

AGENDA ITEM  
12A

Date: February 17, 2021

Council Action Date: March 8, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Alex D. McIntyre, City Manager  
Peter Gilli, Community Development Director  
Michael Coon, Finance and Technology Director

**SUBJECT:** Adoption of Commercial Cannabis Business Permit Fees

**SUMMARY**

City Council adopted an Ordinance that amended the San Buenaventura Municipal Code to allow for commercial cannabis businesses in the City. The proposed fees will recover the City's costs of reviewing and processing commercial cannabis permit applications, permit appeals, and corresponding background checks.

**RECOMMENDATION**

- a. Conduct the public hearing.
- b. Determine that the enactment of this resolution is exempt from the California Environmental Quality Act (Public Resources Code Section 21080(b)(8)) because it establishes a fee for the purpose of meeting operating expenses.
- c. Adopt a resolution approving the new Commercial Cannabis Permit Application Fees, Permit Appeal Fees, and corresponding background checks, to be effective April 1, 2021, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, ADOPTING A SCHEDULE OF FEES FOR SERVICES RELATING TO COMMERCIAL CANNABIS PERMITS"

**DISCUSSION/ANALYSIS**

Recovering the costs of providing fee-related services increases the availability of General Fund revenues to be used for services and activities available to all residents, such as public works and public safety services. Additionally, it helps meet the service

level expectations of the community by collecting revenues to adequately fund the services provided by each department.

The proposed fees are intended to comply with applicable federal, state, and local laws including providing confirmation that the proposed fees (charges) are not a tax as defined in Article 13C of the California Constitution and that the proposed fees are no more than necessary to cover the reasonable costs of the City's activities and services addressed in the fees. Additionally, the manner in which the costs are allocated to a payor bears a fair and reasonable relationship to the payor's burdens on, or benefits received from, the activities and services provided by the City.

On February 22, 2021, the City Council adopted ordinances to allow for commercial cannabis businesses in the City. The attached resolution (Attachment A), if adopted, will set the fees for the new commercial cannabis permit applications. There are two parts to the permit application fee. All applicants will be required to pay the first fee for Phases 1-3 (\$8,844) of the application process. The first three phases include determination of eligibility, application review and ranking, and selection committee review and interviews. The consultant, Hinderliter de Llamas & Associates (HdL), anticipates the majority of applicants will make it through the first three phases of the application process. If an applicant does not make it to Phase 3, they will receive a proportionate refund. Those applicants who are selected to continue to the final Phase 4, will pay the second fee (\$1,482) and will go through a final selection by the City Manager.

Regarding the appeal fee, an applicant may appeal at any phase in the permitting process and appeals will be heard by a third-party administrator.

There is not currently an annual renewal fee determined. In order to accurately determine the renewal fee, the cost recovery analysis will be reassessed after applicants are selected. The renewal fee would cover the costs associated with renewal, auditing, enforcement and inspections. It is estimated, based on other cities and the consultant's experience, that the renewal fee may be approximately \$15,000 to \$20,000 per applicant. Staff will return to City Council at a future date when a renewal fee is determined.

#### California Environmental Quality Act

The California Environmental Quality Act (CEQA), provides an exemption under Public Resources Code Section 21080(b)(8) for the establishment or modification of charges by public agencies, which the public agency finds are for the purpose of meeting operating expenses. The establishment of the commercial cannabis business permit fees is entirely for the purpose of meeting operating expenses in that no recommended fee would recover more than 100 percent of the cost incurred to the City to deliver the services provided.

**FINANCIAL IMPACT**

Staff has been working with HdL to determine the cost of:

- Reviewing and processing the commercial cannabis permit applications
- Processing appeals for the denial of commercial cannabis permit applications
- Background checks associated with the commercial cannabis permit applications

The proposed fees target full (100%) cost recovery for permit processing, for processing appeals for the denial of a permit, and background checks (Attachment B).

FEE DESCRIPTION	PROPOSED FEE	COST RECOVERY
<b>Commercial Cannabis Permit Application Fee:</b>		
a) New Permit Application Fee (Phases 1-3)	\$8,844	100%
b) New Permit Application Fee (Phase 4)	\$1,482	100%
c) LiveScan/Background Checks	\$377	100%
d) Appeal Fee	\$3,178	100%

This is a new program, therefore, it is difficult to accurately anticipate the number of permits that will be requested each year. For purposes of estimation, this analysis assumes 45 permit applications the first year. Based on this assumption, it is anticipated that between staff and the consultant, costs will be approximately \$465,000. This will be offset by the proposed application fee designed to target full (100%) cost recovery for permitting.

