



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: APRIL 27, 2021**

FROM: POLICE DEPARTMENT **WARDS: ALL**

SUBJECT: PUBLIC HEARING - RESOLUTION AMENDING CITY'S FEES AND CHARGES SCHEDULE PROVIDING FOR A TOBACCO RETAIL ESTABLISHMENT PERMIT FEE OF \$211 TO BE RENEWED EVERY TWO YEARS

ISSUES:

Conduct a public hearing for the resolution establishing a Tobacco Retail Establishment Permit fee as discussed in this report and adopt the resolution amending the City's Fees and Charges Schedule providing for a Tobacco Retail Establishment Permit Fee of \$211 to be renewed every two years.

RECOMMENDATIONS:

That the City Council:

1. Conduct a public hearing for the resolution establishing a Tobacco Retail Establishment Permit fee as discussed in this report; and
2. Adopt the resolution amending the City's Fees and Charges Schedule providing for a Tobacco Retail Establishment Permit Fee in the amount of \$211 to be renewed every two years.

LEGISLATIVE HISTORY:

On May 4, 2016, Governor Jerry Brown signed California Senate Bill 7 into law as an act to amend Sections 17537.3, 22951, 22952, 22956, 22958, and 22963 of, and to add Section 22964 to, the Business and Professions Code, and to amend Section 308 of the Penal Code, relating to tobacco.

Senate Bill 7, among several notable changes, increased the minimum age to purchase tobacco products or tobacco paraphernalia from 18 to 21 years of age. The additional changes expanded the definition of tobacco products to include electronic cigarettes or devices that vaporize liquids containing nicotine, as well as identifying other items that qualify as tobacco products or tobacco paraphernalia. The age restriction went into effect on June 9, 2016, with the remaining changes becoming effective on January 1, 2017.

BACKGROUND:

On March 9, 2021, the City Council introduced an ordinance amending Chapter 6.24 of the Riverside Municipal Code regulating tobacco retail establishments to be consistent with state law.

The substantive amendments to RMC Chapter 6.24 include the following:

1. 6.25.020(C) – The amended section would remove “Riverside County Department of Health and Human Service or other County department” from the definition of “Department.”
2. 6.24.020(D) - This new section would define “minor” as any person under the age of twenty-one (21) years old, with an exemption for active duty military at least 18 years old with a valid identification card issued by the United States Armed Forces.
3. 6.24.020(L) – This new section defines “Tobacco Retail Establishment Permit” as the certificate issued by the City of Riverside, which allows a facility to sell tobacco, tobacco products, and tobacco paraphernalia.
4. 6.24.030(C) – The amended section changes the age restriction for tobacco sales from eighteen (18) to twenty-one (21) years of age.
5. 6.24.080(D) – This new section would establish “permitted hours for tobacco sales.” Currently, there are no restrictions to the hours of operation for any tobacco retail establishment in the City of Riverside (including Hookah Lounges). The “permitted hours for tobacco sales” would require all businesses that generate more than 60 percent of their gross annual sales from the sale of tobacco products, to cease any and all tobacco sales during the hours of 02:00 am through 06:00 am. An example of a business that would be exempt from this restriction would be gas stations or grocery stores.
6. 6.24.100 – This section, previously 6.24.110, outlines penalties and restrictions for businesses operating as a tobacco retail establishment without a valid city permit.
7. 6.24.110 – This section, previously 6.24.120, was amended to remove “County Counsel” and a civil action bail schedule for offenses occurring within a 60-month period.
8. 6.24.120 – This section, previously 6.24.100, expanded upon remedies available for tobacco retail establishments having been found, through the course of inspection or investigation, to have violated this chapter or state law concerning the retail sales of tobacco. This section allows for the Chief of Police to revoke or suspend a tobacco retail establishment permit, if the cited violation is determined to be non-correctable. In the event a violation is capable of correction, the Chief of Police can exercise discretion and allow for an inspection to ensure the violation was in fact corrected prior to executing other disciplinary actions. This section also outlines the process for tobacco retail establishments to request an appeal hearing with the Chief of Police upon proper notification of an impending tobacco retail establishment permit denial, suspension or revocation.
9. 6.24.130 – This new section outlines the appeal process once the Chief of Police decides to deny, suspend or revoke a tobacco retail establishment permit. The process utilizes an Administrative Hearing Officer to review all relevant evidence and hear the testimony of all competent persons desiring to testify regarding the incident or alleged violation that resulted in a denial, suspension or revocation of a tobacco retail establishment permit.

On March 23, 2021, the City Council adopted an ordinance amending Chapter 6.24 of the Riverside Municipal Code regulating tobacco retail establishments to be consistent with state law and waived further reading. The Ordinance will be effective 30 days from the date of Council approval.

DISCUSSION:

The City of Riverside currently has approximately 243 state licensed tobacco retailers. The Riverside Police Department is proposing a Tobacco Retail Establishment Permit (TREP) fee of \$211 for a two-year permit to support the adopted amendments to Chapter 6.24 of the Riverside Municipal Code. The permit will need to be renewed by each establishment every two years at a cost of \$211 each time a permit is obtained. The proposed fee amount is based on the estimated amount of time spent processing and approving similar permits currently being issued by the Police Department. The fee includes the following steps:

- STEP 1: The Records Bureau receives the initial intake and review of the TREP application to ensure all required documentation is included and the application is complete.
- STEP 2: The application will be transferred to a Detective in the Vice Unit who will complete an initial records check of the application including verification of State Retailer's License and Seller's Permit, verification of a valid business tax license, and verification of a valid lease agreement or evidence of property ownership.
- STEP 3: A Detective will also complete an inspection of the business site to ensure compliance with state and local requirements, including but not limited to, inventory check of all tobacco products to ensure valid California tax stamps, review of tobacco purchase invoices to ensure product was secured through a state approved vendor, review of inventory to ensure absence of banned or expired tobacco products, ensure state retailer's license and seller's permit are posted in a conspicuous place.
- STEP 4: Upon final approval, the application will be returned to the Records Bureau to be scanned into an electronic document retention system.
- STEP 5: The Records Bureau will issue the official TREP to the applicant, to be posted in a conspicuous place within the retail establishment.

Tobacco Retail Establishment Permit fees adopted in neighboring jurisdictions are summarized in the chart below:

Jurisdiction	Fee Amount	Term
City of Riverside	*\$211.00	2 years
City of Long Beach	\$585.00	1 year
City of Santa Ana	\$776.08	1 year
County of Riverside	\$457.00	1 year
City of San Diego	\$200.00	1 year

*Proposed fee amount

The proposed fees are based on a 100% cost-recovery of related staff time, materials, and supplies

required to conduct the permit process described above.

The Resolution will be in effect immediately upon adoption by City Council.

FISCAL IMPACT:

The total fiscal impact upon approval of the proposed Tobacco Retail Establishment Permit fee would be approximately \$51,273 in revenue plus an estimated \$50,000 every two years thereafter. Revenue is dependent upon the number of Tobacco Retail Establishments located within the City of Riverside City limits.

Prepared by: Larry V. Gonzalez, Chief of Police
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer
Approved by: Lea Deesing, Assistant City Manager
Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

1. Resolution amending City's Fees and Charges Schedule providing for a Tobacco Retail Establishment Permit fee of \$211 for a two-year term
2. RMC Chapter 6.24 adopted on March 23, 2021