

Including Attachment 4 Thereto

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 APR 14 PM 6: 25

INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM



OFFICE OF THE CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING THE FY 2015-16 MASTER FEE SCHEDULE (ORDINANCE NO. 13320 C.M.S., AS AMENDED) TO MODIFY AND ESTABLISH PERMIT APPLICATION AND ANNUAL REGULATORY FEES FOR CITY OF OAKLAND LICENSED MEDICAL CANNABIS FACILITIES AND ADOPTING CEQA EXEMPTION FINDINGS

WHEREAS, in 2015, Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 et seq. and titled the "Medical Marijuana Regulation and Safety Act"); and

WHEREAS, in companion Ordinances, the City Council is considering amendments to existing citywide medical cannabis dispensary and cultivation regulations to align with the Medical Marijuana Regulation and Safety Act; and

WHEREAS, extensive medical cannabis activities, including cultivation and manufacturing, currently occur in the City and have not been expressly regulated; and

WHEREAS, these activities have caused and continue to cause ongoing adverse impacts that threaten the public health, safety and welfare of Oakland residents, oftentimes falling disproportionately on residential neighborhoods, including without limitation damage to buildings containing indoor medical cannabis cultivation facilities, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies, and similar crimes; and

WHEREAS, these impacts have also created an increase in City response costs, including code enforcement, building, fire, and police staff time and expenses; and

WHEREAS, the City of Oakland wishes to amend the FY 2015-16 Master Fee Schedule to continue and expand citywide regulation of medical cannabis activities in a manner that protects the public health, safety and general welfare of the community, and in the interest of patients who qualify to obtain, possess and use marijuana for

medical purposes, while aligning local regulation of medical cannabis with the regulatory framework outlined in State law; and

WHEREAS, the City of Oakland periodically amends City Council Ordinance No. 13320 C.M.S. and updates its Master Fee Schedule to account for the various cost increases relating to municipal programs, services and activities; and

WHEREAS, the City has experienced and anticipates continuing increases in the costs to operate and maintain municipal government citywide; and

WHEREAS, City staff in the City Administrator's Office, Oakland Police Department, Revenue Management Bureau, Planning Bureau, Contracts and Compliance Division, and Office of the City Attorney (the "Departments") undertook analysis and evaluation of the revenue requirements to fund ongoing municipal services, programs and activities and the fee structure necessary to proportionately allocate the costs of providing these government services and programs; and

WHEREAS, the Agenda Report including Attachment 4 (herein the "Agenda Report") dated April 11, 2016, provided by the City Administrator's Office in support of the amendments to Ordinance No. 13320 C.M.S., was prepared and includes proposed fees and charges, and documentation supporting the estimated and reasonable costs for continuing to provide the various government services; and

WHEREAS, the investigations conducted by staff of the Departments reflected in the Agenda Report show that existing revenues are and will be insufficient to cover the current and projected costs of operating and maintaining identified City government activities, services and programs; and

WHEREAS, the fee modifications and additions proposed by the Departments, and the facts and analysis in support thereof are identified in the Agenda Report; and

WHEREAS, the Agenda Report shows that revenues derived from the proposed fees and charges will not exceed the funds required to provide the related government activities, services and programs of the Departments; and

WHEREAS, the Agenda Report shows that the amounts of the proposed fees and charges will not exceed the proportional cost of service provided or benefit attributable to each fee payer; and

WHEREAS, the Agenda Report shows that the proposed fees and charges for a product, benefit or service are imposed for a specific government service, benefit or product provided directly to the payer that is not provided to those not charged, and does not exceed the reasonable costs to the City of providing the service, benefit or product; and

WHEREAS, after duly noticed public meetings on April 26, 2016, the Public Safety Committee and the Finance Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on May 3, 2016, to consider the proposed amendments and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

WHEREAS, based upon all written and oral reports and presentations to Council, including the Agenda Report and each of the Attachments thereto, the City Council finds and determines that the proposed modifications and additions to the Master Fee Schedule set forth herein are necessary to reimburse the City for the costs of performing the various municipal and regulatory functions, and that these fees do not exceed the proportional cost of the service or benefit attributable to the fee payer; and

WHEREAS, nothing in this Ordinance is intended to promote or condone the sale, distribution, possession or use of cannabis in violation of any applicable law, and compliance with the requirements of this Ordinance shall not provide a defense to criminal prosecution under any applicable law; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City Council.

