

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 5041
ESTABLISHING THE CANNABIS BUSINESS LICENSING FEE**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1: Added Findings.

Section 1 “Findings” of Ordinance No. 5041, An Ordinance Establishing the Cannabis Business Licensing Fee, is hereby amended to add the following additional findings:

WHEREAS, on May 15, 2018, the Board of Supervisors adopted Ordinance No. 5041, An Ordinance Establishing the Cannabis Business Licensing Fee, which was amended once on August 27, 2019 by Ordinance No. 5089, and is hereby being amended for the second time; and

WHEREAS, to determine the reasonable cost of providing the services and regulatory activities for the County’s Criteria-Based Cannabis Retail Storefront Application and Selection process the County updated the initial fee analysis attached to the August 20, 2019 Board Agenda Letter. The updated fee analysis is attached to the December 17, 2019 Board Agenda Letter and includes the internal and external costs to be incurred as part of the Criteria-Based Cannabis Retail Storefront evaluation and selection process as described in the updated Attachment A to this Ordinance; and

WHEREAS, the updated fee analysis determined that the updated costs of the Cannabis Business Licensing Program includes: \$4,100 for a Criteria-Based Cannabis Retail Storefront Application based on the costs and rates for application review, evaluation, scoring and ranking activities as identified in Attachment A and as required by the updated Cannabis Business Licensing Ordinance, County Code Chapter 50; and

WHEREAS, the proposed fees are directly related to the cost reasonably necessary to provide each service in the County’s Cannabis Business Licensing Program, but do not include any statutorily required fee or other departmental fees such as Live Scan or fingerprinting fees; and

WHEREAS, pursuant to California Government Code Section 50076 and California Constitution Article XIII C, Section 1, subdivision (e)(1), (2) and (3), a fee for licensing services may be charged by the local government provided that it does not exceed the reasonable cost of providing the service or regulatory activity for which the fee is charged; and

WHEREAS, pursuant to Business and Professions Code Section 16100 and Revenue and Taxation Code Section 7284, the County may license businesses within the County and may charge a fee for said licensing services, including the license selection process, after holding at least one open and public meeting at which testimony may be provided; and

WHEREAS, on December 17, 2019, the County held a public hearing on the proposed Cannabis Business Licensing Program fees update as part of a regularly scheduled meeting of the Board; and

WHEREAS, the Board finds that the fees set forth in this Ordinance are exempt from CEQA review pursuant to 14 CCR §§ 15273 and 15378(b)(5) and Public Resources Code Section 21080 (b)(8)(A) and (B), in that the fees will be used for operating expenses, reimbursement for staff and consultants time and costs, and for the purchase of supplies, equipment and materials; and

WHEREAS, the Board hereby updates and sets the fees for the Cannabis Business Licensing Program as determined to be reasonable by said fee analysis.

SECTION 2: Updated Fees.

Subsection A.1. of Section 3, "Fees" of Ordinance No. 5041, An Ordinance Establishing the Cannabis Business Licensing Fee, is hereby amended and shall read as follows:

A. The Board hereby adopts the following fees for the Cannabis Business Licensing Program:

1. **Fees.** A cannabis business license applicant or licensee shall pay all costs for the processing, issuing and continued compliance review of a cannabis business license in accordance with the County's Cannabis Business Licensing Program. Fees charged shall be the hourly rate for staff, as set forth in Attachment B, based on time spent conducting the review and compliance activities identified in Attachment A and as required by the County's Cannabis Business Licensing Ordinance, in addition to any external costs charged by any consultants as set forth in the fee analysis.

The fees set forth in Attachment B shall be reviewed annually by the County Executive Office and may be adjusted pursuant to changes in the Consumer Price Index based on all urban consumers, Los Angeles-Riverside-Orange County area. Adjustments shall be rounded to the nearest dollar and become effective no earlier than June 1st each year and appropriate notice shall be provided to the public 30 days prior to the effective date of the adjustment.

The fee for the Pre-Qualification Retail Cannabis Application is \$100. The fee for the Criteria-Based Cannabis Retail Storefront Application is \$4,100. Once a Criteria-Based Cannabis Retail Storefront Application is accepted, this fee is deemed non-refundable. Any non-accepted Criteria-Based Cannabis Retail

Storefront Applications, that will not be continued to be processed by the County, may be eligible for a refund of any unused fee component as solely determined by the County.

