

ORDINANCE NO. 5089

**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 here by amended to add the following additional findings:

WHEREAS, the County conducted a fee analysis of the time allocation of County staff and the full recoverable cost of those employees, which is attached to the May 8, 2018 Board Agenda Letter and which has been expanded to include additional activities associated with fees and staff rates, to determine the reasonable cost of providing the services and regulatory activities for the County's Cannabis Business Licensing Program, an updated summary of which is included as Attachment A to this Ordinance; and

WHEREAS, the fee analysis determined that the updated estimated cost of the Cannabis Business Licensing Program would include: the cost of processing a Pre-Qualification Retail Cannabis Application, and include an additional hourly rate for review of business license applications, site visits, and ongoing license compliance by the Community Services Department; 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 after holding at least one open and public meeting at which testimony may be provided; and

WHEREAS, on August 20, 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, subdivision (b)(8)(A) and (B), in that the fees will be used for operating expenses, reimbursement for staff time and costs, and for the purchase of supplies, equipment and materials; and

WHEREAS, the Board finds, in accordance with 14 CCR § 15273(a) and (c), that the fees will be used for the purposes of meeting operating expenses 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.

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.

SECTION 3: Updated Attachments.

Attachments A and B to Ordinance No. 5041, An Ordinance Establishing the Cannabis Business Licensing Fee, are hereby amended as attached to this Ordinance.

SECTION 4. Remainder of Ordinance No. 5041 Unchanged.

Except as amended by this Ordinance, 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 27 day of August 2019 by the following vote:

AYES: Supervisor Williams, Hart, Hartmann and Lavagnino
NOES: Supervisor Adam
ABSTAIN: NONE
ABSENT: NONE

COUNTY OF SANTA BARBARA

By: 
STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS

ATTEST: MONA MIYASATO,
COUNTY EXECUTIVE OFFICER

CLERK OF THE BOARD

Shirley de la Guerra
By: Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: *Andrew A. Harty*
Deputy County Counsel

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

By: *Kyle Schaffter*
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, 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

ATTACHMENT B: STAFF HOURLY RATES

CEO	Enterprise Leader	\$	134.00
Sheriff	Sheriff Deputy- Special Duty	\$	112.00
Sheriff	AOP II	\$	56.00
Public Health	Environmental Health Specialist	\$	70.00
Ag/ Weights and Measures	Ag Bio/Weights & Measures Supervisor	\$	90.00
Ag/ Weights and Measures	Ag Bio/Weights & Measures Inspector	\$	72.00
Community Services	Department Business Specialist II	\$	85.00
Treasurer-Tax Collector	FOP Senior	\$	78.00