

10 NOV -8 PM 12: 23

CITY OF OAKLAND

AGENDA REPORT

TO: Oakland City Council Public Safety Committee
ATTN: Larry Reid, Chair
FROM: Council Member Rebecca Kaplan and Council Member Larry Reid
DATE: November 2010

RE: AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 9336, AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR PERMITTED MEDICAL DISPENSARIES.

SUMMARY

A proposal to increase the annual regulatory fee applied to permitted dispensaries be increased from \$30,000 to \$60,000.

BACKGROUND

On February 17, 2004, the City of Oakland adopted Ordinance No. 12585, permitting distribution of medical cannabis to authorized patients through four licensed dispensaries. At the time there was not a clear understanding of the full costs of what would be required for this activity. The City of Oakland, through Barbara Kiley and Arturo Sanchez in the City Administrators office have developed process for administering these permits and monitoring the dispensaries is considered successful, and has become a role model for the nation, but it is not currently cost recovering.

A limitation to the program is that it is not fully cost recovering. The administrative costs of regulating four dispensaries exceed one administrative level FTE. Finance Department and the City Administrator's office have been consulted and have provided fully loaded staffing costs.

The regulatory fee covers staff time for monitoring, regulation, documenting breach, and nullifying permits. The proposed regulatory fee is a significant increase, for existing dispensaries but it is not cost recovering on a one to one basis. It is anticipated an increase in the total number of dispensaries permitted, and the cultivation regulatory fee will create economies of scale that will make this fee level cost recovering for the City Administrators office. (The proposed fees are presented in Exhibit A of the attached legislation)

The application process that has been developed by the City Administrator's office includes background checks, tests on legal knowledge, business plan review, site and planning review, etc. ranked by a point system is not currently cost recovering. The proposed application fee of \$5,000 will compensate the City for administrative costs of reviewing, scoring, and selecting the

permit awardees. This application fee is exclusive of the proposed \$60,000 annual permit renewal fee, described above.

The permit fee is based on the need to monitor, audit, and inspect the permit awardees. An extensive amount of staff time is dedicated to assuring that there is no diversion that dispensaries operate as permitted. There is an extensive level of review and auditing, will require that staff be added to adequately monitor the permittees. It is important to note that the City Council is considering adding additional dispensary permits. Staff will also be required to monitor and track compliance of these facilities as well.

The additional staff will primarily be housed in the City Administrator's office, City Finance and Management, and the City Attorney's office. (See Exhibit A). Staff estimates that with eight dispensary facilities and the expected monthly reporting that will be required the following additional staff will be necessary:

1 FTE Administrative Analyst II Primary staff to administer and over see the permit renewal, responsible transfer permits, and coordinate annual renewal documentation, application, schedule regular site inspections, track product reports, and verify dispensary information on a consistent basis, as well as assist in annual permit renewal inspection and audit;

1 FTE Administrative Assistant II primary responsibility will be to provide administrative support to permit staff and inspector. Including but not limited to sending out violations notices, scheduling meetings, managing budget, purchasing office supplies and equipment, and other general clerical as may be required.

2 FTE Special Combination Code Enforcement Inspector III Responsible for monitoring all the construction of building, electrical, plumbing, and other structural changes throughout the life of the permit. Complexity of the structures, electrical and plumbing equipment installation necessary for a cultivation facility require senior level position. Inspectors will also be asked to conduct surprise inspections to make sure no expansion through unpermitted construction occurs, monitor electrical components a re maintained properly, respond to complaints, and assist in annual inspection;

.75 FTE Tax Enforcement Officer II and 2FTE Level 3 Tax Auditors who will comprise a team that will in conjunction with monthly site visit by CAO staff be responsible for quarterly review of financials and sales submitted by dispensaries and cultivation, manufacturing and processing facilities as well as annual review of audited financials and industry related tax enforcement.

.5 FTE Deputy City Attorney II Due the novel scope of regulation, subject area specialist is needed to advise on both enforcement against illicit grows and changing laws related to permitted facilities.

The number and level of Finance and Management staff required above are a direct reflection of the current state of affairs regarding the cannabis industry. At this time, we see that Finance and

Management dedicate significant staff time in the enforcement of Business License and Tax policies on the developing cannabis industry. Currently they do not have enough staff to adequately track and tax all the new and emerging companies with an affiliation to cannabis, businesses such as delivery services, online sales, etc. are conducting business in the City of Oakland without paying local business taxes.

