

City of Hesperia STAFF REPORT



DATE: October 19, 2021

TO: Mayor and City Council Members
Chair and Board Members, Hesperia Community Development Commission
Chair and Board Members, Hesperia Housing Authority
Chair and Board Members, Hesperia Water District

FROM: Nils Bentsen, City Manager

BY: Melinda Sayre, Director of Government Services/City Clerk
Tina Bulgarelli, Administrative Analyst
Jacquelyn Castillo, Administrative Analyst

SUBJECT: Amend City Fee Schedule Related to the Deemed Approved Program and Implement Fees for the Tobacco Retailer Licensing Program

RECOMMENDED ACTION

It is recommended that the City Council and respective Commission/Boards adopt Joint Resolution No. 2021-51, CDC No. 2021-06, Resolution HHA No. 2021-10, and Resolution HWD No. 2021-19, amending the City-wide fee schedule related to the fees for the Deemed Approved Program and implement fees for the Tobacco Retailer License Program.

BACKGROUND

On October 4, 2016, the City Council approved amendments to the City-Wide Fee Schedule related to several Senate Bills (SB 1473, SB 1186) and DUI Emergency Cost Recovery.

On December 6, 2016, the City Council approved amendments to the City-Wide Fee Schedule. These amendments included an attachment related to the fees charged for Fire Services, commonly known to the fee schedule as Appendix "B".

On October 3, 2017, the City Council approved amendments to the City-Wide Fee Schedule. These fees included changes to Engineering fees, water meter costs, Planning and Building and Safety fees, and new hourly rates for costs reasonably borne.

On January 16, 2018, the City Council approved an amendment to the City-Wide Fee Schedule related to plan review for on-site grading for Engineering.

On April 17, 2018, the City Council approved an amendment to the City-Wide Fee Schedule related to fees charged during real estate transactions.

On August 21, 2018, the City Council approved an amendment to the City-Wide Fee Schedule authorizing fees related to oversize vehicle parking and adopting the San Bernardino County Fire Protection District Fee Schedule in correspondence with the Fire District Annexation.

On December 18, 2018, the City Council approved an amendment to the City-Wide Fee Schedule related to fees for Sidewalk Vending permits.

On November 19, 2020, the City Council approved an amendment to the City-Wide Fee Schedule related to the cost of water supplemental fees.

On March 17, 2020, the City Council approved an amendment to the City-Wide Fee Schedule related to Stormwater fees, Planning Fees, Engineering Fees and Supplemental Water Charges.

On January 5, 2021, the City Council approved an amendment to the City-Wide Fee Schedule related to the commercial parking permit fees and business license fees for residential rental properties.

On August 17, 2021, the City Council approved an amendment to the City-Wide Fee Schedule related to the fees for the Commercial Truck Parking program and amending fees for services provided by the Development Services Department.

ISSUES/ANALYSIS

Staff reviews the City Fee Schedule on an annual basis and as needed during each Fiscal Year. As new programs are implemented, fees are revisited to ensure that cost recovery is being achieved and the fees are still appropriate for the services provided. The following fee schedule revisions are recommended:

Deemed Approved Program

The City of Hesperia adopted the deemed approved program in March 2017 to mitigate potential problems that may arise from the sale of alcohol, and to provide a mechanism to address problems that arise when alcohol is consumed in public, such as loitering, litter, graffiti, and unruly behavior.

In order to comply with the program, the business receives a yearly inspection from Code Enforcement, based on a standard checklist. Currently, the City-Wide Fee Schedule has assessed the Deemed Approved Alcohol License and Annual Inspection program at \$475.

Staff has re-evaluated the fees associated with the program by considering average inspection and application processing times across a multitude of business types that offer retail sale of alcoholic beverages for off-site consumption, such as liquor stores, grocery stores, restaurants, fast food restaurants, gas stations, convenience stores, etc.

Staff recommends a fee of \$325 for all Alcoholic Beverage Control (ABC) license types, except for types 41 and 47, which are restaurant establishments and a fee of \$175 for restaurant establishments. Alcohol sales are ancillary to restaurant food services and inspections for these establishments require considerably less time when compared to other retail alcohol establishments.

The fee re-assessment would reduce the current fee for retail alcohol establishments, excluding restaurants, by \$150 and reduce the fee by \$300 for restaurants.

Staff is recommending these reductions as during the analysis it was noted that restaurant establishments require a less extensive inspection and that the inspection process overall

requires less staff time. All other inspection types were analyzed and a reduced fee will recover the City's cost adequately and so can be reduced. Creating two fees will address the different levels of administration that different establishments require, while still recovering the City's costs.

Staff has determined that it is also necessary for the City to implement a \$60 re-inspection fee, as there is currently no fee to recover costs related to the re-inspections of Deemed Approved establishments. This fee will be applied if an establishment requires multiple inspections to come into compliance beyond the normally included inspections, which is usually two, one for the initial and one to inspect any corrective measures noted during the first inspection.

Tobacco Retailer License (TRL) Program

On May 4, 2021, City Council received a report regarding Tobacco Retailer License (TRL) programs and directed staff to draft an ordinance with a specific focus of deterring the sale of tobacco to underage youth.

The proposed program will mandate that all tobacco retailers within the City obtain a Tobacco Retailer License. The proposed ordinance will include compliance checks conducted by the City's Code Enforcement department. The San Bernardino County Sheriff's Department may also conduct sting operations to ensure compliance with state and federal tobacco laws. The proposed fee is designed to recover the cost of the annual inspection and does not include cost recovery for the Sheriff's Department.

Staff is proposing a fee of \$210 for the Tobacco Retailer License. This fee will recover the City's cost of performing a compliance inspection annually, which will include items such as signage, product placement, minimum package sizes, and any prohibitions in place, such as the prohibition related to the sale of flavored tobacco products.

Staff has determined that it is also necessary for the City to implement a \$60 re-inspection fee, as there is currently no fee to recover costs related to the re-inspections of Tobacco Retailer establishments. This fee will be applied if an establishment requires multiple inspections to come into compliance beyond the normally included inspections, which is usually two, one for the initial and one to inspect any corrective measures noted during the first inspection.

Combination License Fee for Alcohol and Tobacco Retailers

For those establishments that operate as both alcohol and tobacco retailers, staff recommends implementing a combination fee. A fee that combines both license inspections is recommended not only to introduce efficiency into the programs, but to ensure that cost recovery is appropriate. The cost of the combination fee is recommended to be \$485. This fee includes the Deemed Approved Program fee of \$325 plus an additional \$160 to recover the cost of performing the Tobacco Retailer inspection at the same time. This fee can be applied to licenses that retail both alcohol and tobacco, such as grocery stores and gas stations. The higher Deemed Approved fee is included because there are no restaurants or eating establishments that also retail tobacco.

Staff has determined that it is also necessary for the City to implement a \$75 re-inspection fee, as there is currently no fee to recover costs related to the re-inspections of Alcohol and Tobacco Retailers. This fee will be applied if an establishment requires multiple inspections to come into

compliance beyond the normally included inspections, which is usually two, one for the initial and one to inspect any corrective measures noted during the first inspection.

FISCAL IMPACT

Adoption of this resolution will allow the City to continue to collect fees that adequately recover costs based on services provided.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Joint Resolution No. 2021-51, CDC No. 2021-06, HHA No. 2021-10, and HWD No. 2021-19
2. Exhibit "A"
3. Exhibit "B"