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INTRODUCTION

The purpose of this Cannabis Regulatory Fee Study (“Fee Study”) is to re-evaluate and update the City’s existing cannabis fee structure and to establish the legal and policy basis for imposing regulatory fees (“fees”) for permitting and annual regulation of commercial cannabis businesses in the City. The fees will be used to reimburse the City departments for reasonable direct and indirect costs and contracted services attributable to reviewing and acting upon the applications and verifying and enforcing cannabis business compliance with the City’s Municipal Code.

LEGAL FRAMEWORK

In order to impose such fees, this Fee Study will present findings in order to meet the substantive requirements of Proposition 26, which are as follows:

1. Demonstrate that the levy, charge, or other exaction is not a tax; and
2. The amount is not more than necessary to cover the reasonable cost of the governmental activity; and
3. The manner in which those costs are allocated to a payor bears a fair or reasonable relationship to the payor’s burden on, or benefits received from, the governmental activity.

Additionally, recent case law has provided further clarification of these substantive requirements, which are as follows:

- Costs need not be “finely calibrated to the precise benefit each individual fee payor might derive.”¹
- The payor’s burden or benefit from the program is not measured on an individual basis. Rather, it is measured collectively, considering all fee payors.²

¹ Griffith v. City of Santa Cruz (2012)

² Griffith v. City of Santa Cruz (2012); Newhall City Water District v. Castaic Lake Water Agency (2016)

- Demonstrating that the amount collected is no more than is necessary to cover the reasonable costs of the program is satisfied by estimating the approximate cost of the activity and demonstrating that this cost is equal to or greater than the fee revenue to be received.³
- Reasonable costs associated with the creation of the regulatory program may be recovered by the regulatory fee.⁴

METHODOLOGY AND APPROACH

To determine the City's cannabis regulatory fees consistent with these substantive requirements, the cost of permitting and regulating cannabis operations by various City Departments is determined. These costs are then allocated to the payor in a way that demonstrates that the costs bear a fair or reasonable relationship to the payor's burden on or benefits from the program.

The City went through a deliberative process to establish a reasonable expenditure plan to use in setting the fees. An interdepartmental working group representing staff from the City, the Police Department, the Financial Services Department, and the Fire Department worked together to develop and review the proposed fees.

For each of the regulatory fees established by the Fee Study, the City evaluated and identified specific City tasks and activities associated with permitting and enforcement of the regulations. Each City department then determined the specific hours and personnel needed by their department to complete their tasks and activities. The estimated labor hours for each activity were then multiplied by each relevant department's current hourly labor rate for each position completing the task. The hourly labor rates include various salary and benefits, departmental support, supervision, and other administration overhead and similar indirect costs.

The type of costs included in the fees includes labor costs, contracted services, supplies, inter-department charges, and other incidental costs; for example: background checks and follow-up research and analysis on findings, zoning and distance checks, site visits, applicant correspondence, etc. Detailed supporting analysis tables served as the mechanism to determine specific fee rates and estimated hours, as summarized in this Fee Study. These time estimates and levels of effort were then reviewed and evaluated by other City staff and SCI for

³ Griffith v. City of Santa Cruz (2012)

⁴ League of California Cities Propositions 26 and 218 Implementation Guide, May 2017, pp. 70-71

their reasonableness.

The time estimate remains constant for each application review phase or annual regulation and inspection activity, and the fees are based on each department's hourly rates as of the date of this fee study.

SUMMARY OF GENERAL FINDINGS

The following general findings from the Fee Study are presented:

1. The City's proposed cannabis regulatory fees are not taxes, but regulatory fees in that the fees are proposed to recover costs associated with the Article 15.04.610.270, which created the regulatory framework to permit and regulate commercial cannabis businesses in the City.
2. The City went through a deliberative process to establish reasonable costs for permitting and annual enforcement of the City's regulations.
3. The fee amounts determined by this Fee Study do not exceed the reasonable cost of permitting and enforcement of the new regulations.
4. The fees bear a fair or reasonable relationship to the payor's burden on or benefits from the regulatory program.

SUMMARY OF RECOMMENDATIONS

Based on the findings presented in the Fee Study, it is recommended that the City consider adopting the fees shown in Figure 1.

FIGURE 1 - SUMMARY OF PROPOSED FEES

City of Coalinga Fee Description	Fee ¹		Unit
	City	SCI	
Pre-Application	\$ 525	\$ -	per application
Regulatory Permit Application	\$ 2,744	\$ -	per application
Annual Commercial Cannabis Regulatory Permit (All Types)	\$ 8,576	\$ 16,142	per permit ²
Annual Commercial Cannabis Regulatory Permit - Cultivation (additional fee per 20,000 canopy sq.ft. increment) [indoor/outdoor]	\$ 329	\$ 1,703	per permit ³
Annual Regulatory Permit Renewal	\$ 406	\$ -	per application
Employee Permit - Background and Livescan	\$ 606	\$ -	per employee
Employee Permit Renewal	\$ 43	\$ -	per employee
Employee Badge Replacement	\$ 29	\$ -	per employee
Employee Transfer	\$ 29	\$ -	per employee
Ink Fingerprint Rolling	\$ 44	\$ -	per owner
Livescan Rolling	\$ 55	\$ -	per owner
Livescan Processing Renewal	\$ 29	\$ -	per owner

Notes:

¹ Proposed fees are rounded to the nearest dollar.

² Cannabis Businesses will be charged annually a flat rate of \$8,576 per permit. Each additional permit for the same business at the same premise, as defined in the Coalinga Municipal Code, Adopted Section 9-5.126, shall be charged 50% of the applicable fee.

³ Cannabis Businesses with a business license for cultivation [indoor/outdoor] will be charged an additional \$329 for each 20,000 incremental canopy square footage.

REGULATORY PERMIT APPLICATION

The Regulatory Permit Application review process includes a more intensive and detailed review of the application. The fee also recovers the cost to prepare for and attend City Council hearings. The proposed fee for the Regulatory Permit Application is \$2,744 per application and is due upon submittal of the application to the City.

FIGURE 3 - REGULATORY PERMIT APPLICATION FEE

General Tasks/Activities	City Administration						Total Labor	
	Public Works		Police Dept.			Fire Dept.	Hours	Cost
	ACM	AS	PC	PO	PT III	DC		
<i>Fully Burdened Hourly Rate</i>	\$126	\$58	\$115	\$73	\$58	\$100		
Regulatory Permit Review	6.00	1.00	12.00	1.00	0.25	1.00	21.25	\$2,377
City Council Hearing - Preparation	0.25	0.25	1.00	0.00	0.50	0.00	2.00	\$190
City Council Hearing - Attendance	0.50	0.00	1.00	0.00	0.00	0.00	1.50	\$178
Total	6.75	1.25	14.00	1.00	0.75	1.00	24.75	\$2,744

ANNUAL REGULATORY PERMIT RENEWAL

The Annual Regulatory Permit Renewal fee recovers the cost of processing and reviewing Annual Cannabis Permit Renewal applications and issuance of the business permit. The proposed fee for the Annual Regulatory Permit Renewal is \$406 per application.

FIGURE 5 - ANNUAL REGULATORY PERMIT RENEWAL FEE

General Tasks/Activities	City Administration		Total Labor	
	Police Dept.		Hours	Cost
	PC	PT		
<i>Fully Burdened Hourly Rate</i>	\$115	\$58		
Permit Renewal	1.00	5.00	6.00	\$ 406
Total	1.00	5.00	6.00	\$ 406

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