

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50, LICENSING OF COMMERCIAL CANNABIS OPERATIONS, OF THE SANTA BARBARA COUNTY CODE

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1. Chapter 50 of the Santa Barbara County Code titled “Licensing of Cannabis Operations,” Section 50-2 Definitions, Subsection h “Hearing Officer,” is hereby amended, and Subsection i “Inland boundaries” is hereby added and all other definitions are hereby re-lettered and shall read as follows:

- h) "Hearing Officer" means a County department executive or manager, **or their designee, or an experienced public agency employee, licensed professional (attorney, engineer, accountant, health professional, etc.), or qualified administrative law judge**, not involved in cannabis licensing or permitting that presides and rules on decisions made by any County officer charged with the administration of the provisions of this Chapter, including providing an approval or disapproval to the Treasurer-Tax Collector, to issue a license, license renewal or notice of denial of a license to any applicant.
- i) **“Inland boundaries” means any portion of the unincorporated area of Santa Barbara County located outside of the Carpinteria Agricultural Overlay District Boundaries, as described in Section 35-102F.2, Applicability and District Boundaries, of the Article II Coastal Zoning Ordinance and shown on the Carpinteria Valley Coastal Plan Zoning Overlay Map.**

...

SECTION 2. Chapter 50 of the Santa Barbara County Code titled “Licensing of Cannabis Operations,” Section 50-6 Other License and Permits, is hereby amended and shall read as follows:

Section 50-6. Other Licenses and Permits.

- a) An applicant must receive all necessary land use entitlements/permits, **which are final, un-appealable, approved and issued**, as required by Chapter 35, Zoning, of the Santa Barbara County Code before the County will issue a cannabis business license under this Chapter. **However, to apply for a cannabis business license, an applicant may submit a land use entitlement/permit application that has**

been accepted by the Planning and Development Department in accordance with Section 50-8.

- b) The terms and conditions of any other State or County permits or licenses, shall not modify the requirements of a license granted under this Chapter, except that the cannabis business license must be consistent with the land use entitlement/permit issued by the County pursuant to Chapter 35, Zoning, of the Santa Barbara County Code, including, but not limited to, the County Land Use and Development Code, the Montecito Land Use and Development Code and Article II, the Coastal Zoning Ordinance.

SECTION 3. Chapter 50 of the Santa Barbara County Code titled “Licensing of Cannabis Operations,” Section 50-8. Application Content for an Annual Cannabis Business License, Subsection b.2.vii “Land Use Entitlement/Permit and Subsection b.8.iv and v. “Applicant Acknowledgement,” are hereby amended and shall read as follows:

- b) The application shall contain, without limitation, the following documentation:
...

2. Information on the operation: ...

vii. Land Use Entitlement/Permit. A copy of the **approved and/or issued** land use entitlement **or land use entitlement application accepted by Planning & Development for the proposed commercial cannabis operation. If the applicant does not have a final, un-appealable, approved and issued land use entitlement at the time of applying for a cannabis business license, the applicant may select concurrent processing. The applicant shall notify the CEO if their land use entitlement application is approved, denied or appealed and whether the applicant would like concurrent processing of the business license application during the appeal. The applicant is responsible for all license processing fees, including if the applicant fails to notify to the CEO as required by this Section or provides late notification.** If the following is not included in the land use entitlement it shall also be submitted as part of the application:

- A. Cultivation Plan. A Cultivation Plan including total canopy size and production setting.

...

8. Applicant acknowledgement: . . .

- iv. **If the Applicant holds a State Provisional Cannabis Cultivation license(s) and is growing cannabis then a statement by the Applicant that the Applicant will demonstrate the operation of their odor control system(s) after obtaining a final issued land use entitlement and during the business license application review process as required in County Code § 50-25 (a)(3). Failure to adequately demonstrate that the odor control system(s) is operating in compliance with County Code § 50-25 (a)(3) is grounds for denial of a business license in accordance with Section 50-17.**
- v. ~~iv.~~ Certification, under penalty of perjury, that all the information contained in the application is true and correct. . . .

