

Item 332
02/15/2022

(R-2022-267)
COR. COPY

RESOLUTION NUMBER R- 313921

DATE OF FINAL PASSAGE FEB 25 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO ESTABLISHING AN ANNUAL CANNABIS
OPERATING PERMIT FEE FOR CANNABIS OUTLETS AND
CANNABIS PRODUCTION FACILITIES OF \$20,802.84 AND
A LATE FEE FOR THESE PERMITS OF \$2,080.28.

WHEREAS, with the passage of Prop. 64 in 2016, the City of San Diego (City) adopted San Diego Municipal Code (SDMC) regulations to allow specific types of commercial cannabis businesses, including Cannabis Outlets, Cannabis Production Facilities, and Cannabis Testing facilities to operate in specific land use zones of the City; and

WHEREAS, in addition to state licenses, all Cannabis Outlets and Cannabis Production Facilities must obtain an Annual Cannabis Operating Permit from the City's Development Services Department (DSD), consistent with SDMC Chapter 4 Article 2 Division 13 and Article 2 Division 15, which provides guidelines for lawful and safe cannabis business operation to promote and protect the public health, safety, and welfare of the citizens of San Diego; and

WHEREAS, included in SDMC Section 42.1506 is the ability for the City to recover its costs in the form of a permit fee for the costs of permitting and regulating Cannabis Outlets and Cannabis Production Facilities; and

WHEREAS, adopting the Annual Cannabis Operating Permit fees below will allow DSD's Cannabis Business Division to administer the City's cannabis program and fully recover City costs without a General Fund subsidy; and

WHEREAS, these Annual Cannabis Operating Permit fees were reviewed by the City Attorney's Office for compliance with California Proposition 26; and

WHEREAS, approved by the voters in 2010, Proposition 26 amended articles XIII A and XIII C of the California Constitution to provide that a levy, charge, or exaction of any kind imposed, increased, or extended by a local government is a tax unless an exception applies; and

WHEREAS, exceptions to Proposition 26 include user fees; government service or product fees; regulatory fees; government property entrance fees; fines and penalties imposed by a court or local government; property development impact fees; and assessments and property-related fees governed by Proposition 218; and

WHEREAS, each Proposition 26 exception involves its own legal standard for determining the amount of a legally permissible fee; and

WHEREAS, user fees and regulatory fee costs in support of fee adjustments may not exceed the reasonable costs of providing a service, product, or regulation which includes all reasonable direct or indirect expenses incurred by the City; and

WHEREAS, DSD staff have presented their calculation of these fees in their staff report and other background materials presented to the Council with this item, and these materials substantiate the validity of these proposed fees by explaining the link between the costs and the services provided as well as the reasons for the late fee penalty; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the following fees are adopted for the purpose of recovering costs incurred by the City of San Diego in providing services, goods, or regulation, or as otherwise permitted under articles XIII A and XIII C of the California Constitution and San Diego Municipal Code section 42.1506:

- 1) The Annual Cannabis Operating Permit fee for Cannabis Outlets will be \$20,802.84.

2) The Annual Cannabis Operating Permit fee for Cannabis Production Facilities will be \$20,802.84.

3) The late fee for obtaining an Annual Cannabis Operating Permit fee will be \$2,080.28.

BE IT FURTHER RESOLVED, that the that the City Clerk is hereby directed to amend the City Clerk's Fee Ratebook to reflect the Annual Cannabis Operating Permit fees as described above.

BE IT FURTHER RESOLVED, that these Annual Cannabis Operating Permit fees shall be effective upon adoption of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Noah J. Brazier
Noah J. Brazier
Deputy City Attorney

NJB:nja
01/25/2022
02/10/2022 COR. COPY
Or. Dept: DSD
Doc. No.: 2869470_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 15 2022

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 2/25/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on FEB 15 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 25 2022.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

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