



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** County Executive  
Office  
**Department No.:** 012  
**For Agenda Of:** May 8, 2018  
**Placement:** Departmental  
**Estimated Time:** 60 minutes  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Director(s) Mona Miyasato, County Executive Officer  
Contact Info: Dennis Bozanich, Deputy County Executive Officer

**SUBJECT:** Cannabis Business Licensing Fee Analysis and Fee Ordinance

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors (Board):

- a) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara establishing a Cannabis Business Licensing Fee Schedule (Attachment C);
- b) Read title: “An Ordinance Establishing the Cannabis Licensing Fee,” and waive reading the Ordinance in full;
- c) Set a hearing on the Administrative Agenda for May 15, 2018, to consider the adoption (Second Reading) of an Ordinance Establishing a Cannabis Business Licensing Fee Schedule; and
- d) Find that the adoption of the Ordinance to establish the cannabis business licensing fees is exempt from CEQA review pursuant to 14 CCR 15273 and Public Resources Code §21080, subdivision (b)(8)(A) and (B), in that the fees will be used for operating expenses and for the purchase of supplies, equipment, and materials.

**Summary Text:**

The Board action today will provide the Board with data and analysis to consider an ordinance that will establish a cannabis business licensing fee schedule. Local government can establish licensing fees sufficient to recover the full and fair cost of licensing activities.

Cannabis land use permitting will use the Planning and Development Department’s existing Board-adopted fee schedule. A Board-approved fee exists for the planning consultation process to engage

commercial cannabis operations in developing and maintaining local compliance while seeking State cannabis licenses.

**Background:**

On February 27, 2018, the Board adopted amendments to each of the land use codes establishing zoning, development standards and permitting requirements for cannabis operations in the unincorporated area of Santa Barbara County. On April 10, 2018, the Board provided direction to staff to address cannabis licensing compliance challenges over the next several months during which cannabis operations transition from unpermitted and unlicensed to permitted and licensed. This direction to staff included the utilization of a planning consultation process to engage commercial cannabis operations in developing and maintaining local compliance while seeking State cannabis licenses. On May 1, 2018, the Board adopted an ordinance adding Chapter 50 – Licensing Commercial Cannabis Operations. Chapter 50 establishes a commercial cannabis business licensing system which will require application review, site visits, compliance checks, complaint assessment and resolution among other important activities. As previously reported to your Board, Agricultural Commissioner, County Counsel, County Executive, Fire, Public Health and Treasurer-Tax Collector staff will conduct these activities.

**Business Licensing Cost Analysis**

Following the update to the Board on cannabis-related licensing compliance and unregulated enforcement staffing on April 10, 2018, staff focused specifically on analyzing and determining cannabis licensing and compliance fees that fairly recover all costs related to cannabis licensing and compliance, from applicants for, and licensees of, cannabis business licenses.

The purpose of the cannabis business license cost analysis is to identify the cost of specific fee-related activities. The cost analysis provides a complete picture of the full cost, including allocable overhead, of all licensing services offered. It is necessary to identify all costs, whether fee-related or not, so that there is a fair and equitable distribution of all indirect or overhead costs across all activities, thereby ensuring a definitive relationship between the cost of the service and the fee that is charged. No service fee should be burdened with costs that cannot be directly or indirectly linked to that service.

Staff is also aware that this is a brand new licensing program and fee. Staff has considered a variety of options, many used currently by other county departments to administer their fee-related activities. Staff will be closely monitoring the fee structure, cost recovery and administrative processes over the next three or four years and will return to the Board with regular reports and, if needed, recommended adjustments to the fees or fee administration process.

Staff relied on estimates of three variables to conduct their analysis to set the fees:

- **Validated staff time estimates** from each department for each of the 16 cannabis business license application review, business license issuance and compliance management activities identified in the newly adopted Chapter 50 - Licensing of Commercial Cannabis Operations (Attachment A). Eleven of these activities align with the Application Intake & Review Phase and five activities align with the License Issuance and Compliance phase;
- **Estimated 150 cannabis business license** applications, issuance and compliance reviews in the first year based on the current number of entities holding temporary licenses and recognizing that cannabis operations in the Coastal Zone will not be eligible for local licensing until after Coastal Commission certification of land use permitting and business licensing ordinances; and

- **Determined full cost recovery**, including salary, benefits and relevant indirect costs, for staff time conducting cannabis business application review, licensing and compliance management (Attachment B).