SECTION 4. Chapter 50 of the Santa Barbara County Code titled “Licensing of Cannabis Operations,” Section 50-7 Limits on Cannabis Business Licenses, is hereby amended and shall read as follows:

Section 50-7. Limits on Cannabis Business Licenses.

- a) Limits on Cannabis Cultivation, Nursery and Microbusiness Licenses. To avoid visual impacts and nuisances associated with significant concentrations of cannabis cultivation:
 - 1. No outdoor cultivation, nurseries or microbusinesses with outdoor cultivation will be licensed in the Coastal Zone. In addition, no outdoor cultivation, nurseries or microbusinesses with outdoor cultivation will be licensed within two (2) miles of the Urban Rural Boundary or city boundary.
 - i. ~~This limitation shall not apply to legal nonconforming cannabis cultivation sites operating in compliance with County Code § 35-1003, until said sites are terminated as legal nonconforming uses.~~
 - 2. No more than 186 acres of cannabis cultivation, nurseries and microbusinesses with cultivation shall be licensed at any one time within the boundaries of *Area A* and *Area B* of the Carpinteria Agricultural Overlay District as defined in County Ordinance 4529.

i. Applications for cannabis cultivation, nursery and microbusinesses business licenses will be processed and licenses will be issued up to the acre limit established in Subsection 2 above, as follows: ~~based on the order of submission of complete applications, as determined by the County Executive Office.~~

A. Any person interested in obtaining a cannabis business license described in this section must first obtain approval for a land use entitlement except as noted below. Cannabis operators who have obtained a land use entitlement and business license or have obtained a land use entitlement and submitted a business license application for their cannabis activity within the overlay area will automatically be added to top of the eligibility list. Any person who submits a cannabis business license application before receiving an approved land use entitlement is responsible to notify the CEO, in writing, when the land use entitlement has been acted on. This includes approval, denial or appeal.

B. Persons with an approved land use entitlement and complete business license application that has been accepted by the County Executive Office will be placed on an “Eligible Business License Applicants List: Carpinteria Ag Overlay” in order based on receipt of the complete and accepted business license application with all required fees, or if the cannabis business license application is submitted before land use entitlement approval based upon notification to the CEO that the land use entitlement has been approved. Business licenses will only be issued for the specific acreage listed on the business license application (as long as this acreage is consistent with or less than the acreage in the approved land use entitlement) or a lesser acreage amount as requested by the Applicant, permitted by the Planning and Development Department or necessary to comply with the maximum allowed acreage in the overlay area as established in this Section.

C. In the overlay area, business licenses will only be issued to persons on the Eligible Business License Applicants

List: Carpinteria Ag Overlay after obtaining a final issued land use entitlement and completing all the requirements of this Chapter.

D. Persons listed on the Eligible Business License Applicants List: Carpinteria Ag Overlay are nontransferable.

- ii. A licensed cultivator will be allowed to continue to operate as long as the licensed cultivator timely files for renewal of the cannabis business license and complies with this Chapter.
 - iii. Once, and whenever, the 186 acre limit is reached no additional licenses will be issued unless and until an issued license is revoked or not renewed, or otherwise becomes available. Whenever additional acreage ~~5 or more acres~~ becomes available for cannabis cultivation, nursery and microbusinesses licenses **the next person on the Eligible Business License Applicants List: Carpinteria Ag Overlay will be notified in writing by the County and given the opportunity to complete the permitting and licensure process. will be subject to the Selection Process pursuant to Subsection e) below. After County notification, failure of the Applicant to respond and notify the County of its intent to complete the permit and licensing process and provide proof that processing is in progress within 90 days will result in forfeiture of the Applicant's place on the List and contacting the next eligible person.**
 - iv. **Persons on the Eligible Business License Applicants List: Carpinteria Ag Overlay shall annually renew their interest in remaining on the List by submitting a written request to the County Executive Office on the anniversary of being placed on the List or on another date established by the CEO.**
 - v. ~~This limitation shall not apply to legal nonconforming cannabis cultivation sites operating in compliance with County Code § 35-1003, until said sites are terminated as legal nonconforming uses.~~
3. **No more than 1,575 acres of cannabis cultivation, nurseries and microbusinesses with cultivation shall be licensed at any one time within the inland boundaries (as defined at Section 50-2, Subsection i) of the County of Santa Barbara. This 1,575 acres shall be in addition to the 186 acres of cultivation, nurseries and microbusiness**