REQUESTED ACTION:				
Adopt Commercial Cannabis Permit Application Fees				
ESTIMATED COST: \$ 465,000				
FUND	DEPARTMENT	PROJECT	AMOUNT	AVAILABLE BUDGET
01 - General	Community Development	31100	\$465,000	*
REVENUE OFFSET: Permit Processing Fees			(\$465,000)	
<b>NET IMPACT:</b>			<b>\$0</b>	

\*Funds are currently being programmed into FY21-22 Proposed Budget.

**ALTERNATIVES**

City Council may choose to adjust targeted cost recovery levels and provide a subsidy level as City Council may deem appropriate.

Prepared by: Yesania Anderson, Management Analyst II

**ATTACHMENTS:**

- A Resolution for Commercial Cannabis Permit Application Fees
- B Estimated Cost of Service for Proposed Cannabis Permit Fees

# ATTACHMENT A

## RESOLUTION NO. 2021-\_\_\_

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, ADOPTING A SCHEDULE OF FEES FOR SERVICES RELATING TO COMMERCIAL CANNABIS BUSINESS PERMITS

**WHEREAS**, in compliance with City Council's policy on User Fees and Rates, the Finance and Technology Director recommends the need to establish various new fees to recover at least a portion of the cost of providing services relating to commercial cannabis business permits, which are rounded to whole dollar amounts for ease of application; and

**WHEREAS**, the staff report and its attachments contain a summary of the recommended fees, including a proposed schedule of fees and the estimated cost of providing the fee-related services.

NOW, THEREFORE, the City Council of the City of San Buenaventura does hereby resolve, find, determine and order as follows:

SECTION 1: The City Council finds that the recommended fees are reasonable in that they seek to recover the basic cost incurred to the City for delivery of the service provided relating to commercial cannabis business permits. The City Council now desires to establish the fees set forth in this resolution and the attachment thereto.

SECTION 2: Based on the foregoing, fees for commercial cannabis business permits, permit appeals, and corresponding background checks as identified in the staff report, will be effective April 1, 2021.

SECTION 3: Fees adopted as part of this resolution should be incorporated into the City's existing master schedule of fees adopted on May 11, 2020, via Resolution No. 2020-019. Incorporating these fees into the fee schedule will allow for the fees to be considered with future comprehensive user and regulatory fee updates. Resolution No. 2020-019 entitled "A Resolution of the City Council of the City of San Buenaventura, California, Adopting a Revised Schedule of Fees, Hourly Rates, and Equipment Charges for Various City Services," adopted May 11, 2020, is amended as expressly provided by this resolution, but shall otherwise remain in effect.

SECTION 4: CEQA EXEMPTION. The City Council further finds that the setting of fees pursuant to this resolution is exempt from environmental review under Public Resources Code Section 21080(b)(8) of the California Environmental Quality Act, which provides an exemption for the establishment or modification of charges by public agencies, which the public agency finds are for the purpose of meeting operating

expenses. Based on the record as a whole, the establishment of fees pursuant to this resolution, is entirely for the purpose of meeting operating expenses in that no recommended fee would recover more than 100 percent of the cost incurred by the City to deliver the service provided.

PASSED AND APPROVED this 8th day of March, 2021.

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Sofia Rubalcava, Mayor

ATTEST:

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Antoinette M. Mann, MMC, CRM  
City Clerk

APPROVED AS TO FORM  
GREGORY G. DIAZ, City Attorney

BY:  2/17/21  
Megan Lorenzen Date  
Assistant City Attorney

Commercial Cannabis Permit Fees Summary  
City of Ventura

**Application Fee Cost Summary**

	Per Applicant	
Phase 1	\$ 3,137	Phases 1-3: \$ 8,844
Phase 2	\$ 3,362	Phase 4: \$ 1,482
Phase 3	\$ 2,345	<b>All 4 phases: <u>\$ 10,326</u></b>
Phase 4	\$ 1,482	
<b>Total</b>	<b><u>\$ 10,326</u></b>	
<b>LiveScan/Background Fee</b>	<b><u>\$ 377</u></b>	
<b>Appeal Fee</b>	<b><u>\$ 3,178</u></b>	