding the most appropriate fees to collect from applicants.

The outcomes of the fee survey are shown in the table below. It is important to note, that because the Cannabis review and permit process is still relatively new, finding a standard practice, best practice or comparative methodology is challenging. In the case of establishing a fee, cities have taken various approaches to reflect their process, time estimates, community values and anticipated costs. This diversity in approach is shown in the application process as well as fees established. Many agencies have instituted a process and fee and after the first year have amended both to adjust to lessons learned through the initial review.

Storefront Retail Commercial Cannabis Business Permit Application Fee City Comparison Table								
Activity	Riverside Full Cost	Moreno Valley	Corona	Jurupa Valley	San Bernardino	Pomona	Pasadena	Santa Ana
Application Fee	\$13,842	App Fee: \$9,551 Interview Fee: \$1,556	Actual cost of independent facilitator for merit-based evaluation process divided by # of applicants	Filing Fee \$2,500	Zoning Verification letter: \$183 Live Scan \$732	Phase 1-2 app fee \$5,963 Phase 3-4 app fee \$7,495	\$13,654	\$1,813
Permit Fee	\$17,864	Annual Permit Fee: \$58,356 Annual Community Benefit Fee: \$20,000	Permit Fee: \$9,948 Background Check: \$537	Cannabis Business Tax \$28/sq ft of retail space	Permit: \$15,016 Annual Regulatory Fee: \$15,016	Permit Fee: \$2,034	\$10,639	\$12,968
Maximum Number of Storefront Retail Permits	14	25	12	7	5	2	6	30
Total 1st Year Fees including application	\$31,706	\$89,463	\$10,485, plus actual cost of application fee	\$58,500 for 2,000 sq ft store	\$30,946	\$15,492	\$24,293	\$14,781

What can be shown in the review of other agencies is the use of three approaches to fee and cost recovery:

- Flat Fee
- Deposit Method
- Base Fee with Development Agreement or Community Benefit Agreement

Flat Fee: Several cities employ a flat fee for the application and permit. This approach is typically based on a time and material basis estimated to recover the reasonable regulatory costs associated with the review and processing of the permit. Agency’s employing this fee have found benefit in reducing the burden for staff to track time, minimizing the need for administrative review for audit and reconciliation, reducing challenges by applicants for varying costs associated with one review over another and increasing predictability of the costs to embark on the effort. The potential challenge to this flat fee approach is underestimating time associated with any of the steps identified for staff to review and process the applications.

Deposit Method: In some cases, cities have established a deposit method whereby the applicant

submits a deposit amount and time and fees (application fee, business license, inspection, etc.) are charged against the deposit. Additionally, the staff time including facilitator/administrative time, staff review time, communication and processing time are all charged on an hourly basis against the deposit. The benefit of this fee method is the ability to recover reasonable regulatory costs associated with each individual application rather than an average of time attributed to all. The challenges related to this method include the increase in administrative time and burden on staff for time tracking, the potential challenge raised by applicants related to cost of one application review compared to another, as well as the impact on administrative time to collect and process the deposit and refund amounts.

Development Agreement/Community Benefit Agreement/Cannabis Tax or Conditional Use Permit (CUP) Process: The survey found a few cities have a base fee with an agreement, additional process and/or tax. The benefit of this approach allows for a negotiated agreement to understand community impacts, site challenges, operational needs and other conditions that may require improvements, mitigations, or offsets. These communities have determined that in addition to the time and materials expended to review applications, additional revenue is warranted to support this business community in their City. The challenges to this approach can include additional staff time and effort, a lack of predictability and certainty in cost and equity in the process and longer time for process and opening operations.

The result of this survey, analysis and review is to develop a fee structure using the flat fee model to implement a predictable process, recover all estimated reasonable regulatory costs and avoid undue burden and staff time to collect and implement fees. Although the challenge of the flat fee is the potential to underestimate time, staff and the MGT team have worked diligently to identify all foreseeable steps, use all reasonable methods to estimate staff time and analyze anticipated options and challenges where appropriate.

2. Tasks in the Guidelines Associated with Staff Time and Materials

In order to determine the amount of the flat fee MGT employed a typical standard approach for analyzing the cost of providing fee-related services. This is commonly referred to as a “bottom-up” approach and includes the following steps.

- Identify all direct staff time spent on the fee related activity or service;
- Calculate direct cost of the staff time for each fee using productive hourly rates;
- Determine any other operational costs (i.e., other than personnel costs) that can readily be traced to a specific fee-related service as a direct cost; and
- Determine indirect or “overhead” costs (i.e., administrative support, departmental and citywide)

Using the Guidelines to identify all fee-related services and activity MGT and the City Team created a list of all of the steps necessary in the review process. It was determined that the First Phase of the process (Application Review) should be separated out as a separate fee as only the 14 top ranked candidates would go through the Second Phase (Site Selection). By separating these fees, the City would be relieved of the burden of holding fees and refunding to a potentially large number of applicants and the applicants would be subject to only the fees that apply to the eligible review.

Phase 1: Application Review: A main point of contact for Cannabis application coordination and communication has been established and administrative time was also considered in the review, processing, and completion of the first phase of the Cannabis Permit process. The review panel to evaluate the proposals against the merit-based evaluation criteria including representatives from Community and Economic Development, City Manager's Office, Finance, Police and Fire were built into the fee. Finally, staff time developing regulations, procedures and drafting agreements was considered. Taking the reasonable regulatory costs associated with all of the above information and attributing those to this Application phase resulted in a flat fee of **\$13,842**.

Phase 2: Site Selection: The 14 top ranked applicants go forward to submit for the Site Selection process. Staff and MGT reviewed the tasks and staff time associated with the Guidelines and estimated the staff time for site review, zoning verification, background checks, site plan review, safety and security compliance and other key review requirements associated with this process. This flat fee is determined to be **\$17,864**.

Given the City is basing our fees on estimates of staff time and steps needed, staff recommends the fees are evaluated after year one. Although there will be less burden in outlying years, it may be necessary to adjust the fees to cover unforeseen time or materials. Additionally, a few fees still need to be established and require additional work of the team. These fees are not required to be adopted prior to the release of applications. And staff will be completing the review and analysis and bringing back for Council consideration:

- **Annual Renewal Fee:** Covers costs to perform annual review of site use and ensure requirements of initial permit are being followed.
- **Appeal Fee:** Covers cost of applicant to appeal any decision made for denial of application e.g., revoke, suspend, modify, deny renewal, or add conditions to permit.
- **Change of Business Location:** Covers cost of the review, site inspection, and determination of compliance for a request by permit holder to change the location of their premises.
- **Transfer Permit:** Covers the cost of the review of the request by permit holder to change the name or form of their business. May be same fee as application fee.

STRATEGIC PLAN ALIGNMENT:

This item contributes to **Strategic Priority 3 – Economic Opportunity and Goal 3.3:** Cultivate a business climate that welcomes innovation, entrepreneurship, and investment. It also supports **Strategic Priority 5 - High Performing Government** and **Goal 5.4:** Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust:** The development of the FY 2023/24 Schedule of Fees and Charges is a transparent process. Furthermore, the City continues to be transparent in developing the Cannabis Business Permit process.
2. **Equity:** User fees are charged to the user for a service provided when the cost of providing that service, and the benefits that service provides, are mainly attributed to

that specific person or user.

3. **Fiscal Responsibility:** The thoughtful and deliberate nature of the City's Schedule of Fees and Charges demonstrates the City's commitment to responsible management of the City's financial resources while providing quality public services to all by ensuring that general revenues such as taxes are not used to pay for services that mainly provide private benefit to individuals.
4. **Innovation:** The proposed fee increases are an innovative solution to preserve general revenues for citywide needs as opposed to subsidizing private benefits to individuals. Furthermore, the City is developing a program based on proven processes and building upon them to better meet the unique characteristics of the City. A creative approach will be used to implement the application review process while generating new revenues for the City.
5. **Sustainability and Resiliency:** Charging users for services that provide private benefit to recover the cost of providing such service ensures general revenues remain available for community-wide needs. Furthermore, the approval of the proposed Initial Application Fee and Site Review Fee will help the City to realize additional business tax that will ensure its sustainability and resiliency.

FISCAL IMPACT:

The proposed application fees are established to recover the reasonable regulatory costs of the City for the development of a cannabis retail program, and processing and issuing Storefront Retail Commercial Cannabis Business Permits. The revenue generated by the Application Review fee will be \$13,842 for each application and by the Site Selection fee will be \$17,864 for up to 14 applications.

An estimate of new revenue to the City in FY 2023/24 is \$665,356. This is based on the projected submittal and review of 30 applications and 14 site reviews. The application fee could be much higher should more proposals be received. Staff recommends a future evaluation and analysis of the Application and Site Selection fee following the first year to consider the need to increase or decrease fees based on time studies and additional staffing allocations required for this effort.

This fee is set to take effect immediately while the City continues the process of amending RMC Chapter 3.30 Section 3.30.030IV.

Prepared by:	Jennifer Lilley, Community & Economic Development Director
Availability of funds: Financial Officer	Kristie Thomas, Finance Director/Assistant Chief
Approved by:	Rafael Guzman, Assistant City Manager
Approved as to form:	Phaedra A. Norton, City Attorney

Attachments:

1. Resolution
2. Ordinance
3. Fee Study
4. Public Notice
5. Presentation