with cultivation allowed in the Carpinteria Agricultural Overlay District under Subsection a.2 above.

- i. Applications for cannabis cultivation, nursery and microbusinesses business licenses will be processed and licenses will be issued up to the acreage limit established in Subsection 3 using the same process outlined in Subsection 2.i.A-D above, however the List shall be entitled “Eligible Business Applicants List: Inland”.**
 - ii. Once, and whenever, the 1,575 acre limit is reached no additional licenses will be issued unless and until an issued license is revoked or not renewed, or otherwise becomes available. Whenever additional acreage becomes available for cannabis cultivation, nursery and microbusinesses, licenses the next person on the Eligible Business License Applicants List: Inland will be notified in writing by the County and given the opportunity to complete the permitting and licensure process. After County notification, the Applicant must respond and notify the County of its intent to complete the permitting and licensing process and provide proof that processing is in progress within 90 days, or the Applicant will have forfeited their place on the List and the County will contact the next eligible person.**
 - iii. Persons on the Eligible Business License Applicants List: Inland shall renew their interest in remaining on the List annually by submitting a written request to the County Executive Office on the anniversary of being placed on the List or on another date established by the CEO.**
- b) Limits on Cannabis Retail Licenses. No more than eight storefront retail cannabis operations may be licensed by the County with a cannabis business license at any time.
1. To avoid excessive concentration of storefront retail operations within the County, a maximum of one storefront retail operation may be allowed in each of six community plan areas: 1) Orcutt, 2) Los Alamos, 3) Santa Ynez, 4) Eastern Goleta Valley, 5) Isla Vista/Goleta, and a combined 6) Summerland & Toro Canyon, plus up to two countywide for all sites in areas not covered by the six community plan areas listed above, as defined on the effective date of the Ordinance adding this Section.

2. This limitation also applies to microbusinesses seeking to operate a storefront retail as part of the microbusiness.
- c) Selection Process. The limited retail ~~and cultivation~~ licenses as outlined in Subsections a) and b) above will be issued to those pre-qualified applicants who comply with the requirements of the County Code and are randomly selected through a process administered by the County Executive Office as follows:
1. Notice of Pre-Qualification and Random Drawing. The County Executive Office will publish notice of the timeframe that pre-qualification applications will be accepted, the posting of the Pre-Qualified Retail Applicants List ~~or Pre-Qualified Cultivation Applicants List~~, and when and where the random drawing of these pre-qualified applicants will occur in a newspaper of general circulation and will post the timeframe on the County's website.
 - ~~2. Separate Selection Process. There will be separate Pre-Qualification, Random Drawing, and License Eligibility Lists for retail and for cultivation licenses.~~
2. Pre-Qualification.
- i. Any person interested in obtaining a cannabis business license described in this Ssection must first submit an application for pre-qualification to the County Executive Office to be part of a random drawing.
 - ii. The application shall include:
 - A. The location for the proposed operation, including physical address and assessor's parcel number;
 - B. Proof of ownership of the site of the proposed operation or written authorization from the owner to operate a cannabis operation **at the site in any form required by the CEO and notarized**;
 - C. An attestation of ability to participate in and meet the requirements of the cannabis business license application process in accordance with Section 50-8, *et seq.*;
 - D. An attestation of ability to conform to and maintain all permitting and licensing requirements;
 - E. A non-refundable application fee; **and**
 - F. For cultivators, the amount of acres to be cultivated; **and**

