

City of Sacramento

Legislation Text

File #: 2020-01089, **Version:** 1

Title:

Resolution Establishing Business Operating Permit Fees for Cannabis Nurseries (Noticed 09/11/2020 & 09/16/2020)

File ID: 2020-01089

Location: Citywide

Recommendation:

Conduct a public hearing and upon conclusion, adopt a Resolution establishing the Business Operating Permit (BOP) fees for cannabis nurseries.

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Presenter: Davina Smith, Cannabis Manager, (916) 808-4772, Office of Cannabis Management, Office of the City Manager.

Attachments:

1-Description/Analysis

2-Fee Resolution

3-Proposition 26

Description/Analysis

Issue Detail: On January 14, 2020, the City Council approved an ordinance amending various sections of Sacramento City Code chapter 5.150 relating to cannabis businesses. One of the amendments was the addition of a nursery to the type of cannabis cultivation activities allowed in the city.

A cannabis nursery is a business that cultivates clones, immature plants, seeds or other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. This item will create a separate BOP fee for a nursery permit. As outlined in the attached fee resolution, the proposed BOP fee is \$9,700 for the initial application, and \$8,570 for renewal. (Attachment 2)

Policy Considerations: The proposed fees are consistent with Council's adopted Fees and Charges

Policy and support the City's goals of budget sustainability and fiscal responsibility.

Proposition 26 (Attachment 3) was passed by voters on November 2, 2010. The intent of the measure was to ensure the effectiveness of Propositions 13 and 218 by providing a definition of a "tax" for state and local purposes. Specifically, it states "that neither the Legislature nor local governments can circumvent these restrictions on increasing taxes by simply defining new or expanded taxes as 'fees.'" Thus, under Proposition 26, a tax has been defined broadly to include any levy, change, or exaction of any kind imposed by a local government. Therefore, the City bears the burden of proving that a fee or a charge is not a tax. The proposed fees or fee increase is not a tax under Proposition 26 because of exception 3 (business permit).

The proposed fees are established to cover both the administration and enforcement of the cannabis program, which include the permitting process, providing regulatory and compliance inspections to permitted businesses, and taking enforcement actions against illegal cannabis businesses throughout the city.

Economic Impacts: None.

Environmental Considerations: This action is exempt from the California Environmental Quality Act (CEQA) because it is the adoption of an ordinance, rule, or regulation that requires discretionary review, including environmental review, and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity (CEQA Guidelines sections 15061(B)(1), California Business and Professions Code section 26055(h)) and because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines section 15061(b)(3)).

Sustainability: Not applicable

Commission/Committee Action: On September 1, 2020, the Budget and Audit Committee considered the proposed nursery fees and passed a motion to forward the proposed fees for City Council adoption.

Rationale for Recommendation: Applicants for a nursery type of cultivation currently pay for a Class A cultivation permit, which is the smallest cultivation permit (up to 5,000 sq. ft. in canopy). The cost of the class A permit is the same as the proposed nursery permit fee. The establishment of a separate BOP fee for a nursery will make tracking of permit fees more efficient.

BOP fees are calculated based on the administrative effort required to effectively implement the City's cannabis enforcement program. Changes to the permit types have either already been adopted or are scheduled for Council consideration and the fee schedule has been revised to meet the anticipated workload required to effectively administer the cannabis permitting process, to enforce regulations upon the permitted industry and to maintain a healthy regulated industry.

If adopted, the fees will take effect immediately.

Financial Considerations: Currently, the City collects the proposed BOP permit fee under a Class A cultivation permit at the same price. The establishment of a separate BOP permit fee for a nursery will make tracking of permit fees more efficient.

Local Business Enterprise (LBE): Not applicable.