



**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: January 11, 2022
Placement: Departmental
Estimated Time: 45 min
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department: Mona Miyasato, County Executive Officer
Director(s)
Contact Info: Jeff Frapwell, Assistant County Executive Officer

DocuSigned by:
Mona Miyasato
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SUBJECT: Amendments to the Cannabis Business Licensing Fee Ordinance

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending and superseding Ordinance 5041, "An Ordinance Establishing the Cannabis Business License Fee" (Attachment A);
- b) Read the title and waive further reading of the Ordinance in full;
- c) Set a hearing on the Administrative Agenda of January 25, 2022 to consider recommendations, as follows:

On January 25, 2022:

- a) Consider adoption (Second Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending and superseding Ordinance No. 5041, "An Ordinance Establishing the Cannabis Business License Fee" (Attachment A); and
- b) Determine for the purposes of CEQA that:
 - i. Pursuant to CEQA Guidelines section 15168(c), these actions are within the scope of the Cannabis Land Use Ordinance and Licensing Program, and the Cannabis Land Use Ordinance and Licensing Program Final Programmatic Environmental Impact Report

(PEIR) (17EIR-00000-00003, State Clearinghouse No. 2017071016) adequately describes this activity for the purposes of CEQA.

- ii. Pursuant to CEQA Guidelines section 15162(a), after considering the PEIR certified by the Board of Supervisors on February 6, 2018, that no subsequent EIR or Negative Declaration is required because: i) no substantial changes are proposed which require major revisions of the PEIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects; ii) no substantial changes have occurred with respect to the circumstances under which the ordinance is undertaken which require major revisions of the PEIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects; and iii) no new information of substantial importance concerning the ordinance's significant effects or mitigation measures, which was not known and could not have been known with the exercise of reasonable diligence at the time that the PEIR was certified, has been received that shows any of the elements of CEQA Guidelines Section 15162(a)(3) apply.

Summary Text:

In May 2018, the Board adopted Ordinance No. 5041 of the Santa Barbara County Code, "An Ordinance Establishing the Cannabis Business Licensing Fee." Cannabis business license deposit fees are currently collected for initial applications, annual renewals, and compliance activities. Since adoption in 2018, these fees have not been adjusted. The objectives of the proposed amendment are to update fees to reflect changes in salaries and benefits; adjust Indirect Cost Rate Proposal (ICRP), as approved by the Auditor-Controller, for each department; add County Fire and the Carpinteria-Summerland Fire District to the reimbursement rate structure; and convert the annual renewal and compliance fees to fixed fees.

Background:

In May 2018, the Board adopted an ordinance adding Chapter 50 – Licensing Commercial Cannabis Operations which details the requirements for commercial cannabis operators to be licensed in the County. This ordinance also established a Cannabis Business Licensing Team consisting of multiple county departments and detailed the specific review responsibilities of each licensing team department pertaining to the review of initial cannabis business license applications, compliance associated with post-license issuance, and renewal applications. Chapter 50 provides each licensing team department the authority to recommend to the County Executive Office whether or not to approve the issuance of a cannabis business license.

In establishing the initial fee ordinance and corresponding fee schedule, each licensing team department developed best estimates of staff time to perform the review responsibilities enumerated in Chapter 50 for each of the three core review functions. Staff then worked with the Auditor-Controller to develop hourly rates for each of the licensing team department's identified job classifications, which was determined by including salary, benefits and eligible indirect costs to arrive at a "fully loaded" cost per hour per cannabis business licensing staff. By applying the fully loaded hourly rate to the licensing team department's estimate of hours associated with the three core review functions, three corresponding "deposit fees" were developed.