G. Any other information determined by the CEO to be necessary for the purpose of pre-qualification.

- iii. The County will only accept one application per person per proposed operation location. **If more than one application for a location is received all applications will be returned to the property owner to indicate which application is the one authorized to operate at the proposed location. If the property owner fails to timely respond to the County, no applications will be accepted for the location. Applications are nontransferable.**
 - iv. The County Executive Office will review all timely submitted applications. The County Executive Office will forward the applications to the Planning and Development Department to determine whether each applicant's cannabis operation site preliminarily meets zoning and permitting standards (i.e. that the location for the proposed operation is allowable in the zone, that the location meets all setback requirements, etc.).
 - v. Applicants that submit a complete application with the required fee and that preliminarily meet the zoning and permitting standards will be placed on a "Pre-Qualified Retail Applicants List" for each community plan area and a list for all non-community plan areas ~~or will be placed on a "Pre-Qualified Cultivation Applicants List"~~ and will be referred to as pre-qualified applicants. **Pre-qualified applicants are nontransferable.**
 - vi. The County Executive Office will post the Pre-Qualification Retail Applicants List for each community plan area and a list for all non-community plan areas ~~or a Pre-Qualified Cultivation Applicants List~~ on the County's website and a copy of the list will be available in the County Executive Office. Any applicant not on a List will have three (3) business days after the posting of a List on the County's website to file an appeal with the County Executive Office. Appeals will be considered by the County Executive Office and all decisions of the County Executive Office are final.
- d) **Cannabis Retail ~~or Cultivation~~ License Eligibility Lists.**
1. Once the Pre-Qualification Retail Applicants List for each community plan area and a list for all non-community plan areas ~~or the Pre-~~

~~Qualified Cultivation Applicants List~~ is complete, the County Executive Office will schedule a random drawing of the pre-qualified applicants to occur in an open and public location. The pre-qualified applicants will be selected at random to form the Cannabis Retail License Eligibility Lists for each community plan area and a list for all non-community plan areas ~~or the Cannabis Cultivation License Eligibility Lists~~.

2. The Cannabis Retail License Eligibility Lists ~~or the Cannabis Cultivation License Eligibility Lists~~ will be valid for three years or until all names are exhausted from the List. Upon exhaustion of the List or at the end of three years, the process listed above may begins anew if the maximum number of cannabis storefront retail business licenses have not been issued.
3. Pre-Qualified applicants on the Cannabis Retail License Eligibility Lists ~~or the Cannabis Cultivation License Eligibility Lists~~ will need to renew their interest in remaining on the Lists annually, by submitting a written request to the County Executive Office on the anniversary of creation of the Lists or on another date established by the CEO.

e) Permitting and Licensing of Retail Cannabis Operations.

1. The first 8 selected pre-qualified applicants, subject to the limitations in Subsection b) above of no more than one per community plan area and two in non-community plan areas, will then be able to start the process to obtain a land use entitlement/permit and ultimately a cannabis business license.
2. The selected pre-qualified applicants will have 90 days to submit an application to the Planning and Development Department. If the Planning and Development Department deems the application incomplete, the Department will establish a deadline by which they pre-qualified applicant needs to complete the application or lose their pre-qualification status and ability to proceed with permitting and licensing of the proposed cannabis storefront retail operation. Failure to timely file an application will result in the selected pre-qualified applicant being removed from the Qualified Cannabis Retail License Eligibility List and losing their status and the next pre-qualified applicant on the Qualified Cannabis Retail License Eligibility List who meets the limitations of Subsection b) above to submit an application for a permit.

3. ~~Once a~~ A selected pre-qualified applicant ~~has obtained a land use entitlement, they~~ must then also apply for a cannabis business license. Withdraw, suspension, or abandonment of the cannabis business license application in accordance with Sections 50-8.d or 50-9.b will result in the selected pre-qualified applicant being removed from the **Qualified Cannabis Retail License Eligibility** List and losing their status.
4. Once a selected pre-qualified applicant has obtained a land use entitlement, a cannabis business license and applicable State cannabis retail license(s) that individual will be referred to as a licensed retailer and will be allowed to continue to operate as long as the licensed retailer timely files for renewal of the cannabis business license and complies with this Chapter. If the cannabis business license is revoked or not timely renewed the licensed retailer will lose their status and the next pre-qualified applicant on the **Qualified Cannabis Retail License Eligibility** List who meets the limitations of Subsection b) may start the permitting and licensing process.

~~f) **Permitting and Licensing of Cannabis Cultivation Operations.**~~

- ~~1. The first selected pre-qualified applicants, in order of selection and subject to the maximum amount of acreage available, will be able to start the process to obtain a land use entitlement/permit and ultimately a cannabis cultivation business license for an operation no larger than the available acreage pursuant to Subsection a).~~
- ~~2. The selected pre-qualified applicants will have 90 days to submit an application for land use entitlements to the Planning and Development Department. If the Planning and Development Department deems the application incomplete, the Department will establish a deadline by which they need to complete the application or lose their qualification. Failure to timely file an application will result in the selected pre-qualified applicant being removed from the Qualified List and losing their status and the next applicant on the Qualified List who meets the limitations of Subsection a) above to submit an application for a permit.~~
- ~~3. Once a selected pre-qualified applicant has obtained a land use entitlement, they must then apply for a cannabis business license. Withdraw, suspension, or abandonment of the cannabis business license application in accordance with Sections 50-8.d or 50-9.b will result in the selected pre-qualified applicant being removed from the Qualified List and losing their status.~~
- ~~4. Once a selected pre-qualified applicant has obtained a land use entitlement and a cannabis business license that individual will be~~

~~referred to a licensed cultivator and will be allowed to continue to operate as long as the licensed cultivator timely files for renewal of the cannabis business license and complies with this Chapter. If the cannabis business license is revoked or not timely renewed the licensed cultivator will lose their status and the next pre-qualified applicant on the Qualified List who meets the limitations of Subsection a) may start the permitting and licensing process.~~

SECTION 5. Chapter 50 of the Santa Barbara County Code titled “Licensing of Cannabis Operations,” Section 50-25 “Cannabis Business License Operating Requirements,” Subsection a.3 “Odor,” is hereby amended and shall read as follows:

Sec. 50-25. Cannabis Business License Operating Requirements.

- a) Throughout the term of the cannabis business license, each and every licensee shall comply with this Chapter, the County Code, and State law, including, but not limited to, all of the following:

...

3. Odor. **Continuous operation of all required** Odor prevention devices and techniques for cannabis cultivation, in compliance with Chapter 35, Zoning, of the County Code.

...

SECTION 6. All existing indices, section references, numbers and letters contained in Chapter 50 of the Santa Barbara County Code are hereby revised and renumbered or re-lettered as appropriate to reflect the revisions enumerated above.

SECTION 7. Except as amended by this Ordinance the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION 8. 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 9. This Ordinance shall take effect and become operative 30 days from the date of its adoption by the Board of Supervisors. 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 10. Cannabis activities already 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, even if the Ordinance becomes operative, the Board of Supervisors still may take action(s) later to change the zoning and/or licensing of cannabis activities to being prohibited. Changing the zoning and/or licensing of cannabis activities to being prohibited, could occur -- for example, but is not limited to -- if the County Treasurer is not able to deposit cannabis-related funds in a suitable financial institution. 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:

STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

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

By _____

Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By _____
Deputy County Counsel