

ORDINANCE No. 187630

*Amend fee schedule for Marijuana Policy Program to cover costs of administration. (Ordinance; amend Portland Policy Document ADM-20.01)

The City of Portland ordains:

Section 1. The Council finds:

1. In November, 2014, the City Council initiated the Portland Marijuana Policy Program in the Office of Neighborhood Involvement (ONI) to manage complaints, community expectations, and respond with authorized enforcement mechanisms as appropriate, including addressing the illegal market.
2. On September 30, 2015, the Council adopted Portland City Code Chapter 14B.130 to add license procedures and requirements for marijuana businesses. The definition of Marijuana Businesses licensed and regulated under Chapter 14B.130 includes Medical Dispensaries, Marijuana Retailers, Marijuana Producers, Marijuana Processors, and Marijuana Wholesalers.
3. Council also adopted a fee schedule on September 30, 2015 outlining application and license fees based on a cost recovery model for the Marijuana Policy Program. Initial projections of numbers of licenses received by the City were low confidence estimates. It was communicated to Council at that time that the fee schedule would likely need to be adjusted to appropriately reflect actual license applicants in the evolving landscape of the Marijuana industry in Portland.
4. The fee schedule adopted by Council placed a large burden on Retailer license fees to carry the cost of administering the Portland Marijuana Policy Program. Additionally, Council initially intended to limit the burden on Medical Dispensaries by keeping license fees for Medical Dispensaries low. Because of the timing of the issuance of recreational license by the Oregon Liquor Control Commission, the Portland Marijuana Policy Program will not be collecting any license fees for Marijuana Retailers this fiscal year.
5. The number of retail license applications will be significantly lower than originally anticipated for FY 15-16. When the Oregon State Legislature passed Senate Bill 460 allowing limited recreational sales of marijuana at Medical Dispensaries, most of the Medical Dispensaries undertook to participate in the recreational market. The distancing requirements initiated by City Council to avoid saturation in our community, as well as the grandfather clause in PCC 14B.130.040 D.2, which protects existing Medical Dispensaries by giving them first right to City of Portland Regulatory Licenses, limited the available real estate for new retailers.
6. Furthermore, the number of Marijuana Producer, Processor, and Wholesaler applications and licenses have been fewer than originally anticipated. These license types are expected to increase in the next year, but not before the end of FY 2015-2016.

7. Medical Dispensaries are effectively operating as retail locations at this time and throughout the remainder of 2016, and the lower fees are no longer justifiable or feasible to meet cost recovery. The Marijuana Policy Program is currently processing 96 Existing Medical Dispensary license applications which qualify for the distancing requirement exception, alongside 80 applications for new locations. There are approximately 148 additional applications in queue for appointments to submit applications, a large percentage of which will be denied based on the distance requirements established in City code. At least for the first year, Medical Dispensaries will be the most prolific type of Marijuana Business in Portland.
8. The current staffing that was approved on September 30, 2016 must be maintained to have a viable and effective regulatory program. The administrative costs to the City of initial licensure, training business owners on compliance requirements, and ensuring the businesses achieve legitimacy are high. Because the industry has developed in an unregulated environment, there is a wide spectrum of compliance by Marijuana Businesses. The Code enforcement staff in the Marijuana Policy Program are key to the Program's success. The Oregon Health Authority and Oregon Liquor Control Commission lack adequate administrative tools for addressing the illegal market, but Council was clear in the intent of Portland's Code that locations that are not in compliance will face sanctions. Enforcement also takes significant resources, and will likely be greater in the next several years as the industry becomes more familiar with regulation. The current fee schedule will not cover the cost of administering the program. Therefore, staff recommends amending the fee schedule as reflected in Exhibit A.

NOW, THEREFORE, the Council directs:

- a. The Marijuana Policy Program Regulatory License Fee Schedule, Portland Policy ADM-20.01, is amended and attached as Exhibit A to cover the costs of administration.

Section 2. The Council declares an emergency exists because the majority of applications are currently being accepted for processing, and it is necessary to have these fees in place to cover the cost of the program; therefore this ordinance shall be in full force and effect from and after its passage by the Council.

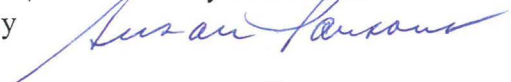
Passed by the Council:

MAR 16 2016

Commissioner Amanda Fritz
Prepared by: Theresa Marchetti
Date Prepared: March 7, 2016

Mary Hull Caballero
Auditor of the City of Portland

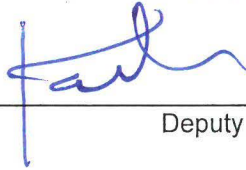
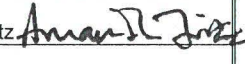


By



Deputy

Title

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INTRODUCED BY Commissioner/Auditor: Amanda Fritz	CLERK USE: DATE FILED <u>MAR 08 2016</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland  By: _____ Deputy ACTION TAKEN:
Mayor—Finance and Administration - Hales	
Position 1/Utilities - Fritz 	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL	
Bureau: Office of Neighborhood Involvement Bureau Head: Amalia Alarcon de Morris 	
Prepared by: Theresa Marchetti Date Prepared: 3-7-16	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter 	
Council Meeting Date 3-16-16	

AGENDA
TIME CERTAIN Start time:
Total amount of time needed: (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/>
Total amount of time needed: 10 min (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	4. Novick	<input checked="" type="checkbox"/>	
Hales	Hales	<input checked="" type="checkbox"/>	