



CITY OF POMONA

COUNCIL REPORT

April 6, 2020

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Anita D. Gutierrez, AICP, Development Services Director

SUBJECT: ADOPTION OF RESOLUTION AUTHORIZING AN INTERIM IMPLEMENTATION OF FEES PERTAINING TO THE COMMERCIAL CANNABIS PERMIT PROGRAM FOR A PERIOD OF 30 DAYS

RECOMMENDATION:

It is recommended that the City Council:

1. Approve a Resolution (Attachment No. 1) authorizing an interim implementation of fees pertaining to the Commercial Cannabis Permit Program for a period of 30 days. This matter requires a four-fifths vote (6 votes) to approve.

EXECUTIVE SUMMARY:

On March, 2, 2020, the City Council adopted fees related to the Commercial Cannabis Permit Program (“CCPP”), along with an interim implementation of these fees effective immediately for a period of 30 days. This implementation measure expired on April 2, 2020. As the fees do not go into effect until May 2, 2020, a new interim implementation is necessary to allow the City the ability to collection permit application fees.

FISCAL IMPACT: The proposed fees will offset the City’s cost to administer the CCPP. The annual cost recovery is estimated between \$295,165.28 to \$543,666.32 (See Table 1 for details).

PREVIOUS COUNCIL ACTION: On March 16, 2020, the City Council approved at second reading the rescinding or amending of various ordinances prohibiting commercial cannabis in the City of Pomona. On March 2, 2020, the City Council adopted fees related to the CCPP, including an interim urgency measure implementing these fees effective immediately for a 30-day period, and approved a contract with HdL Companies as the third-party evaluator for commercial cannabis permit applications. On November 19, 2019, the City Council adopted a CCPP Overlay District, which established locations where various commercial cannabis related uses are permitted in the City. On April 1, 2019, the City Council adopted Ordinance No. 4257, which established Chapter 68 in the Pomona Municipal Code entitled “Commercial Cannabis Businesses.”

ENVIRONMENTAL IMPACT: The City of Pomona, as lead agency, has conducted an environmental review on the proposed project per the California Environmental Quality Act (CEQA). The City Council will consider, as part of its recommendation, that no additional environmental review or documentation is required pursuant to statutory exemption under Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementations of CEQA that 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.

ANALYSIS:

On March, 2, 2020, the City Council adopted fees related to the Commercial Cannabis Permit Program (Attachment No. 2), as illustrated in Table 1.

Table 1. Estimated Cost Recovery of CCPP Fee Schedule

No.	Proposed Fee	Fee Amount	Estimated Quantity	Total Cost Recovery
1	Phase 1 & 2 CCPP Applications	\$5,329.63	24-48 ¹	\$127,911.12 to \$255,822.24
2	Phase 3 & 4 CCPP Applications	\$6,699.44	18-36 ²	\$120,589.92 to \$241,179.84
3	CCPP Permit Issuance	\$1,816.51	8	\$14,532.08
4	CCPP Permit Renewals	\$4,016.52	8 ³	\$32,132.16
5	CCPP Permit Renewal Late Fee ⁴	\$1,004.13	--	--
6	CCPP Permit Amendment ⁴ (Change of Ownership)	\$1,277.92	--	--
7	CCPP Permit Amendment ⁴ (Change of Name)	\$75.74	--	--
8	Appeal ⁴	\$928.33 ⁵	--	--
Total				\$295,165.28 to \$543,666.32

¹Estimated quantity range assumes 3x to 6x ratio of applications to available permits.

²Estimated quantity range assumes 25% of applicants not selected as Finalists.

³Estimated quantity represents renewals for second full year of CCPP Program.

⁴Not included in cost recovery estimates as it is impractical to estimate a quantity.

⁵This appeal fee is the existing fee used for City Council appeals.

Per Government Code Section 66017, these fees do not go into effect until 60 days after adoption (May 2, 2020). This provision, however, allows for the City Council to adopt an interim urgency measure based on findings of fact for public health, welfare, and safety, to implement fees immediately for a period of 30 days, which can be extended by two 30-day periods, subject to notification and public hearing. On March 2, 2020, the City Council passed an interim urgency measure for a 30-day period (Resolution No. 2020-35). This measure, however, expired on April 2, 2020. The proposed interim urgency measure would be in effect starting April 6, 2020. The City has contended with an illegal commercial cannabis market, which continues to strain law enforcement resources, and which poses a threat to public health and safety, both for the unregulated and untested products sold (some of which, such as cannabis vape cartridges, are linked to a national trend of illnesses and deaths), but also for the unknown status of building permits and licensure for such operators, creating potentially dangerous occupancy conditions. Therefore, Staff recommends adoption of an interim measure to make the CCPP fees effective immediately, for a period of 30 days, which will enable the City to implement the Commercial Cannabis Permit Program in an expeditious manner.

ATTACHMENT(S):

Attachment No. 1 – Draft Resolution No. 2020-58
Attachment No. 2 – CCPP Fee Justification Study