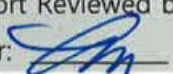


Agenda Report Reviewed by:
City Manager: 

**CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM**

Meeting Date: December 1, 2020
To: Honorable Mayor and City Councilmembers
From: Don Mort – Interim Police Chief
Subject: Tobacco Retailer License Fee
Recommendation: Staff recommends the City Council conduct Public Hearing and consider adoption of tobacco retailer license fees
Funding Currently Budgeted: _____ Yes _____ No X N/A
Net General Fund Cost: \$ n/a
Amount: \$ n/a

Account Code/Costs authorized in City Approved Budget AK (verified by Administrative Services Department)

INTRODUCTION/PURPOSE:

This item is to request the City Council City Council shall consider adoption of Resolution Approving the Comprehensive User Fee Schedule which lists certain fees and deposits collected by City departments for FY 2020-21 for the City of Sebastopol. The item tonight is to discuss potential fees for the recently approved Tobacco Retail License Ordinance. The fees are for license application submittal, review, and approval, along with education outreach and compliance checks.

BACKGROUND AND DISCUSSION:

The proposed fees will recover the City’s cost of reviewing and processing requests for tobacco retailer licenses. The proposed fees assume regulatory costs for compliance inspections and sting operations will be funded via a regional grant.

The proposed fees are intended to comply with applicable federal, state, and local laws including providing confirmation that the proposed fees (charges) are not a tax as defined in Article 13C of the California Constitution and that the proposed fees are no more than necessary to the cover the reasonable costs of the City’s activities and services addressed in the fees. Additionally, the manner in which the costs are allocated to a payor bear a fair and reasonable relationship to the payor’s burdens on, or benefits received from the activities and services provided by the City.

Staff has been working with ClearSource Financial Consulting (ClearSource) to determine the costs of:

- Tobacco retailer license application review and processing including annual regulatory enforcement
- Processing appeals for the denial of a tobacco retailer license

The proposed fees target full (100%) cost recovery for license processing and annual regulatory enforcement. The proposed fees target partial (15%) cost recovery for processing appeals for the denial of a tobacco retailer license.

The department applied for a DOJ Tobacco Grant Program that, if received, would offset the retail license fee for the next two years. The department is waiting for final approval of the grant. If received, license fee for 2021 would be \$60.00 per business. If not approved, the license fee will be \$283 per business.

FEE DESCRIPTION	SERVICE COST	PROPOSED RECOVERY FROM FEE	PROPOSED RECOVERY FROM GRANT	COST RECOVERY
Tobacco Retailer License:				
New License Fee	\$283	\$60	\$222	100%
Renewal License Fee	\$283	\$60	\$222	100%
Late Renewal Fee	\$40	\$40	\$0	100%
Appeal Fee	\$6,840	\$1,000	\$0	15%

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, public comment from interested parties following the publication and distribution of this staff report will be provided to the City Council as supplemental materials before or at the meeting. Members of the public also have the opportunity to make public comment during the public hearing portion of this item.

PUBLIC NOTICE:

Notice regarding the proposed fee changes was provided in accordance with Government Code Sections 66016 and 6062a.

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to scheduled meeting date.

FISCAL IMPACT:

The anticipated revenue impact of the proposed changes as currently drafted is \$4,517. This assumes \$960 in annual license fees and \$3,557 in grant funding.

It is important to note that while adopting these fees will provide a fiscal impact in the form of additional revenue, the revenue is not intended to be used to fund new services, rather the revenue is intended to offset the costs of providing existing services that are recoverable from fees. Adoption of these fees

simply provides an offset of existing expenditures/needs rather than a source of funding for expanded service levels.

RECOMMENDATION:

Staff recommends the City Council hold a Public Hearing and adopt the proposed Resolution, with updated fees to be effective January 4, 2021.