SECTION 2. Amendment of the FY 2015-16 Master Fee Schedule. The FY 2015-16 Master Fee Schedule as set forth in Ordinance No. 13320 C.M.S., as amended, is hereby amended to modify and establish the fees assessed by the City Administrator's Office, Oakland Police Department, Revenue Management Bureau, Planning Bureau, Contracts and Compliance Division, and Office of the City Attorney as set forth in Attachment 4 attached hereto, incorporated into and made a part hereof.

SECTION 3. California Environmental Quality Act. The City Council independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) (general rule), and the Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate agencies.

SECTION 4. Severability. The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not

been included or such persons or circumstances been expressly excluded from its coverage.

SECTION 5. Fee Effective Date. The fees imposed by this Ordinance shall be effective on the date this Ordinance becomes final and effective.

SECTION 6. Ordinance Effective Date. Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

SECTION 7. General Police Powers. This Ordinance is enacted pursuant to the City of Oakland's general police powers, including but not limited to Sections 106 of the Oakland City Charter and Section 7 of Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING THE FY 2015-16 MASTER FEE SCHEDULE (ORDINANCE NO. 13320 C.M.S., AS AMENDED) TO MODIFY AND ESTABLISH PERMIT APPLICATION AND ANNUAL REGULATORY FEES FOR CITY OF OAKLAND LICENSED MEDICAL CANNABIS FACILITIES AND ADOPTING CEQA EXEMPTION FINDINGS

This ordinance amends the FY 2015-16 Master Fee Schedule to modify and establish permit application and annual regulatory fees for City of Oakland licensed medical cannabis facilities.

**City of Oakland
Master Fee Schedule**

Effective April 6, 2016

CITY ADMINISTRATOR

FEE DESCRIPTION	CURRENT FEE (FY 2015-16)	PROPOSED FEE (FY 2015-16)	% CHANGE
	FEE UNIT	FEE UNIT	
F. MEDICAL CANNABIS FACILITY DISPENSARY PERMITS			
1 <u>Application Fee - Medical Cannabis Dispensary</u>	8,800.00 Application	<u>3,644.00</u> Application	-58.59%
2 <u>Application Fee - Non-Dispensary Medical Cannabis Facility</u>		<u>2,474.00</u> Application	N/A
3 <u>Application Fee - On-Site Consumption</u>		<u>2,813.00</u> Application	N/A
43 <u>Dispensary Renewal</u>	500.00 Permit/Year	500.00 Permit/Year	0.00%
3 <u>Dispensary with four (4) or more qualified patients or caregivers</u>	60,000.00 Non-refundable- annual- regulatory fee		N/A
5 <u>Medical Cannabis Facility (> \$150,000 gross annual sales)</u>		<u>11,173.00</u> Non-refundable annual regulatory fee	N/A
6 <u>Medical Cannabis Facility (\$50,000-\$150,000 gross annual sales)</u>		<u>5,586.00</u> Non-refundable annual regulatory fee	N/A
7 <u>Medical Cannabis Facility (<\$50,000 gross annual sales)</u>		<u>2,790.00</u> Non-refundable annual regulatory fee	N/A
8 <u>On-Site Consumption</u>		<u>1,628.00</u> Non-refundable annual regulatory fee	N/A

CITY ADMINISTRATORS OFFICE
SPECIAL ACTIVITY PERMITS

MEDICAL CANNABIS

Application Fee for Medical Cannabis Permits

Calculations based on overall process with estimated 98 permits

DEPT	CLASS	CLASS NAME	# Hours	Hourly Wage	RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O	TOTAL COSTS
CAO	SS176	Administrative Assistant to the City Administrator	128	\$ 29.65	\$ 11.88	\$ 20.83	\$ 2.21	\$ -	\$ 64.57	\$ 8,265.30
CAO	EM117	Assistant to the City Administrator	14	\$ 67.96	\$ 27.23	\$ 47.74	\$ 5.08	\$ -	\$ 148.01	\$ 2,072.17

										\$ 10,337.47
		Supplies								\$ 5,000.00
								Subtotal		\$ 15,337.47

Total per permit baseline cost for staff time on overall application process

\$156.50

Calculations based on staff time evaluating individual permit

DEPT	CLASS	CLASS NAME	# Hours	Hourly Wage	RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O	TOTAL COSTS
CAO	EM117	Assistant to the City Administrator	9	\$ 67.96	\$ 27.23	\$ 47.74	\$ 5.08		\$ 148.01	\$ 1,332.11
FMA	AF022	Tax Auditor II	1	\$ 40.54	\$ 16.24	\$ 28.47	\$ 3.03		\$ 88.29	\$ 88.29
CAO	ET108	City Administrator	1	\$ 150.00	\$ 60.10	\$ 105.36	\$ 11.20		\$ 326.67	\$ 326.67
CAO	SS176	Administrative Assistant to the City Administrator	4	\$ 29.65	\$ 11.88	\$ 20.83	\$ 2.21		\$ 64.57	\$ 258.29
P & Z	TC110	Graphic Delineator	1	\$ 30.72	\$ 12.31	\$ 21.58	\$ 2.29	\$ 6.61	\$ 73.52	\$ 73.52
OPD	PS190	Police Officer	2	\$ 51.03	\$ 22.75	\$ 34.37	\$ 3.81	\$ 7.84	\$ 119.80	\$ 239.60
									Subtotal	\$ 2,318.47

