

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE CALIFORNIA, ESTABLISHING NEW FEES RELATED TO THE CITY'S COMMERCIAL CANNABIS PERMIT PROGRAM, PURSUANT TO CHAPTER 5.61 ("COMMERCIAL CANNABIS ACTIVITIES") TO TITLE 5 ("BUSINESS REGULATIONS AND LICENSING") OF THE COMMERCE MUNICIPAL CODE, AS ENACTED BY ORDINANCE NO. 700, BY AMENDING THE COMMUNITY DEVELOPMENT FEE SCHEDULE, RESOLUTION NO 09-04

WHEREAS, the City of Commerce ("City") is a general law city, incorporated under the laws of the State of California, and has the power to make and enforce within its jurisdictional limits all local, police, sanitary, and other ordinances, resolutions, and regulations not in conflict with general laws of the state;

WHEREAS, on September 4 2018, City Council adopted Ordinance No. 700, concerning commercial cannabis regulations, which added new Chapter 5.61 "Commercial Cannabis Activities", of Title 5, "Business Regulations and Licensing", of the Commerce Municipal Code, and becomes effective October 4, 2018;

WHEREAS, the purpose and intent of Ordinance No. 700 is to regulate the cultivation, manufacturing, testing, distribution, non-storefront retailer-delivery only, and microbusinesses, of medicinal and adult-use cannabis and cannabis products, and the ancillary transportation and delivery of same, in a responsible manner to protect the health, safety, and welfare of the residents of City of Commerce and to enforce rules and regulations consistent with the California Medicinal and Adult-Use Cannabis Regulation and Safety Act, and related laws, regulations, and policies issued by the State of California;

WHEREAS, pursuant to Ordinance No. 700, and more specifically, Section 5.61.270 "Fees and Charges" of said ordinance, the City Council, by Resolution, may set and establish fees, which will serve to recover the City's costs reasonably incurred in processing, administering, monitoring and enforcing the Commercial Cannabis Permit program;

WHEREAS, Ordinance No. 700 mandates selected applicants to cover the City's costs of preparing the Development Agreement, and pay all other applicable fees associated with the process not recovered in the application review, scoring and selection process;

WHEREAS, in order to recover costs reasonably borne from fees and charges levied by regulations, products or services, the City Council previously adopted the Community Development Department Fee Schedule (City Council Resolution No. 09-04), which became effective on February 3, 2009;

WHEREAS, the current adopted Fee Schedule must be updated to incorporate the newly adopted Commercial Cannabis Permit applicant fees to ensure all costs reasonably associated with the preparation, processing, administration, and enforcement of Ordinance No. 700 are recovered by the City;

WHEREAS, accordingly, the City and its agents have determined the costs of establishing and maintaining a commercial cannabis permitting program;

WHEREAS, the City must impose a fee for each Commercial Cannabis Permit application, associated Development Agreement and all other related implementation, monitoring or enforcement costs. To determine the appropriate fee amount for each Commercial Cannabis Permit application, the City's expenses - including expenses for public hearings, staffing, consulting services and legal fees - were calculated and equally divided between the projected minimum number of applications the City may receive;

WHEREAS, Table 1-1 summarizes the expenditures of the City to-date and the projected expense anticipated throughout the application process.

Table 1-1 – Commercial Cannabis Permit Cost Recovery Summary

Commercial Cannabis Application Fees	Estimated Hours	Billable Rate	Total Estimated Cost	Estimated Cost/Fee Per Activity Type	Permit Application Projection (total)	Cost Recovery (100%)
APPLICATION SCREENING FEES (PHASE I-II)						
Project Coordination/Admin Costs	250	\$ 195.00	\$ 48,750.00	\$ 2,437.50	20	
Community Outreach+ Public Hearings	150	\$ 195.00	\$ 29,250.00	\$ 1,462.50	20	
Phase I Initial Screening and Preliminary Determination	50	\$ 195.00	\$ 9,750.00	\$ 487.50	20	
Phase II Investigation, Scoring and Ranking	50	\$ 195.00	\$ 9,750.00	\$ 487.50	20	
Record Management Fee			\$ 500.00	\$ 25.00	20	
Livescan/Background			\$ 200.00	\$ 200.00	20	
Legal Cost Recovery	100	\$ 450.00	\$ 45,000.00	\$ 2,250.00	20	
Zoning/Sensitive Use Verification			\$ 800.00	\$ 800.00		
Application Review and Processing	25	\$ 195.00	\$ 4,875.00	\$ 4,875.00	20	
Non-Refundable Application Fee (per activity)			\$ 51,375.00	\$ 13,025.00	20	\$ 260,500.00
DEVELOPMENT AGREEMENT (DA) FEE						
Development Agreement Coordination	25	\$ 195.00	\$ 4,875.00			
Development Agreement Preparation (legal)	25	\$ 450.00	\$ 11,250.00			
Recordation Fee			\$ 395.00			
Development Agreement Deposit			\$ 16,520.00			
COMMERCIAL CANNABIS PERMIT FEES (Phase II)						
Site/Building Evaluations	10	\$ 185.00	\$ 1,850.00			
Phase III Final Ranking and City Council Consideration (legal notices; staff report preparation; resolutions, etc. for PC and CC meetings.)	50	\$160	\$ 8,000.00			
Public Hearing Publication			\$ 800.00			
CEQA Document Preparation and Filing			\$ 395.00			
Determination Letter Preparation	5	\$160	\$ 800.00			
Compliance Surety			\$5,000			
Commercial Cannabis Permit Deposit			\$ 16,845.00			
<i>Estimated Total Operator Cost (initial permit)</i>			\$ 46,390.00	\$ 85,465.00		
			(min. 1 activity)	(max. 4 activities)		

