

HAYWARD CITY COUNCIL

RESOLUTION NO 17-157

Introduced by Council Member Zermeño

RESOLUTION AMENDING THE CITY OF HAYWARD 2018 FISCAL YEAR
MASTER FEE SCHEDULE FOR COMMERCIAL CANNABIS LICENSING
ASSOCIATED WITH AMENDMENTS TO CHAPTER 6, ARTICLE 14 AND
ZONING TEXT AMENDMENT TO CHAPTER 10 OF THE HAYWARD
MUNICIPAL CODE RELATED TO COMMERCIAL CANNABIS BUSINESSES.

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or,
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by City Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions;

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The proposed amendment to the Master Fee Schedule (MFS) would allow for annual inspections to ensure safe and legal operation of commercial cannabis businesses in the City of Hayward, consistent with the appropriate findings and conditions established as part of the required land use entitlement process.

WHEREAS, the City of Hayward Commercial Cannabis Permit Program is intended to create a framework for regulating cannabis businesses within Hayward, monitor the responsible cultivation, manufacture, testing, distribution, and sales of cannabis products in Hayward and eliminate the sale or distribution of cannabis products to minors. The ordinance requires cannabis businesses to obtain a valid commercial cannabis permit issued by the City which requires the business to be inspected and regulated by the City to assure compliance with all applicable State, Federal, and local Cannabis related products

regulations, including but not limited to the sales of electronic smoking devices and Cannabis paraphernalia.

WHEREAS, prior to commencing operations within the City of Hayward, all new cannabis businesses must first obtain land use approval from either the Planning Division or the Planning Commission in the form of a use permit, to verify the use is permitted at the proposed location and must obtain a City Business License and Commercial Cannabis Permit, in addition to all State mandated licenses.

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on October 17, 2017.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby amends the Fiscal Year 2018 Master Fee Schedule to include fees and penalties associated with Commercial Cannabis Permit Program, as reflected in attached Exhibit "A".

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 17-13) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA October 17, 2017

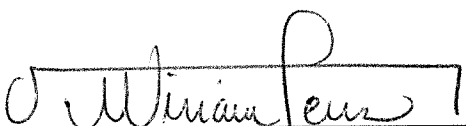
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Peixoto, Lamnin, Salinas
MAYOR: Halliday

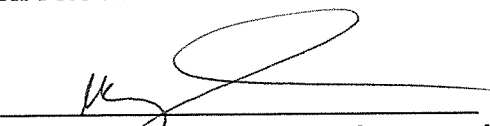
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


For City Attorney of the City of Hayward

Fees and Penalties:

1. Annual Commercial Cannabis Permit Fee: \$10,000 (minimum of one inspection per year; includes up to four HPD decoy fees/inspections annually).
2. Program fees:
 - a. initial inspection, violation found: \$5,000
 - b. Initial inspection, no violation found: No charge
 - c. 2nd re-inspection, no violations: \$500 re-inspection fee
 2nd re-inspection violations found: \$10,000 + \$500 re-inspection fee
 - d. 3rd & subsequent re-inspection, no violations: \$500 re-inspection fee
 3rd & subsequent re-inspection violations found: \$15,000 + \$500 re-inspection fee
 - e. Subsequent Violations: \$10,000 + \$500 re-inspection fee
 - f. Subsequent re-inspections, no violations: \$500 re-inspection fee
 Subsequent re-inspections, violations found: \$15,000 + \$500 re-inspection fee
3. Any required inspections after the initial inspection greater than three hours will be assessed an hourly code enforcement inspection fee: \$200 hr.
4. Request for Administrative Hearing Fee: \$946
5. Special Assessment/Lien Fee: \$1,811