Attachment(s):

1. Resolution
2. Cost of Service Analysis

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL ADOPTING A SCHEDULE OF FEES FOR SERVICES RELATING TO TOBACCO RETAILER LICENSING

WHEREAS, user and regulatory fees are established by the City Council; and

WHEREAS, the City recently completed a study to identify the cost of providing services relating to the issuance of tobacco retailer licenses; and

WHEREAS, the study examined the costs reasonably borne by the City in providing these services, the beneficiaries of these services, and the revenues produced by those paying fees and charges for special services; and

WHEREAS, the City Council finds that providing these services is of special benefit to applicants both separate and apart from the general benefit to the public; and therefore, in the interests of fairness to the general public, the City desires to better recover the costs of providing these services from applicants who have sought or require the City's services by revising its schedule of fees; and

WHEREAS, the City Council hereby finds that the study provides adequate evidence to conclude that the revised fees do not exceed the cost to provide the services for which the fees are charged; and

WHEREAS, the City Council desires that annually, commencing July 1, 2021 the City Manager may update the fees based on the annual percentage change in the all-urban Consumer Price Index for Consumer Price Index All Urban Consumers, San Francisco-Oakland-Hayward, CA (CPI). If the CPI does not change or goes down in a given year, no change shall be made to the fee schedule that year; and

WHEREAS, this action is found to be in compliance with the requirements of California Government Code § 66016 and 66018; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sebastopol that:

1. Each WHEREAS paragraph, set forth above, is hereby adopted as a specific finding of this City Council.
2. The City Council hereby adopts the fees as set forth in attached Exhibit "A" and incorporated by this reference.

- 3. Fees adopted as part of this Resolution should be incorporated into the City's existing master schedule of fees adopted on September 15, 2020, via Resolution No. 6313-2020. Incorporating these fees into the fee schedule will allow for the fees to be considered with future comprehensive user and regulatory fee updates. Resolution No. 6313-2020 entitled " A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL UPDATING AND ESTABLISHING USER AND REGULATORY FEES," adopted September 15, 2020, is amended as expressly provided by this resolution, but shall otherwise remain in effect.
- 4. Fees adopted by this Resolution shall be effective January 4, 2021.

IN COUNCIL DULY PASSED this 1st day of December 2020.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

- VOTE:
- Ayes:
- Noes:
- Abstain:
- Absent:

APPROVED: _____
Mayor

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Larry McLaughlin, City Attorney

City of Sebastopol
 Cost of Service Study for Analyzing User and Regulatory Fees
 Calculation of the Estimated Cost of Service
 Tobacco Retailer License

EXHIBIT A

Service Description		Est. Labor Time		Hourly Rate	=	Cost of Service	Note
1	Tobacco Retailer License:						
	a) New License Application Processing	0.50	x	\$121	=	\$61	[a]
	b) Renewal License Application Processing	0.50	x	\$121	=	\$61	[a]

Service Description		Est. Labor Costs		Estimated Facility Count	=	Cost of Service	Note
2	Tobacco Retailer License Annual Regulatory Enforcement	\$3,557	/	16	=	\$222	[b],[c]
	Less: Amount Assumed to Be Funded Via Grant	\$3,557	/	16	=	\$222	[b],[c]
	Cost of Service Recoverable from Fees	\$0	/	16	=	\$0	[b],[c]

Service Description		Est. Labor Time		Hourly Rate	=	Cost of Service	Note
3	Tobacco Retailer License:						
	Late Renewal Fee (in addition to applicable license fee)	0.33	x	\$121	=	\$40	[a]

Service Description		Est. Labor Time		Hourly Rate	=	Cost of Service	Note
4	Tobacco Retailer License Appeal	24.00	x	\$285	=	\$6,840	[d]

[a] Hourly rates based on amounts used for FY 19/20 adopted fee schedule. Source: comprehensive study completed in August 2020.

[b] Estimated labor costs based on information provided in grant application.

[c] If City does not receive grant funding, total cost of service per facility is eligible for cost recovery.

[d] Hourly rate assumed for specialized attorney services.