Proposed Fee Schedule Adjustments:

The existing deposit fees charged to cannabis operators and the corresponding business licensing team's hourly reimbursement rates structure have now been in place for over three years, and as promised in the board letter accompanying the original Cannabis Business License Fee Ordinance, staff would "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, recommend adjustments to the fees or fee administration process." After performing a thorough review and assessment of the fee structure, cost recovery, and administrative processes, staff identified multiple components that require adjustments and have worked closely with the Auditor-Controller to develop an updated fee schedule for cannabis operators, as well as update the business licensing team's corresponding hourly reimbursement rates. The following adjustments being proposed as part of this overall fee ordinance amendment are summarized below:

1. Update salaries and benefits costs for each of the licensing team's identified job classifications to ensure full cost recovery for services provided. Current fees in place are based on staff's salaries and benefits costs from 2018 and therefore requires updating.
2. Update Indirect Cost Rate Proposals (ICRPs) for each licensing team department to ensure full cost recovery for services provided. Again, existing fees are based on the licensing team department's ICRPs from 2018 and requires updating.
3. Add County Fire and the Carpinteria-Summerland Fire District to the reimbursement rate structure as they were initially excluded from the original Fee Ordinance.
4. Convert the business license annual renewal application and compliance fees to fixed fees, from the current deposit fee methodology. This will alleviate the significant administrative burden placed on the Cannabis Program Administration staff that must account for the high volume of applicant fees and recognize revenue to the licensing team departments at least quarterly. Business license review processes are typically consistent from application to application. The most variability involves review by Planning & Development and these fees will continue to be covered by the applicants' land use development fees. Staff determined that the balance of department reviews are appropriately covered by a fixed fee for renewal applications and compliance efforts. In addition, the establishment of a fixed fee amount will provide applicants with certainty of the total fees charged in connection with renewals and compliance. The fee for initial applications, whether in process or new, will remain a deposit fee structure due to the significant number of applications that have already been submitted and that are currently in process.

The proposed fees reflecting the changes mentioned above are summarized in Attachment A and shown below. The difference in cost is also shown below. Attachment B contains information used to calculate the new fees including: hourly rates; average proposed hours spent per application; and the proposed cost per application per department/position. These rates will be adjusted for Consumer Price Index (CPI) annually, as needed.

Attachment A also includes a summary of the activities associated with fees and staff rates. The activities listed for License Issuance and Compliance Management Processes is revised from the original list to include staff time associated with regular Compliance Task Force meetings and review of State track-and-trace data in the form of reports generated through our membership in the California Cannabis Authority (CCA). Annual compliance fees reflect the estimated time staff will spend performing site

visits at prescribed intervals throughout the year. The current deposit fee was based on minimum compliance activities. The revised fixed fees reflect a more robust, active compliance program with updated hours from each of the compliance team departments as well as response to complaints.

Initial Application Fee Schedule

	Current Deposit Fee \$3,250	New Deposit Fee	
	Unincorporated and Carp Ag Overlay	Unincorporated	Carp Ag Overlay
Cultivation	\$4,031 (average revenue received per applicant using 2018 adopted hourly rates; does not include County Fire or CSFD reimbursements)		
<i>Outdoor (Not subject to ECP)</i>		\$ 5,568	\$ 5,252
<i>Mixed-Light or Indoor (Subject to ECP)</i>		\$ 5,758	\$ 5,441
Nursery			
<i>Outdoor (Not subject to ECP)</i>		\$ 5,568	\$ 5,252
<i>Mixed-Light or Indoor (Subject to ECP)</i>		\$ 5,758	\$ 5,441
Non-Volatile Manufacturing		\$ 5,758	\$ 5,441
Volatile Manufacturing		\$ 5,758	\$ 5,441
Testing		\$ 3,697	\$ 3,380
Retail (<i>includes both storefront & non-storefront</i>)		\$ 3,697	\$ 3,380
Distribution		\$ 5,758	\$ 5,441
Microbusiness (applicant engages in three of the four following cannabis activities: cultivation, distribution, non-volatile manufacturing, and/or retail). Fee is determined based on the highest fee associated with the applicant's three selected license types that are being applied for.		Variable, based on the license types being applied for	Variable, based on the license types being applied for

