



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: October 11, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Darcy Smith, Assistant City Manager

SUBJECT: Hold Public Hearing to Adopt a Resolution Adding Fees Related to the Commercial Cannabis Operator's Permit to the Master Fee Schedule, and Adopt a Resolution Approving Application Procedures and Guidelines for Commercial Cannabis Operator's Permits and Authorizing the City to Obtain State Summary Criminal History Information of Potential Cannabis Operator Permittees

BACKGROUND:

On September 27, 2022, at a Public Hearing, the City Council waived the first reading and introduced two Ordinances to amend the City Municipal Code related to commercial cannabis operations. The second reading and adoption of these Ordinances is scheduled for the City Council meeting of October 11, 2022.

The first Ordinance will amend the Zoning Code to add a new chapter to permit and regulate commercial cannabis retailers (storefront sales) and commercial cannabis distribution facilities. The second Ordinance includes various Municipal Code Amendments, including amendments to Title 3 (Revenue and Finance) to lower the cannabis business tax to 5%, amendments to Title 4 (Licenses and Regulations) to add a new chapter pertaining to Commercial Cannabis Operators Permits, and amendments to Title 6 (Public Peace, Morals and Welfare) to eliminate the prohibition on commercial cannabis business activity in the City. To permit retail and distribution activities, Chapter 4.70 is proposed to be added to the Municipal Code to define the Operator's Permit process. Commercial Cannabis Operations for cannabis retailers or cannabis distribution facilities will require both a Commercial Cannabis Operators Permit (CCOP) and a Conditional Use Permit (CUP). The CCOP requires an annual permit renewal.

DISCUSSION:

The purpose of this item is: (i) to consider a Resolution approving Application Procedures and Guidelines for Commercial Cannabis Operator's Permits and authorizing the City to obtain State summary criminal history information of potential cannabis operator permittees (Attachment 1), and (ii) hold a public hearing to consider a Resolution Adding Fees Related to the Commercial Cannabis Operator's Permit to the Master Fee Schedule (Attachment 2).

Application Procedures and Guidelines for Commercial Cannabis Operator's Permits

Operations of commercial cannabis retailers (storefront sales) and commercial cannabis distribution facilities will require both a Commercial Cannabis Operators Permit (CCOP) and a Conditional Use Permit (CUP). The first step in the process would be for a prospective

commercial cannabis operator to file a CCOP application. To implement the City's newly adopted commercial cannabis operations regulations including the new Municipal Code Chapter 4.70 pertaining to the requirements and process for CCOPs, the City Council must approve the related Application Procedures and Guidelines for Commercial Cannabis Operator's Permits (Guidelines). The proposed Guidelines are provided as Attachment 1, Exhibit A to clearly explain the City's requirements and process to applicants. The proposed process would start with an application filing timeline during which CCOP applications can be filed with the City. While only up to three cannabis retailer locations and one distribution facility may ultimately be approved, the city could receive and process more than four applications. Therefore, the City must establish a clear process for the CCOP applications.

The CCOP application would require the cannabis business to submit all information and documents identified as required in the Guidelines. This includes identification of the owners and managers of the business and certain information pertaining to the business including financial information. The owners and managers are also required to submit to background checks. The CCOP applications would be reviewed by the City. The applications would be assigned a "Pass" or "Fail" status by the team based on the application evaluation and scoring criteria included in the Guidelines.

Those CCOP Applications that receive a "Pass" score will be forwarded to the City Council for review and consideration. The City Council will hold a publicly noticed meeting to select up to three (3) CCOP applicants for commercial cannabis retailers (storefront sales) and one (1) commercial cannabis distribution facility. If there are less than three (3) initial submittals, the City Council may open the CCOP process again at any time in the future. At any time there are fewer than three approved retail CCOP's and fewer than one distribution CCOP, the City Council may open the CCOP application process to receive additional applications. However, the City reserves the right to award a lesser number of CCOP permits or to award no permits at all.

Those businesses approved by the City Council would then proceed to the final step, formally filing a Conditional Use Permit (CUP) application for a specific location. CUP applications would be reviewed by staff and presented to the Planning Commission for consideration at a noticed public hearing. The Planning Commission shall be the recommending body with the City Council being the final approving authority on which commercial cannabis operations obtain a CUP. With CUP approval, the third and final step would be for staff to formally issue the CCOP to those applicants who have obtained their CUP approval.

Fees for Commercial Cannabis Operator's Permits

As the CCOP is a new permit type, the City Council must adopt a Resolution adding fees related to the CCOP to the Master Fee Schedule. All applicants will be required to submit a deposit based on the current Master Fee Schedule for the City of San Bruno for each CCOP application. Staff completed a fee study with preliminary costs estimates for all City staff time required to review and process the Permit, which is included as Attachment 2, Exhibit A. Consistent with City Council policy to maximize cost recovery for development related services, the fee is proposed to be deposit based with an initial deposit of \$11,161.00. The estimated cost of conducting the annual renewal of the operator's permit is \$2,745.00.

Time spent by City staff and any City consultant in reviewing applications and administering the application process will be tracked and charged against the initial deposit amount. All direct

costs including legal and public notices will be charged to the applicant. The deposit amount is based on the preliminary cost estimates analysis; however, applicants are advised that they may be required to post an additional deposit, if necessary, for the City to complete the application review processes. Any remaining deposit balance that is unused will be returned to the Applicant. The CCOP review and background check by the Police Department is a separate fee of actual costs to run the check per owner or manager which reflects the actual costs of investigations and background checks.

FISCAL IMPACT:

There is no fiscal impact from the adoption of the resolutions. Application fees for the Commercial Cannabis Operator's Permits is revenue neutral since applicants will only be charged for actual time spent on the application. There would be an undetermined net positive fiscal impact if new commercial cannabis businesses locate in the city from tax revenue.

ENVIRONMENTAL IMPACT:

The adoption of the resolutions do not have the potential for creation of a significant environmental impact pursuant to the California Environmental Quality Act (CEQA), and as such are exempt from further environmental consideration per CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION:

Hold Public Hearing to adopt a Resolution adding Fees related to the Commercial Cannabis Operator's Permit to the Master Fee Schedule, and adopt a Resolution approving Application Procedures and Guidelines for Commercial Cannabis Operator's Permits and authorizing the City to obtain State summary criminal history information of potential cannabis operator permittees.

ALTERNATIVES:

Decline to adopt the resolutions and direct staff to make modifications to one or both of the resolutions; substantive modifications will require continuation to a future meeting.

ATTACHMENTS:

1. Resolution Approving Application Procedures and Guidelines for Commercial Cannabis Operator's Permits Procedures and Guidelines for Commercial Cannabis Operator's Permits and Authorizing the City to Obtain State Summary Criminal History Information of Potential Cannabis Operator Permittees with Exhibit A, Application Procedures and Guidelines for Commercial Cannabis Operator's Permits.
2. Resolution Adding Fees Related to the Commercial Cannabis Operator's Permit to the Master Fee Schedule with Exhibit A: Commercial Cannabis Operator's Permit Fee Study.