

RESOLUTION NO. RES-2024-176

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING THE PREVIOUSLY ADOPTED CITY OF SANTA ROSA FEE SCHEDULE TO ADD SECTION 7.07 ANNUAL TOBACCO RETAIL LICENSE FEE

WHEREAS, California Constitution, Article XI, Section 7 gives cities police power to engage in regulatory activities for which they may charge a fee for reimbursement of costs; and

WHEREAS, Government Code Section 54988 provides general authority for charging fees for specific services; and

WHEREAS, various other sections of the California Constitution and Government Code provide authority for the collection of specific fees and charges by cities; and

WHEREAS, the City Council of the City of Santa Rosa (City) has previously established fees and charges for City services with the intent of recovering up to the City's estimated actual and reasonable costs to provide such services, known as the City of Santa Rosa Fee Schedule ("Fee Schedule"); and

WHEREAS, on August 6, 2024, the City Council adopted a tobacco retail license ordinance (TRL Ordinance) that requires tobacco retailers in the City to obtain an annual tobacco retail license by January 1, 2025; and

WHEREAS, pursuant to the TRL Ordinance, tobacco retail licenses issued on or before January 1, 2025 shall be valid for an initial term of eighteen (18) months, or until July 1, 2026; and

WHEREAS, pursuant to the TRL Ordinance, beginning July 1, 2026, and continuing each year thereafter, tobacco retailers must obtain annual renewal licenses to continue operations; and

WHEREAS, during the Council's consideration of the TRL Ordinance, staff informed Council that staff would be returning to City Council recommending that City Council approve a fee for tobacco retailers to pay to obtain the annual tobacco retail license; and

WHEREAS, in accordance with Government Code Section 50076, the fee to obtain an annual tobacco retail license, as evidenced by Exhibit A, attached hereto and made part of this Resolution, does not exceed the estimated reasonable cost of providing the service or regulatory act for which the fee is charged and is therefore not a "special tax"; and

WHEREAS, the fee to obtain an annual tobacco retail license is reasonable, fair, and equitable in nature and proportionately representative of the costs incurred by the City and the County of Sonoma; and

WHEREAS, the fee to obtain an annual tobacco retail license is not levied for general revenue purposes and is not a special tax as defined in Article 3. 5 of the Government Code; and

WHEREAS, the fees and charges set forth in the schedule of fees and charges adopted by this Resolution are not taxes as defined in Article XIII A, §3 (b) (Proposition 26), of the California Constitution because such fees and charges are either:

- 1) imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs of conferring the benefit or granting the privilege to the payor; or
- 2) imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs of providing the service or product to the payor; or
- 3) imposed for the reasonable regulatory costs incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof; or
- 4) imposed for entrance to or use of city property, or the purchase, rental, or lease of city property, except charges governed by Section 15 of Article XI; and

WHEREAS, the City has complied with the noticing requirements of Government Code Sections 66016 and 66018; and

WHEREAS, the City Council previously analyzed the TRL Ordinance at duly noticed public hearings on May 21, 2024, and July 23, 2024, at which time the Council heard public input and review of both the TRL Ordinance and the proposed annual tobacco retail license fee; and

WHEREAS, at its regularly scheduled meeting on July 23, 2024, the Council found that adoption and implementation of the TRL Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines sections 15378(b), 15061(b)(3), 15307, and 15308 and, thereafter, adopted the TRL Ordinance; and

WHEREAS, the specific action of adopting a resolution setting a fee to obtain a tobacco retail license does not constitute a project pursuant to CEQA Guidelines section 15378(b)(4) and (b)(5) as this action is a government fiscal activity and organizational activity that will not result in direct or indirect physical changes in the environment; and

WHEREAS, it is the intention of the City Council to adopt a schedule of fees and charges, which shall update certain existing fees and charges, and/or establish certain new fees and charges based on the City’s budgeted and projected costs of services; and

WHEREAS, on November 12, 2024, the City Council of the City of Santa Rosa held a duly noticed Public Hearing to allow public input and review of the proposed addition of an annual tobacco retail license fee to the Fee Schedule of the City of Santa Rosa; and

WHEREAS, a new “Tobacco Retail License Fee” category shall be added to the City’s Fee Schedule under “Other Fees” as Section 7.07; and

WHEREAS, the City Council has determined that the annual tobacco retail license fee as

set forth in Exhibit “A” of this Resolution is necessary to recover up to the full, lawfully recoverable costs incurred by the City for enforcing the TRL Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Santa Rosa hereby:

- 1) Declares the above recitals are true and correct and are incorporated into this resolution as findings of the City Council.
- 2) Finds that the proposed action is not a project pursuant to CEQA Guidelines Section 15378(b)(4) and (b)(5) in that the action is a government fiscal activity and organizational activity that will not result in direct or indirect physical changes in the environment.
- 3) Finds that the revenues raised by payment of the fee established by this Resolution and set forth in Exhibit “A” to this Resolution shall be used to fund the estimated reasonable cost of providing the services for which the fee is charged, and the revenues from such fee shall not be used for general revenue purposes.
- 4) Finds and determines that the fees and charges set forth in Exhibit “A” attached hereto do not exceed the reasonable costs of providing the services for which the fee is charged.

BE IT FURTHER RESOLVED that, after consideration of the data and information regarding the costs of providing services relating to all fees and charges subject to this Resolution, all testimony received orally or in writing at or before the noticed public hearing, the agenda report and the background documents to the agenda report, the City Council hereby approves and adopts the new retail license fee set forth in Exhibit “A” of this Resolution.

BE IT FURTHER RESOLVED that the fees set forth in Exhibit “A” shall become effective January 1, 2025.

IN COUNCIL DULY PASSED this 12th day of November 2024.

AYES: (5) Mayor N. Rogers, Vice Mayor Stapp, Council Members Fleming, MacDonald, C. Rogers

NOES: (0)

ABSENT: (1) Council Member Okrepkie

ABSTAIN/RECUSE: (1) Council Member Alvarez

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney

Exhibit A - City of Santa Rosa Tobacco Retail License Fee

EXHIBIT A

7.07 - TOBACCO RETAIL LICENSE FEE

City of Santa Rosa Tobacco Retail License Fee Calculation

City of Santa Rosa: Tobacco Retail License Fee, 6 months Jan-June 2025 1 visit		
Budget		
DHS Personnel (S&B)	FTE/description	Amount (\$)
Community Health Worker	0.1	\$ 11,378.55
Sr. Health Information Specialist	0.12	\$ 22,582.44
Sr. Office Asst.	0.01	\$ 1,269.93
Operations	(mileage/fleet rental, office supplies, postage, software, field equipment, rent, computer ISD)	\$ 2,378.21
Indirect	20% of budget	\$ 7,521.83
	Total Budget	\$ 45,130.96
<i>Based on 118 retailers</i>	<i>Per Retailer License Cost</i>	<i>\$ 382</i>

City of Santa Rosa: Tobacco Retail License Fee, 1 year July-June 2025/26, 1 visit		
Budget		
DHS Personnel (S&B)	FTE/description	Amount (\$)
Community Health Worker	0.15	\$ 17,067.83
Sr. Health Information Specialist	0.2	\$ 37,637.40
Sr. Office Asst.	0.03	\$ 3,809.79
Operations	(mileage/fleet rental, office supplies, postage, software, field equipment, rent, computer ISD)	\$ 3,492.26
Indirect	20% of budget	\$ 12,401.46
	Total Budget	\$ 74,408.73
<i>Based on 118 retailers</i>	<i>Per Retailer License Cost</i>	<i>\$ 631</i>