



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 18-385

Board Meeting Date: 5/22/2018

Special Notice / Hearing: 10-Day
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: Amend the Planning and Building Department's Planning Services Fee Schedule to add Commercial Cannabis Cultivation License Fees.

RECOMMENDATION:

Adopt a resolution amending the Planning and Building Department's Planning Services Fee Schedule to add Commercial Cannabis Cultivation License Fees.

BACKGROUND:

On February 27, 2018, the Board of Supervisors approved an ordinance authorizing the issuance of commercial cannabis cultivation licenses, subject to specified conditions (the "Ordinance"). The Ordinance requires an application with supporting documents and includes a process for reviewing license application packets. At the time the Ordinance was adopted, staff had not yet calculated appropriate licensing fees.

Since adoption of the Ordinance, Planning Department Staff has coordinated with the County Agricultural Commissioner, the Environmental Health Services Division, the Sheriff's Office, and the County Fire Marshal on internal review procedures.

Staff has also researched commercial cannabis cultivation application fees of other jurisdictions to establish a range of fees, and analyzed the anticipated amount of staff time necessary to process an application. Based upon this analysis, staff is proposing an initial application processing fee of \$6,574, which would cover the program-related costs of the reviewing agencies. Staff is also proposing a renewal/amendment fee and a termination of operations fee to implement the ordinance.

DISCUSSION:

1. Authority

County Ordinance 2193, adopted April 10, 1973, authorizes the setting of Planning Department fees by resolution of the Board of Supervisors. State law requires that fees not exceed the estimated reasonable cost of providing the service for which the fee is charged. Staff

calculations show that the proposed fees should equal but not exceed the cost of the service the Department provides. County Ordinance Code Chapter 5.148 authorizes the setting of fees for Commercial Cannabis Cultivation Licenses pursuant to resolution.

2. Fee Analysis

To determine the appropriate fee level for this new license, staff broke down the application process into five major steps:

(1) Application Review for Completeness and Legibility

Planning staff will review all applications received to confirm that all required materials have been properly submitted by the applicant and that the proposed cultivation site is in a location authorized by the Ordinance.

(2) Application Referral

Planning staff will then refer the application materials to the review team agencies. The review team for commercial cannabis licenses will include the Planning and Building Department, the County Agricultural Commissioner, the Environmental Health Services Division, the Sheriff's Office, and the County Fire Marshal.

(3) Agency Review

Each agency will review the application and supporting materials with a focus upon the issues relevant to their particular regulatory scope. A site visit will be conducted to verify the information portrayed on the submitted plans and to determine if additional issues (not shown on the plans) need to be addressed.

(4) California Environmental Quality Act (CEQA)

Once all agencies have completed their review and have provided their recommendations, including any necessary conditions to be placed on the license, Planning staff will review the project for compliance with the provisions of the California Environmental Quality Act.

(5) License Decision

Upon completion of the application review and the CEQA determination, the Community Development Director will render a decision on the license application. Planning staff will then issue a decision letter to the applicant containing findings supporting the decision as well as conditions of approval, if applicable.

Application Fee

Based upon the above application process, staff estimates that approximately 59 hours will be spent by County staff (from the Planning and Building Department, Environmental Health Service Division, and Agricultural Weights and Measures Department) to review an application

and conduct a site visit to verify the accuracy of application statements. The estimated staff hours and rate for application review are summarized in the table below:

Department	Hours	Rate	Cost
Planning	32	\$100/hour	\$3,200
Environmental Health	10	\$198/hour	\$1,980
Agricultural Weights and Measures	17	\$82/hour	\$1,394
Total			\$6,574

The proposed license fee of \$6,574 does not include review fees that have customarily been charged by outside agencies such as County Fire (a service provided by the California Department of Forestry - Fire Division through contract). County Fire has traditionally charged a review of \$173 for certain categories of planning permits that are listed on the Planning Services Fee Schedule, including grading permits, subdivisions, and use permits. In order to allow cost recovery for County Fire to review this new category of license, staff is also proposing to amend the Planning Department's fee schedule to include "Cannabis License" as an item subject to the San Mateo County Fire Review fee.

In preparing this report, staff researched the permit/license fees of other California counties to understand what other jurisdictions are charging for this type of license.

Monterey County	\$9,020 (Coastal Zone) \$8,214 (Non-Coastal)
Sonoma County	\$3,525 (Medical Cannabis Cultivation - no fee yet established for Commercial Cultivation)
Yolo County	\$2,255 (Pre-application for a discretionary land use entitlement) \$7,814 (Development Agreement)
Humboldt County	\$3,500 (Minimum Deposit)

The sample counties reflect a range of fee amounts. This likely reflects the fact that jurisdictions have taken a variety of approaches to regulating cannabis. Additionally, the majority of jurisdictions within California are still determining the level of commercial cannabis activity they will permit, if any. Because so few jurisdictions have (as of the writing of this staff report) adopted commercial cannabis regulations, there is limited number of permitting fees to use as points of comparison.

Renewal/Amendment Fee, Termination of Operations Fee, Appeal Fee

In addition to an initial application fee, staff is proposing to add a license renewal/amendment fee of \$1,643. This fee is based upon an assumption that there will be only minor changes in the operation of a given licensee. As such, the amount of time to review any changes in operations or ownership, as well as conduct a site visit, will be substantially less than the initial license processing.

Department	Hours	Rate	Cost
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Planning	4	\$100/hour	\$400
Environmental Health	4	\$198/hour	\$792
Agricultural Weights and Measures	5.5	\$82/hour	\$451
Total			\$1,643

Staff is also recommending the adoption of a “Termination of Operations” fee of \$200. This will cover two hours of Planning staff time to inspect a formerly licensed greenhouse to confirm that no cannabis plants are being grown on the site and therefore the required surety bond can be returned to the former license holder.

Last, the Ordinance provides a process for appeal of certain decisions, such as denial of a license or renewal, or suspension or revocation of a license, subject to payment of an appeal fee. (Ordinance Code Section 5.148.190.) The Planning Department’s fee schedule already contains a \$451 appeal fee which would be applicable to these type of appeals. No separate or unique appeal fee for cannabis licenses is required, and no amendment to the fee schedule is needed for this item.

Based on the analysis above, staff feels confident that the County’s proposed fees are consistent with State law, which requires that fees cannot exceed the estimated reasonable cost of providing the service for which the fee is charged.

Public Notification

The Planning and Building Department posted a public notice in the Development Review Center lobby, reception area, counter areas, and on the Department’s website. Public notification was also published in the San Mateo Times 10 days in advance of the Board of Supervisor’s meeting as required by State law and mailed to interested parties.

Effective Date for the Amended Fee Schedule

The proposed fees will become effective upon adoption of the attached resolution.

The Board of Supervisors Cannabis Subcommittee has reviewed the proposed fees and recommends adoption of the resolution authorizing the fees. County Counsel has reviewed and approved the resolution as to form.

The proposed amendments to the Planning Department fee schedule contribute to the 2025 Shared Vision outcomes of a Livable and Environmentally Conscious Community because the underlying cannabis license program for which the fees are required ensure that coastal resources and the rural character of coastal agricultural lands are protected while providing a framework in which farmers can grow this new, unique crop.

FISCAL IMPACT:

While it is unknown many how license applications may be submitted, the proposed fees are intended to allow the Department to process this new license type without incurring additional unfunded costs. It is, therefore, anticipated that there will be no Net County Cost associated with this action.

ATTACHMENT:

- A. Resolution authorizing the addition of a Commercial Cannabis Cultivation License Fee to the Planning Services Fee Schedule.