SECTION 3: Updated Attachment.

Attachment A to Ordinance No. 5041, An Ordinance Establishing the Cannabis Business Licensing Fee, is hereby amended as attached to this Ordinance.

SECTION 4. Remainder of Ordinance No. 5041 Unchanged.

Except as amended by this Ordinance and Ordinance No. 5089, Ordinance No. 5041, An Ordinance Establishing the Cannabis Business Licensing Fee, shall remain unchanged and shall continue in full force and effect.

SECTION 4: Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5: Effective and Operative Date.

This Ordinance shall take effect and be in force 30 days from the date of its adoption by the Board of Supervisors and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara.

SECTION 6: Cannabis Disclaimer and Warning.

Cannabis activities are highly regulated by both the state and federal governments, and their regulation of cannabis activities is subject to rapid changes. Even if the Board of Supervisors adopts this Ordinance, the Board of Supervisors retains all of its statutory authority concerning cannabis activities. For example, the Board of Supervisors still may take action(s) later to change the zoning and/or licensing of cannabis activities to being prohibited. In part because cannabis activities are highly regulated by both the state and federal governments and their regulation of cannabis activities is subject to rapid changes, the Board of Supervisors later may need to change the zoning and/or licensing of cannabis activities to being prohibited and may need to do so without cannabis activities receiving: 1) an amortization period; and/or 2) legal nonconforming use status.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ___ day of _____ 2019 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF SANTA BARBARA

By: _____
STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS

ATTEST: MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO FORM:
BETSY SCHAFFER, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

ATTACHMENT A: ACTIVITIES ASSOCIATED WITH FEES AND STAFF RATES

The fees set forth in this Ordinance shall be applicable to the corresponding services provided by Santa Barbara County and its consultants/appointees, which include, but are not limited to:

Pre-Application and Application Review Process

- Check Application for completeness and acknowledgements
- Review Information on business operation plan; Review Change in Premises
- Review Land Use Entitlement
- Review State licenses of existing operations; Verifying State licenses of new operations; Align premise and ownership changes with State.
- Review Cultivation Plan, pesticide storage & use and cultivation waste program
- Review Quality Control Plan
- Review Energy Conservation Plan
- Review Site Security Plan & Criminal Background Checks; Review Change of Ownership
- Review Inventory Control Plan
- Conduct site visit
- Review recommendation from departmental reviews; Determine license issuance; Appeals

License Issuance and Compliance Management Processes

- License Issuance and tax compliance check
- Respond to complaints, including site visits
- Review compliance Operating Requirements, including site visits
- Review compliance & implementation of Cultivation, Quality Control, Energy Conservation, Security & Inventory Control plans, including site visits
- Compliance Investigation; Compliance Improvement planning; Suspension or Revocation processes, including site visits

Annual License Renewal and Compliance Management Processes

- Check Renewal application for completeness
- Review Information on business operation plan
- Review Land Use Entitlement
- Review State licenses of existing operations; Verifying State licenses of new operations, if needed; Align premise and ownership changes with State
- Renewed License Issuance and tax compliance check
- Respond to complaints, including site visits
- Review compliance Operating Requirements, including site visits
- Review compliance & implementation of Cultivation, Quality Control, Energy Conservation, Security & Inventory Control plans, including site visits
- Compliance inspection; Compliance Improvement planning; Suspension or Revocation processes, including site visits

Pre-Qualification Retail Cannabis Application

- ~~Check Application for completeness and acknowledgements~~
- ~~Review information on location, zone districts, setbacks, etc.~~
- ~~Create Eligibility List and send required notices~~
- ~~Conduct Random Selection Process~~

Criteria-Based Cannabis Storefront Retail Application

- Check Application for completeness and acknowledgements
- Review Information in Business Operation Plan and Neighborhood Compatibility Plan; Review Premises
- Review State licenses of existing operations, if applicable;
- Review Quality Control Plan
- Review Site Security Plan & Criminal Background Checks;
- Review Inventory Control Plan
- Evaluation and scoring of Business Operations Plan by staff and/or 3rd party evaluator/consultant; Evaluation and ranking of Neighborhood Compatibility Plan by staff and/or 3rd party evaluator/consultant
- Administrative review including: Create Accepted Applications and Ranked Storefront Retail Lists and send required notices and maintain Lists as required; Review scoring and ranking; Send required notices and issue required website postings; Process protests/appeals