



STAFF REPORT

AGENDA ITEM NO: 8g

MEETING DATE: May 3, 2021

Of a

To: Honorable Mayor and City Council

Date: May 3, 2021

From: Kevin Gardiner, Community Development Director – (650) 558-7253

Subject Adoption of a Resolution Setting the Rates of Cannabis Operator Permit Fees Pursuant to Section 25.75.060(E)(1)(d) of the Burlingame Municipal Code

RECOMMENDATION

Staff recommends that the City Council adopt the proposed resolution setting the rates of cannabis operator permit fees pursuant to Section 25.75.060(E)(1)(d) of the Burlingame Municipal Code (Permit Issuance).

BACKGROUND

On February 16, 2021, the City Council adopted an ordinance that made changes to the types of permissible commercial cannabis activity in Burlingame (Ordinance 1991, attached). Prior to introduction of the ordinance, the City Council held a study session on the matter on December 7, 2020, and the Planning Commission held a public hearing to make a recommendation to the City Council on January 25, 2021. The ordinance focuses on non-storefront cannabis retail delivery, which is defined in the ordinance as *a business or operation, whether for profit or nonprofit, whose premises are closed to the public and which sells cannabis and/or cannabis products exclusively by delivery, for which a state license (Type 9-Non-storefront Retailer) is required under Business and Professions Code sections 26000 and following. This definition does not include any storefront component whereby customers purchase the products at the physical premises of the retail establishment.*

The ordinance includes operation standards for both non-storefront cannabis retail delivery businesses with a fixed location within Burlingame, as well as cannabis delivery-only operator permit holders for commercial cannabis business deliveries originating from outside the city limits. The ordinance also requires non-storefront cannabis retail delivery businesses to be granted a conditional use permit from the Planning Commission.

The ordinance provides a permit application procedure for cannabis businesses. The application requires detailed information on the proposed business operations and licensing and an indemnity provision. For fixed-location, non-storefront cannabis retail delivery businesses, the application also requires written and notarized property owner permission, an employee roster, an operating plan, security plan, site plans, notification to surrounding properties, and a hazardous materials management plan.

DISCUSSION

Staff has assessed the anticipated workload that will be involved in processing applications for cannabis operator permits. Reviewing an application involves confirming compliance with operational and security requirements as well as plan checking for the proposed premises.

For fixed location, non-storefront cannabis retail delivery business operator permits (i.e., those establishing facilities within Burlingame), staff estimates that the staff time involved in reviewing permits would be comparable to that of a special permit, together with a design review permit for a small commercial project. The FY 2020-21 application fee for a special permit is \$4,388.00, and the fee for design review (new construction – commercial, 5,000 gross square feet or less) is \$1,284.00, for a combined total of \$5,672.00. The application for a conditional use permit is an additional \$2,005.00, but would not be assessed unless the operator permit application is deemed complete.

For cannabis delivery only operator permits (i.e., operators making deliveries within Burlingame from outside the city limits), staff estimates the staff time involved in reviewing the applications to be approximately one-quarter that of the fixed location applications, based on the proportionally fewer number of application submittal requirements. The delivery only application fee is proposed to be \$1,418.00, which is one-quarter of the \$5,672.00 fixed location application fee.

Operator permits are subject to annual renewals. The review of a renewal application will involve verifying compliance with operational and design requirements, and reviewing any code compliance issues. Staff estimates the staff time involved in reviewing renewal applications to be approximately one-quarter that of the initial operator permit application. The fee is proposed to be \$1,418.00 for fixed location permit renewals, and \$355.00 for delivery only renewals.

The proposed application fees are summarized in the table below:

**TABLE 1
CANNABIS OPERATOR PERMIT APPLICATION FEES**

| | |
|--|------------|
| Operator’s Permit Application – delivery only, no fixed location | \$1,418.00 |
| Operator’s Permit Application – fixed location, non-storefront retail delivery | \$5,672.00 |
| Conditional Use Permit | \$2,005.00 |
| Operator’s Permit Renewal – delivery only, no fixed location | \$1,418.00 |
| Operator’s Permit Renewal – fixed location, non-storefront retail delivery | \$355.00 |

Staff will assess the staff time involved in the review of the operator permits and renewals, and propose changes after the first year if warranted.

At the time of the adoption of the ordinance, the City Council also adopted a resolution that limits the total permittees for fixed location permits to four. The limitation applies to fixed location, non-

storefront cannabis retail delivery business operator permits, but does not apply to delivery only operator permits. Applications will not be accepted by the Planning Division until the application fees are set, so no applications have been received to date.

FISCAL IMPACT

Currently, the City receives Measure I sales/transaction taxes when a cannabis delivery is completed within Burlingame. Retail delivery operations located within the city limits would be subject to local (Bradley/Burns) sales tax allocation of 1 percent.

Revenues could be increased if the City enacted a cannabis tax, which would apply to every transaction from cannabis businesses located in Burlingame regardless of where the cannabis delivery is completed. According to industry representatives, a typical local cannabis tax is in the range of 4% of gross receipts. However, a cannabis tax would require voter approval during a regular Council election, so such a tax could not be brought to the voters prior to November 2022.

Exhibits:

- Resolution
- Ordinance 1991