WHEREAS, based on the above fee study, the proposed new fees, to be reflected and incorporated as amendments to the previously adopted Community Development Fee Schedule is presented below in Table 2-1:

Table 2-1 – Amendments to Planning Entitlement Fee Schedule

Application	Fee
Commercial Cannabis Application Screening (Phase I & II)	\$13,025.00 Non-Refundable Flat Fee (per requested activity type)
Commercial Cannabis Development Agreement	\$16,520.00 Non-Refundable Deposit
Commercial Cannabis Permit (Phase III)	\$16,845.00 Non-Refundable Deposit
Determination Appeals	Same as original application fee
Change of Location, Ownership or Transfer	\$5,760.00 Non-Refundable Flat Fee
Commercial Cannabis Permit or Development Agreement Modification	\$6,210.00 Non-Refundable Deposit
Commercial Cannabis Permit Renewal Fee (5-year expiration)	\$13,735.00 Non-Refundable Deposit

WHEREAS, City Council approval of the imposition of new fees related to Ordinance No. 700, with the implementation of the City of Commerce’s regulations concerning commercial cannabis businesses and activities, will allow the City to proceed with the application process for the purpose of accepting applications, processing applications, undergoing a review and selection process of applicants, and ultimately entering into Development Agreements for commercial cannabis operations within the City,

WHEREAS, California law requires that the proposed fee information be made available to the public for at least ten (10) days prior to the City Council’s consideration of the proposed Resolution;

WHEREAS, City staff provided notice of this hearing as required by law, and the information set forth in Table 2-1 was made available. Specifically, City staff caused the notice with said information to be published by the Los Cerritos News on September 7, 2018;

WHEREAS, City Council has held a duly noticed public hearing concerning said fees; and

WHEREAS, resolutions are typically effective immediately upon adoption. Notwithstanding, Ordinance No. 700, authorizing the adoption of a fee resolution, comes into effect on October 4, 2018. This Resolution will have an effective date run concurrent with the effective date of Ordinance No. 700, October 4, 2018;

WHEREAS, if Ordinance No. 700 does not take effect, this Resolution will automatically be null and void.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE HEREBY RESOLVES, DECLARES, AND DETERMINES AS FOLLOWS:

SECTION 1. RECITALS.

That based upon staff reports, presentations, public testimony, and all other matters presented during the public hearing on this item, the City Council hereby finds and declares that the foregoing recitals are true and correct and incorporates them herein as a substantive part of this Resolution.

SECTION 2. ADOPTED FEES.

(a) That the City Council hereby adopts the fees, as established in Table 2-1 herein and incorporated by this reference, by this Resolution under its authority pursuant to local and state law, and such fees shall be imposed as set forth herein, for the reasonable estimated costs the City of Commerce will incur with respect to accepting, processing, reviewing, investigating, and performing certain regulatory activities associated with the enforcement of the program pursuant to the City Council-approved Commercial Cannabis Permit program, pursuant to Ordinance No. 700:

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(b) That payment of the fees be submitted to the City of Commerce.

(c) That the City of Commerce will not begin any task as required by Ordinance No. 700, until and unless the applicable fee has been paid to the City of Commerce in full.

(d) That the fees as designated herein shall be non-refundable.

(e) That payment of the fees does not guarantee approval of any of the permit or renewal permit applications, or the reversal of a decision of the City of Commerce.

(f) That the above fees do not include any other fees due for, without limitation, other permits, licenses, inspections, document preparation that may be required by the City of Commerce such as, but not limited to, building permits, certificates of occupancy, or mandatory fire inspections.

SECTION 3. AMENDMENT. City Council Resolution No. 09-04, previously adopting the Community Development Department Fee Schedule, which became effective on February 3, 2009, is hereby amended to incorporate the new fees as established herein by this Resolution.

SECTION 4: CEQA EXEMPTION. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Resolution is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378.

SECTION 5. SEVERABILITY. If any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Resolution, or its application to any individual, entity, or circumstance, for any reason, is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution, and shall continue in full force and effect. To this end, any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Resolution is severable. The City Council of the City of Commerce declares that this Resolution would have been adopted by the City Council regardless of the fact that any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion thereof, might be declared to be invalid or unconstitutional.

SECTION 6. PASSAGE AND EFFECTIVE DATE. The City Clerk shall attest and certify to the passage and adoption of this Resolution, and enter it into the book of original resolutions. This Resolution will have an effective date run concurrent with the effective date of Ordinance No. 700, October 4, 2018. If Ordinance No. 700 does not take effect, this Resolution will automatically be null and void.

PASSED, APPROVED and ADOPTED this ____ day of _____ 2018.

Hugo A. Argumedo, Mayor

APPROVED AS TO FORM:

ATTEST:

Norma Copado, City Attorney

Lena Shumway, City Clerk