Staff has previously provided the Board with suggested staffing levels for licensing and compliance related staffing. Working with the Auditor-Controller, the hourly rate for the identified licensing staff was determined by including salary, benefits and eligible indirect costs to arrive at a “fully loaded” cost per hour per cannabis business licensing staff. The fully loaded cost of each licensing staff is as follows:

	Department	FTEs	Job Classification	1 FTE Cost	Direct	Full Cost	Full Cost/Hr
012	CEO	0.5	Enterprise Leader	\$ 154,000	\$ 77,000	\$ 139,370	\$ 134.01
032	Sheriff	2.0	Sheriff's Deputy - Special Duty	\$ 200,000	\$ 400,000	\$ 464,000	\$ 111.54
032	Sheriff	1.0	AOP II	\$ 100,000	\$ 100,000	\$ 116,000	\$ 55.77
041	Public Health	1.0	Environmental Health Specialist	\$ 125,000	\$ 125,000	\$ 145,000	\$ 69.71
051	Ag/W&M	1.0	Ag Bio/W&M Supervisor	\$ 144,000	\$ 144,000	\$ 187,200	\$ 90.00
051	Ag/W&M	2.0	Ag Bio/W&M Inspector	\$ 115,000	\$ 230,000	\$ 299,000	\$ 71.88
065	Tax Collector	0.5	FOP Senior	\$ 102,272	\$ 51,136	\$ 80,795	\$ 77.69
		<b>8.0</b>			<b>\$ 1,127,136</b>	<b>\$ 1,431,365</b>	

Departments have further refined their staffing estimates as the temporary licensing process has provided a rough scale of the number of entities that will require local permitting and licensing. Based on the number of entities that have sought compliance with state law through the temporary licensing program, staff estimates approximately 150 cannabis business license applications in the coming fiscal year. As of April 20, 2018, County Executive staff has provided a total of 153 County letters to 127 individuals or entities that have provided sworn affidavits based on their non-adjudicated land use claim of legal non-conforming. These individuals or entities are on 117 separate parcels. It is important to note that cannabis businesses in the coastal zone (approximately 35) have the option to participate in a local consultation process and seek state annual licenses. Those cannabis businesses in the coastal zone are unlikely to be eligible to seek cannabis-related land use permits, and eventually cannabis related business licenses, prior to the fourth quarter of Fiscal Year 2018-19 due to the need for Coastal Commission certification of the County’s cannabis ordinances.

Attachment A was developed by County departments to identify the estimated time needed to complete the sixteen cannabis business licensing and compliance activities for each license as required in the County’s Cannabis Business Licensing Ordinance. The departments estimate 83 hours of staff time for each local cannabis business license will be needed to complete the application review, visits, license issuance (46.6 hours per license application) and ongoing compliance reviews (36.6 hours per license). Attachment B calculates the cost of those hours and then determines the estimated Cannabis Business License Application Fee which was used to determine the required Cannabis Business License fee.

Based on these estimates, staff recommends that the Board adopt the following fee schedule:

- Cannabis Business License **Application** deposit of \$3,250 with actual fee charges based on the number of hours and the fully loaded hourly rate of staff conducting the application review activities identified in Attachment A of the Ordinance. Staff estimates the Cannabis Business License Application Fee will total about \$4,000. If a Cannabis Business License application is

denied, the potential operator would not be able to operate and would not need to pay the License Issuance and Compliance Fee.

- Cannabis Business **License and Compliance** deposit of \$2,500 with actual fee charges based on the number of actual hours and the fully loaded hourly rate of staff conducting the licensing and compliance activities identified in Attachment A of the Ordinance. Staff estimates the Cannabis Business License and Compliance Fee will total about \$3,100.
- Cannabis Business License **Renewal** deposit of \$3,600 with actual fee charges based on the number of actual hours and the fully loaded hourly rate of staff conducting the licensing renewal activities identified in Attachment A of the Ordinance. Staff estimates the Cannabis Business License Renewal Fee will total about \$4,500 annually.

Staff recommends this approach in the attached fee ordinance (Attachment C). All cannabis business licensing staff will use existing County data systems to correctly track and account for the actual costs of application review, licensing, compliance and renewal activities per applicant or licensee.

Staff further recommends that a cannabis business license applicant or a licensee pay a deposit (approximately 80% of the estimated total cost of reviewing and processing the application or delivering compliance review). Establishing and working with a deposit is the approach taken by the Planning and Development Department in their recently adopted fee ordinance for many permitting activities such as Land Use Permits and Conditional Use Permits. If the applicant exceeds the deposited amount, the applicant would be provided a supplemental invoice based on expected additional application, licensing or compliance activities at a full-cost recovery hourly rate for the further hours required to complete the application processing, licensing or compliance related activities. This would help balance the application processing or compliance activity costs of large or complex operations with those that might be smaller and simpler.