Total Estimated Cost for Application For Medical Cannabis Permit

\$ 2,474.97

Additional Costs for Dispensaries only:

Notification	\$ 1,105.00
Publication	\$ 65.00
Total Additional Costs	(No Change) \$ 1,170.00

Total Estimated Cost of Application for Medical Cannabis Dispensary Permit

\$ 3,644.97

CITY ADMINISTRATORS OFFICE
SPECIAL ACTIVITY PERMITS

Annual Regulatory Fee for Medical Cannabis Facilities > \$150,000 in annual sales

DEPT	CLASS	CLASS NAME	% FTE	STEP 5 *	40.07%			70.24%			7.47%			TOTAL COSTS
					RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O	RETIREMENT	FRINGE	OPEB	OVERHEAD	
CAO	SS176	Administrative Assistant to the City Administrator	33%	\$ 57,819.72	\$ 23,168.36	\$ 40,612.57	\$ 4,319.13					\$ 125,919.78	\$ 41,553.53	
CAO	EM117	Assistant to the City Administrator	50%	\$ 132,531.48	\$ 53,105.37	\$ 93,090.11	\$ 9,900.10					\$ 288,627.07	\$ 144,313.53	
CAO	EM117	Assistant to the City Administrator	15%	\$ 132,531.48	\$ 53,105.37	\$ 93,090.11	\$ 9,900.10					\$ 288,627.07	\$ 43,294.06	
OCA	AL030	Deputy City Attorney III	10%	\$ 146,115.24	\$ 58,548.38	\$ 102,631.34	\$ 10,914.81					\$ 318,209.77	\$ 31,820.98	
Finance	AF022	Tax Auditor II	100%	\$ 79,053.00	\$ 31,676.54	\$ 55,526.83	\$ 5,905.26					\$ 172,161.62	\$ 172,161.62	
Finance	AF003	Cashier	60%	\$ 48,048.00	\$ 19,252.83	\$ 33,748.92	\$ 3,589.19					\$ 104,638.93	\$ 62,783.36	
CAO	AP153	Contracts and Compliance Officer	100%	\$ 92,394.36	\$ 37,022.42	\$ 64,897.80	\$ 6,901.86					\$ 201,216.44	\$ 201,216.44	
						44.58%	67.36%	7.47%						
				STEP 5 *	RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O					
OPD	PS190	Police Officer	100%	\$ 111,447.00	\$ 49,683.07	\$ 75,070.70	\$ 8,325.09	\$ 17,118.26	\$ 261,644.12			\$ 261,644.12	\$ 261,644.12	
												\$ 1,062,084.61		

* Includes 4% COLA

City Administration Costs Only

O & M	\$ 11,273.83
Supplies & Equipment	\$ 17,000.00
Continuing Education	\$ 3,000.00
Vehicle usage	\$ 1,600.00
TOTAL COST	\$ 32,873.83

Salaries & Administrative Costs

\$ 1,094,958.44

Total Based on 98 Permits

\$ 11,173.05

Annual Regulatory Fee for Medical Cannabis Facilities < or equal to \$50,000-\$150,00 in annual sales