It is important to note that The Oakland Police Department (OPD) has expressed concerns regarding their participation in the permitting of an industry that is still not recognized as lawful by the Federal government. Security and safety of the facilities have always been a high priority of the City Council and Staff, in order to address this concern staff has included a \$150,000 annual line item for 3rd party security consulting services. The outside firm or consultant would be recruited and contracted, with the assistance of OPD staff, to assess security of proposed facilities, verify security measures implemented, conducted spot security assessments and recommendations, and assure staff that adequate security measure are being utilized by the permit awardees to maintain a secure facility to safe guard against diversion, theft, and nuisance behavior, including adequate background checks on all employees. .

In addition to permitting, enforcement and monitoring of permitted facilities, staff will be encouraged to work with cannabis industry representatives on an ongoing basis in the development and evaluation of standards for the operations of medical cannabis related establishments, as well as investigate reports of illicit cannabis related cultivation, manufacturing and processing activities and pursue enforcement.

Action Requested Of the City Council

1. Accept this Staff Report
2. Amend The Master Fee Schedule (Ordinance Number 9336, As Amended) To Establish A Medical Cannabis Dispensary Permit Application Fee Of \$5,000 And increase the annual Medical Cannabis Dispensary permit fee to \$60,000



City of Oakland
Master Fee Schedule
Effective On City Council Adoption

CITY ADMINISTRATOR

FEE DESCRIPTION	CURRENT FEE (FY 2010-11)		PROPOSED FEE (FY 2010-11)		% CHANGE
	FEE	UNIT	FEE	UNIT	
SPECIAL ACTIVITIES					
F. MEDICAL CANNABIS DISPENSARY PERMITS					
1 Application Fee	400.00	Application	5,000.00	Application	1150.00%
2 Dispensary with four (4) or more qualified patients or caregivers		Non-refundable annual regulatory fee	60,000.00	Non-refundable annual regulatory fee	
2 Dispensary with four (4) to five hundred (500) qualified patients or caregivers	10,000.00	Non-refundable annual regulatory fee	10,000.00	Non-refundable annual regulatory fee	0.00%
3 Dispensary with five hundred and one (501) to one thousand (1000) qualified patients or caregivers	20,000.00	Non-refundable annual regulatory fee	20,000.00	Non-refundable annual regulatory fee	0.00%
4 Dispensary with one thousand and one (1001) to one thousand five hundred (1500) qualified patients or caregivers	25,000.00	Non-refundable annual regulatory fee	25,000.00	Non-refundable annual regulatory fee	0.00%
5 Dispensary with one thousand five hundred and one (1501) or greater qualified patients or caregivers	30,000.00	Non-refundable annual regulatory fee	30,000.00	Non-refundable annual regulatory fee	0.00%

DRAFT

City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 NOV -8 AM 1:25

OAKLAND CITY COUNCIL**ORDINANCE NO. _____ C.M.S.****AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 9336, AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR PERMITTED MEDICAL DISPENSARIES.**

WHEREAS, on February 17, 2004, the City of Oakland adopted Ordinance No. 12585, amending Title 5 of the Oakland Municipal Code, Entitled Business Licenses and Regulations, To Add Chapter 5.8, Pertaining to Medical Cannabis Dispensaries, permitting the distribution of medical cannabis to authorized patients through four licensed dispensaries.

WHEREAS, the fee modifications and additions proposed herein have been justified and are identified in a report to the Council, entitled "an ordinance amending the master fee schedule (ordinance number 9336, as amended) to establish a medical cannabis dispensary permit application fee and an annual regulatory fee for permitted medical dispensaries."; and

WHEREAS, it is the City Council's intention to ensure that the city has the capacity and resources to permit, regulate and monitor Medical Cannabis Dispensaries permitted under the above referenced ordinance

WHEREAS, the City Administrator Office determines that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include Tax Enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, related administrative support and such resources including third party security services total \$60,000 on an annual basis, therefore the City intends to charge an annual permit fee of \$60,000 to cover the costs of this program, (Attached Exhibit A)

WHEREAS, the City Council finds and determines that establishing a medical cannabis Dispensary permit application fee of \$5,000 and an annual regulatory fee of \$60,000 for permitted medical cannabis dispensaries are necessary to reimburse the City for the costs of performing the various municipal and regulatory functions associated with Chapter 5.8; and

WHEREAS, a Public Hearing was held on November 30th, 2010, to review the proposed fees; now therefore

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

Section 1. The Master Fee Schedule as set forth in Ordinance Number _____ CMS, as amended is hereby amended to modify and establish a medical cannabis dispensary permit application fee of \$5,000 and an annual regulatory fee of \$60,000 for permitted medical cannabis dispensaries

Section 2. This ordinance shall be effective upon approval by the Council of the City of Oakland, ~~December~~ January 1, 2010.

In Council, Oakland, California, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

Latonda Simmons
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA