

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

10 SEP 30 PM 4: 23

TO: Oakland City Council Finance Committee  
ATTN: Jean Quan, Chair  
FROM: Council Member Rebecca Kaplan and Council Member Larry Reid  
DATE: September 15, 2010

RE: **AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 9336, AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS CULTIVATION PERMIT APPLICATION FEE OF \$5,000 AND AN ANNUAL MEDICAL CANNABIS CULTIVATION REGULATORY FEE FOR PERMITTED MEDICAL CANNABIS CULTIVATION FACILITIES OF \$211,000**

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**SUMMARY**

Ordinance establishes a new category "Medical Cannabis Cultivation" in the Master Fee Schedule which will include a permit application fee of \$5,000, and an annual regulatory fee of \$211,000.

**BACKGROUND**

On July 27th 2010, the Oakland City Council adopted Ordinance No. 13330, an ordinance authorizing the issuance of four (4) medical cannabis cultivation, manufacturing, and processing facilities as a business permit through the city administrator's office. The ordinance established an application fee of \$5,000 and an annual regulatory fee of \$211,000 which this master fee schedule amendment seeks to address.

**FISCAL IMPACT**

Four (4) permits at \$211,000 would total \$844,000 this is expected to be cost recovering, based on the report that was provided as part of the establishing ordinance.

**DISCUSSION**

The regulatory fee covers staff time for monitoring, regulation, documenting breach, and nullifying permits. The proposed regulatory fee will be cost recovering, The application process would be similar to that currently utilized in the dispensary permitting process with background checks, tests on legal knowledge, business plan review, site and planning review, etc. ranked by a point system.

Applicants for Medical Cannabis Cultivation, Manufacturing and Processing permits will be required to pay an application fee of \$5,000 to compensate the City for administrative costs of reviewing, scoring, and selecting the permit awardees. This application fee is exclusive of the \$211,000 annual permit renewal fee, described above.

The permit fee is based on the need to monitor, audit, and inspect the permit awardees. Staff estimates that an extensive amount of staff time will be required to assure that there is no

Item: \_\_\_\_\_  
Finance and Management Committee  
October 12, 2010

diversion that facilities operate as permitted, abide by building construction and electrical requirements, as well adequately report and pay their taxes. This 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 four (4) large cultivation 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 are 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 3<sup>rd</sup> 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. .


However it is important to remember that since this is an emerging industry, in addition to permitting, enforcement and monitoring of permitted facilities, staff can 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.

The new category will be inserted under Medical Cannabis Dispensaries and changing the order of the labels for the other items (G-I) but not fees assessed.

***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 Cultivation Permit Application Fee Of \$5,000 And An Annual Medical Cannabis Cultivation Regulatory Fee For Permitted Medical Cannabis Cultivation Facilities Of \$211,000

Respectfully submitted,

  
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Ada Chan

**Medical Cannabis Dispensary, Cultivation, Manufacturing and Processing Facility Permitting and Enforcement Program Costs**

\$	150,000.00	Contracted Third Party Inspection of Cultivation (operations to include security and product safety )	
\$	140,750.00	.75 FTE Tax Enforcement Officer II	Will 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 related tax enforcement.
\$	150,000.00	Level 3 Tax Auditor	
\$	300,000.00	2FTE Level 3 Tax Auditor	
\$	<b>440,750.00</b>	<b>Total Business Tax and Revenue Enforcement Costs</b>	
\$	108,180	1 FTE Administrative Analyst II	Primary staff to administer and over see the permit renewal, responsible transfer permits, and coordinate annual renewal documentation, application, and schedule regular site inspections; Admin Support 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.
\$	87,539	1 FTE Administrative Assistant II	
\$	262,840	2 FTE Special Combination Code Enforcement Inspector III @ \$131,420	
\$	<b>458,559</b>	<b>Total City Administrator Costs</b>	
\$	75,546	.5 FTE deputy city attorney II	Due the 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.
\$	<b>75,546</b>	<b>Total City Attorney Costs</b>	
\$	<b>1,124,855.04</b>	<b>subtotal costs</b>	
	17%	Central Services Overhead	
\$	191,225		
\$	<b>1,316,080</b>	<b>Total Program Costs</b>	
\$	472,510	Dispensary Portion of Program	
\$	843,570	Cultivation, Processing and Manufacturing Portion of Program	
\$	<b>210,893</b>	<b>Annual Cultivation Permit Regulatory Fee (assuming 4)</b>	
\$	<b>59,064</b>	<b>Annual Dispensary Permit Regulatory Fee (Assuming 8)</b>	

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

**DRAFT**

**Ordinance No. C.M.S.**

2010 SEP 30 PM 4:29

AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 9336, AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS CULTIVATION PERMIT APPLICATION FEE OF \$5,000 AND AN ANNUAL REGULATORY FEE OF \$211,000 FOR PERMITTED MEDICAL CANNABIS CULTIVATION FACILITIES.

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WHEREAS, on July 27<sup>th</sup>, 2010 the City Council passed an ordinance amending Title 5 of the Oakland Municipal Code, Entitled Business Licenses and Regulations, To Add Chapter 5.81, Pertaining to Medical Cannabis Cultivation Facility Permitting; and

WHEREAS, the fee additions proposed herein have been justified in a report to the City Council dated July 27<sup>th</sup> 2010 entitled in part "... [A]n ordinance permitting four (4) medical cannabis cultivation, manufacturing and processing facilities as a business permit through the City Administrator's Office; 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 Cultivation, Manufacturing and Processing facilities permitted under the above referenced ordinance

WHEREAS, the City Administrator Office determines that additional staffing is needed to administer and regulate permitted medical cannabis cultivation facilities, 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 \$211,000 on an annual basis, therefore the City intends to charge an annual permit fee of \$211,000 to cover the costs of this program, (Attached Exhibit A)

WHEREAS, the City Council finds and determines that establishing a medical cannabis cultivation permit application fee of \$5,000 and an annual regulatory fee of \$211,000 for permitted medical cannabis cultivation facilities are necessary to reimburse the City for the costs of performing the various municipal and regulatory functions associated with Chapter 5.81; and

WHEREAS, a Public Hearing was held on October 19<sup>th</sup>, 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 cultivation permit application fee of \$5,000 and an annual regulatory fee of \$211,000 for permitted medical cannabis cultivation facilities

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

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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

**AN ORDINANCE AMENDING ORDINANCE NUMBER 9336 C.M.S. (MASTER FEE SCHEDULE), AS AMENDED TO ESTABLISH A MEDICAL CANNABIS CULTIVATION, MANUFACTURING AND PROCESSING PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE TO BE ASSESSED BY THE OFFICE OF THE CITY ADMINISTRATOR.**

**NOTICE AND DIGEST**

This Ordinance authorizes an amendment to Ordinance Number 9336 C.M.S. (Master Fee Schedule), as amended, to establish fees to be assessed by the Office of the City Administrator. These fees would become effective November 1, 2010 and would remain in effect until further notice. A public hearing has been scheduled to review the proposed fee changes. The meeting will take place at the time of the first reading of the proposed ordinance by the City Council, on October 5, 2010, at 7:00 pm or as soon as practically possible thereafter.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

**NOTICE OF PUBLIC HEARING**

2010 SEP 30 PM 5:14

A Public Hearing has been scheduled to review changes to fees charged by the following City of Oakland departments and agencies: Office of the City Administrator, Office of the City Attorney, Office of the City Clerk, Oakland Public Library, Police Services Agency, Fire Services Agency, Office of Parks and Recreation, Public Works Agency, and Community and Economic Development Agency. These amended fees would become effective April 1, 2010 and would remain in effect until further notice. The Public Hearing will take place during the **first reading** of the Agenda item on **Tuesday, October 19, 2010**, at **7:00 pm** or as soon as practically possible thereafter in the **City Council Chambers** (City Hall, One Frank Ogawa Plaza, Third Floor, Oakland, CA 94612).