Annual Compliance Management Processes Fixed Fee

	Current Deposit Fee	New Fixed Fee	
		Unincorporated	Carp Ag Overlay
Cultivation	\$2,500		
<i>Outdoor (Not subject to ECP)</i>		\$ 4,164	\$ 3,780
<i>Mixed-Light or Indoor (Subject to ECP)</i>		\$ 4,276	\$ 3,892
Nursery			
<i>Outdoor (Not subject to ECP)</i>		\$ 4,164	\$ 3,780
<i>Mixed-Light or Indoor (Subject to ECP)</i>		\$ 4,276	\$ 3,892
Non-Volatile Manufacturing		\$ 4,276	\$ 3,892
Volatile Manufacturing		\$ 4,276	\$ 3,892
Testing		\$ 2,976	\$ 2,593
Retail (includes both storefront & non-storefront)		\$ 2,976	\$ 2,593
Distribution		\$ 4,276	\$ 3,892
Microbusiness (applicant engages in three of the four following cannabis activities: cultivation, distribution, non-volatile manufacturing, and/or retail). Fee is determined based on the highest fee associated with the applicant's three selected license types that are being applied for.		Variable, based on the license types being applied for	Variable, based on the license types being applied for

Annual Renewal Fixed Fee

	Current Deposit Fee	New Fixed Fee	
		Unincorporated	Carp Ag Overlay
Cultivation	\$3,600		
<i>Outdoor (Not subject to ECP)</i>		\$ 4,896	\$ 4,513
<i>Mixed-Light or Indoor (Subject to ECP)</i>		\$ 4,989	\$ 4,606
Nursery			
<i>Outdoor (Not subject to ECP)</i>		\$ 4,896	\$ 4,513
<i>Mixed-Light or Indoor (Subject to ECP)</i>		\$ 4,989	\$ 4,606
Non-Volatile Manufacturing		\$ 4,989	\$ 4,606
Volatile Manufacturing		\$ 4,989	\$ 4,606
Testing		\$ 3,186	\$ 2,803
Retail (includes both storefront & non-storefront)		\$ 3,186	\$ 2,803
Distribution		\$ 4,989	\$ 4,606
Microbusiness (applicant engages in three of the four following cannabis activities: cultivation, distribution, non-volatile manufacturing, and/or retail). Fee is determined based on the highest fee associated with the applicant's three selected license types that are being applied for.		Variable, based on the license types being applied for	Variable, based on the license types being applied for

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Fiscal and Facilities Impacts:

Budgeted: Yes, ordinance development has been budgeted in the County Executive Office's current year operating budget. Staffing costs for the business licensing team County departments and fee revenue appropriations for application processing, licensing and compliance monitoring is part of the Adopted Budget for Fiscal Year 2021-22.

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees		\$ 1,027,010.00	\$ 550,650.00
Other			
Total	\$ -	\$ 1,027,010.00	\$ 550,650.00

Narrative:

Current projected revenue under the existing deposit fee model is not achieving full cost recovery due to outdated salary, benefit, and indirect cost rates. In addition, the deposit fee model requires approximately \$60,000 of administrative staffing cost to recognize licensing revenues to the departments.

The fiscal analysis above represents the projected staffing costs of the cannabis business licensing team using both the proposed fixed fees for compliance and renewals, as well as one-time costs for initial applications which will remain a deposit fee. Fee revenue will be generated from license application and compliance fees charged to those applying for and receiving a cannabis business license and is expected to fully recover the cost of the licensing and compliance program. Staff will perform an annual fee analysis by reviewing business licensing team labor hours associated with each application and ensure that the fixed fees continue to achieve full-cost recovery.

One-time costs identified above will be incurred as the licensing team completes the processing of all initial applications, and first-time licenses are issued. Once a license is issued, the team's focus then transitions to mid-year compliance efforts, processing annual renewal applications, and their other assigned non-cannabis duties, as applicable.

Special Instructions: Publish the Notice of Public Hearing 5 and 10 days before the hearing date in the *Santa Barbara News Press* in accordance with Government Code sections 66018(a) and 6062a. After the Ordinance is passed publish a summary of the ordinance in the *Santa Barbara News Press* within 15 days of the adoption of the ordinance in accordance with Government Code section 25124.

Attachments:

Attachment A – Cannabis Business Licensing Fee Ordinance Amendment

Attachment B – Cannabis Business License Staff Time Allocations per Business License

Authored by:

Steven Yee, Fiscal and Policy Analyst, x83433 and Brittany Heaton, Principal Analyst, x83409