



# City Council Memorandum

*City of Arts & Innovation*

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**TO: HONORABLE MAYOR AND CITY COUNCIL                      DATE: JANUARY 23, 2024**

**FROM: COMMUNITY & ECONOMIC DEVELOPMENT              WARDS: ALL**  
**DEPARTMENT**

**SUBJECT: RESOLUTION AMENDING THE CITY'S FEES AND CHARGES SCHEDULE**  
**PROVIDING FOR STOREFRONT RETAIL COMMERCIAL CANNABIS BUSINESS**  
**PERMIT APPEALS FEE**

**ISSUES:**

Adopt a Resolution amending the City's Fees and Charges Schedule providing for a Storefront Retail Commercial Cannabis Business Permit Appeals Fee.

**RECOMMENDATIONS:**

That the City Council:

1. Adopt a Resolution amending the City's Fees and Charges Schedule providing for a Storefront Retail Commercial Cannabis Business Permit Appeals Fee.

**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 Riverside Municipal Code (RMC), 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. 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 the City 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 (CCB) Permit Procedure Guidelines and Application Review Criteria (Guidelines and Criteria). The Guidelines and Criteria outline the procedures to apply for a Storefront Retail CCB 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.

On October 24, 2023, a public hearing was conducted, and the City Council approved the adoption of an Ordinance amending Chapter 3.30 Section 3.30.030IV of the Riverside Municipal Code (RMC). The proposed changes involved the addition of a category to the Schedule of Regulations, Products and Services. In conjunction with the Ordinance, a Resolution was adopted to amend the City's Fees and Charges Schedule. This adjustment specifically introduced a Storefront Retail CCB Permit Application Fee of \$13,842 per application and Site Review Fee of \$17,864 per application.

On November 15, 2023, the City's virtual cannabis portal opened, allowing applicants to electronically submit their Storefront Retail CCB application online, along with required supporting documents with a filing deadline of December 15, 2023. This electronic submission platform aimed to streamline and expedite the application process, providing convenience to all prospective applicants.

All Storefront Retail CCB Permit applications and supporting documents submitted will be reviewed, and those applications deemed complete shall be granted application clearance to be further evaluated, scored, and ranked by a review panel composed of City staff selected by the City Manager. The review panel Evaluation Period will run for forty-five (45) days from the date the application period ends, and initial application reviews are deemed complete by the Cannabis Programs Facilitator. Each application will be ranked, and applicants will be notified when ranking is available. The top 14 applicants shall receive Provisional Approval, advancing to Phase 2 of the Cannabis Program - Application Final Approval.

## **DISCUSSION:**

The City has continued its efforts to establish fees associated with the review, approval and issuance of Storefront Retail CCB Permits. In September 2023, the City engaged MGT of America Consulting, LLC (MGT), to prepare a fee study to develop and calculate the full cost of City services associated with implementing a Storefront Retail Commercial Cannabis Business Permit application and review process. On October 24, 2023, those fees were adopted by the City Council, who further provided direction to return with other fees as needed to implement the full extent of the program.

City staff engaged MGT in November 2023, to discuss the remaining fees and more specifically, the appeals fee. Now that permit applications have been received, Ordinance No. 7628, Chapter 5.77.220 – Appeals; provides for due process as applicants have the right to appeal the denial of an application. Appellants are entitled to an administrative hearing before an Appointed Hearing Officer and as such, the City has retained the State Office of Administrative Hearings (OAH) – a common practice by other local agencies with similar Cannabis Programs, for these types of appeals.

MGT conducted the fee analysis for the appeals fee which covers the cost of the applicant to appeal any decision made for the denial of an application. In establishing this fee, cities have taken various approaches to reflect their process, staffing, time estimates, and other anticipated costs.

The outcome is shown in the table below. It is important to note, that because the Cannabis fee process is still relatively new, finding a standard practice, best practice or comparative methodology is challenging. This diversity in approach is shown in the cannabis 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.

| Activity            | Riverside Full Cost | City of Los Angeles   | Corona   | San Bernardino    | Pasadena   | Santa Ana                                   | Peer Avg |
|---------------------|---------------------|---|--|-------------------|--|---|----------|
| Application Appeals | \$5,579 deposit     | Appeal to Cannabis Regulation Comm<br>\$6,802 flat fee<br>Appeal to Council<br>\$6,210 flat fee | \$3,190 Uses regular Planning Appeals process. | \$3,217 fixed fee | \$6,827 (50% of Application Fee)<br>Uses regular Planning appeals process. | \$4,944 fixed fee (Same as Planning Appeal) | \$ 4,996 |
| Fixed Fee           |                     | X   | X  | X                 |  | X   |          |
| Other               | X                   |   |  |                   | X  |   |          |
| Amt for Avg         |                     | \$6,802   | \$3,190  | \$3,217           | \$6,827  | \$4,944                                     |          |

The city has taken the approach of a deposit-based methodology for the appeals fee.

Deposit Based Methodology

In some cases, cities have established a deposit method whereby the applicant submits a deposit amount as time and fees are charged against the deposit. 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. Some challenges related to this method include the increase in administrative time 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, when needed.

Based on the MGT Fee Study and Analysis, the deposit for the appeals fee is \$5,579. The deposit includes reasonable time estimates from the Cannabis Program Facilitator, City Attorney’s Office, and the Hearing Officer to review, process, hear and administer outcomes for the appeal. The comparison survey includes other agencies within the region with similar appeal fee structures in place, with an average appeals fee of \$4,996. Riverside and Pasadena use the deposit-based methodology.

Other Fees

Staff will continue to work with the consultant, MGT to establish the remaining fee types and structures necessary to fully implement the Cannabis Program and will return to City Council for further consideration, anticipated in the spring of 2024.

These fees include but may not be limited to:

- **Annual Renewal Fee:** Covers costs to perform annual review of site use and ensure requirements of initial permit are being followed.
- **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 is 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 continue to be used to implement the necessary fees while generating new revenues for the City.
5. **Sustainability & 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.

### **FISCAL IMPACT:**

The total fiscal impact of the proposed appeal fee will be \$5,579 in revenue for each appeal request received. The proposed appeal fee is established to recover the reasonable regulatory costs of the City for the appeal process and hearing.

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| Prepared by:                           | Tiffany Wheeler, Senior Administrative Analyst                     |
| Approved by:                           | Jennifer A. Lilley, Community & Economic Development Director      |
| Certified as to availability of funds: | Kristie Thomas, Finance Director/Assistant Chief Financial Officer |
| Approved by:                           | Rafael Guzman, Assistant City Manager                              |
| Approved as to form:                   | Phaedra A. Norton, City Attorney                                   |

### Attachments:

1. Resolution
2. MGT Appeals Fee Study