The level of staff effort required on an application or compliance maintenance varies significantly due more to the complexity, unique site and business characteristics, and extent of public interest rather than permit type. Deposits will be collected at application submittal for application review activities and at license issuance for licensing and compliance review activities. These deposits will be held in trust to ensure cost reimbursement for application processing or license compliance activities.

An Agreement for Payment form, identifying a Financially Responsible Party, shall be collected at license application submittal and at license issuance. Financially Responsible Parties will receive monthly invoices for charges incurred during the billing period and any unpaid balances due. Staff will stop work on license application or license compliance accounts that are in arrears. Applications or License Compliance fees in arrears may result in a denied or suspended license due to staff's inability to complete required application review or license compliance activities. Any unused portion of the deposit will be refunded to the Financially Responsible Party on file.

The chart below summarizes the estimated full cost recovery fees for the recommended staffing, full cost recovery hourly rates per application, license or renewal. The recommended deposit is in the final row of the following chart. Attachment B has additional details position by position.

FTEs	Full Cost for FTEs	Staffing Full-cost Recovery Hourly rate	Application Estimated Hours per Application	Licence and Compliance Estimated Hours per License	Renewal Estimated Hours per Renewal Application	Application Estimated Costs per Application	Licence and Compliance Estimated Costs per License	Renewal Estimated Costs per Renewal Application
8.00	\$ 1,431,365		46.60	36.60	52.45	\$ 4,065.20	\$ 3,110.80	\$ 4,508.50
				80% of estimated Full Cost Recovery		\$ 3,252.16	\$ 2,488.64	\$ 3,606.80
				Recommended Deposit		\$3,250.00	\$2,500.00	\$ 3,600.00

**Previously Established Land Use Permitting and Consultation Fees**

On April 4, 2017, the Board of Supervisors adopted Ordinance No. 4991 which established a full cost recovery fee structure for the processing of land use entitlements and planner consultations, as well as the fees associated with monitoring a permittee's compliance with the conditions of a land use entitlement. Given that Ordinance No. 4991 already sets forth the fees required to process the land use entitlements and planner consultations that will be required for cannabis projects, no changes to the existing Planning and Development fee schedule are required to process and monitor compliance with cannabis land use entitlements, or to conduct planner consultations regarding proposed cannabis operations.

**Performance Measure:**

NA. Staff will be developing performance metrics on cannabis permitting and licensing generally, including the financial status of the Cannabis Business Licensing Program. Staff will regularly bring those performance reports to open sessions of the Board of Supervisors.

**Contract Renewals and Performance Outcomes:**

NA

**Fiscal and Facilities Impacts:**

Budgeted: Yes Ordinance development has been budgeted in the current year operating budget. The staffing augmentations and fee revenue appropriations for application processing, licensing and compliance monitoring will be part of the Recommended Budget for Fiscal Year 2018-19.

**Fiscal Analysis:**

<b>Funding Sources</b>	<b>Current FY Cost:</b>	<b>Annualized On-going Cost:</b>	<b>Total One-Time Project Cost</b>
General Fund			
State			
Federal			
Fees		\$ 1,431,365.00	
Other: Permitting Fees		\$ 941,631.00	
Total	\$ -	\$ 2,372,996.00	\$ -

**Narrative:**

The current estimate of additional staffing costs is approximately \$2.4 million annually when permitting (approximately \$1.0 million) and licensing (approximately \$1.4 million) begins. Fee revenue will be generated from license application and compliance fees charged to those applying for and receiving a cannabis business license. Following Board adopted budget policies, the fees will fully recover the cost of the licensing and compliance program. This additional revenue and expense is not likely until FY 2018-19 and is contingent on the Treasurer-Tax Collector opening and maintaining a bank account in a suitable

financial institution. If approved by the Board, staffing costs for licensing and compliance will be included in the FY 2018-19 Recommended Budget.

**Key Contract Risks:**

None

**Staffing Impacts:**

**Legal Positions:**

**FTEs:**

**Special Instructions:**

Publish notice as required by this ordinance.

**Attachments:**

Attachment A – Cannabis Business Licensing Activities Staff Time Estimates

Attachment B – Cannabis Business Licensing Full-cost recovery Staffing Costs

Attachment C – Cannabis Business Licensing Fee Ordinance

**Authored by:**

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**cc:**