DEPT	CLASS	CLASS NAME	% FTE	STEP 5 *	40.07%			70.24%			7.47%			TOTAL COSTS
					RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O	RETIREMENT	FRINGE	OPEB	OVERHEAD	
CAO	SS176	Administrative Assistant to the City Administrator	17%	\$ 57,819.72	\$ 23,168.36	\$ 40,612.57	\$ 4,319.13					\$ 125,919.78	\$ 20,776.76	
CAO	EM117	Assistant to the City Administrator	25%	\$ 132,531.48	\$ 53,105.37	\$ 93,090.11	\$ 9,900.10					\$ 288,627.07	\$ 72,156.77	
CAO	EM117	Assistant to the City Administrator	8%	\$ 132,531.48	\$ 53,105.37	\$ 93,090.11	\$ 9,900.10					\$ 288,627.07	\$ 21,647.03	
OCA	AL030	Deputy City Attorney III	5%	\$ 146,115.24	\$ 58,548.38	\$ 102,631.34	\$ 10,914.81					\$ 318,209.77	\$ 15,910.49	
Finance	AF022	Tax Auditor II	50%	\$ 79,053.00	\$ 31,676.54	\$ 55,526.83	\$ 5,905.26					\$ 172,161.62	\$ 86,080.81	
Finance	AF050	Tax Enforcement Officer II	30%	\$ 79,053.00	\$ 31,676.54	\$ 55,526.83	\$ 5,905.26					\$ 172,161.62	\$ 51,648.49	
Finance	AF003	Cashier	30%	\$ 48,048.00	\$ 19,252.83	\$ 33,748.92	\$ 3,589.19					\$ 104,638.93	\$ 31,391.68	
CAO	AP153	Contracts and Compliance Officer	50%	\$ 92,394.36	\$ 37,022.42	\$ 64,897.80	\$ 6,901.86					\$ 201,216.44	\$ 100,608.22	
						44.58%	67.36%	7.47%						
				STEP 5 *	RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O					
OPD	PS190	Police Officer	50%	\$ 111,447.00	\$ 49,683.07	\$ 75,070.70	\$ 8,325.09	\$ 17,118.26	\$ 261,644.12			\$ 261,644.12	\$ 130,822.06	
												\$ 531,042.31		

* Includes 4% COLA

Salaries & Administrative Costs

\$ 547,475.23

Total Based on 98 Permits

\$ 5,586.48

Annual Regulatory Fee for Medical Cannabis Facilities < \$50,000 in annual sales

DEPT	CLASS	CLASS NAME	% FTE	STEP 5 *	40.07%			70.24%			7.47%			TOTAL COSTS
					RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O	RETIREMENT	FRINGE	OPEB	OVERHEAD	
CAO	SS176	Administrative Assistant to the City Administrator	8%	\$ 57,819.72	\$ 23,168.36	\$ 40,612.57	\$ 4,319.13					\$ 125,919.78	\$ 10,073.58	
CAO	EM117	Assistant to the City Administrator	13%	\$ 132,531.48	\$ 53,105.37	\$ 93,090.11	\$ 9,900.10					\$ 288,627.07	\$ 36,078.38	
CAO	EM117	Assistant to the City Administrator	4%	\$ 132,531.48	\$ 53,105.37	\$ 93,090.11	\$ 9,900.10					\$ 288,627.07	\$ 10,823.52	
OCA	AL030	Deputy City Attorney III	3%	\$ 146,115.24	\$ 58,548.38	\$ 102,631.34	\$ 10,914.81					\$ 318,209.77	\$ 7,955.24	
Finance	AF022	Tax Auditor II	25%	\$ 79,053.00	\$ 31,676.54	\$ 55,526.83	\$ 5,905.26					\$ 172,161.62	\$ 43,040.41	
Finance	AF050	Tax Enforcement Officer II	15%	\$ 79,053.00	\$ 31,676.54	\$ 55,526.83	\$ 5,905.26					\$ 172,161.62	\$ 25,824.24	
Finance	AF003	Cashier	15%	\$ 48,048.00	\$ 19,252.83	\$ 33,748.92	\$ 3,589.19					\$ 104,638.93	\$ 15,695.84	
Finance	AP153	Contracts & Compliance Officer	25%	\$ 92,394.36	\$ 37,022.42	\$ 64,897.80	\$ 6,901.86					\$ 201,216.44	\$ 50,304.11	
						44.58%	67.36%	7.47%						
				STEP 5 *	RETIREMENT	FRINGE	OPEB	OVERHEAD	S+R+F+O+O					
OPD	PS190	Police Officer	25%	\$ 111,447.00	\$ 49,683.07	\$ 75,070.70	\$ 8,325.09	\$ 17,118.26	\$ 261,644.12			\$ 261,644.12	\$ 65,411.03	
												\$ 265,206.35		

* Includes 4% COLA

Salaries & Administrative Costs

\$ 273,424.81

Total Based on 98 Permits

\$ 2,790.05

NOTICE AND DIGEST

ORDINANCE AMENDING THE FY 2015-16 MASTER FEE SCHEDULE (ORDINANCE NO. 13320 C.M.S., AS AMENDED) TO MODIFY AND ESTABLISH PERMIT APPLICATION AND ANNUAL REGULATORY FEES FOR CITY OF OAKLAND LICENSED MEDICAL CANNABIS FACILITIES AND ADOPTING CEQA EXEMPTION FINDINGS

This ordinance amends the FY 2015-16 Master Fee Schedule to modify and establish permit application and annual regulatory fees for City of Oakland licensed medical cannabis facilities.