

ORDINANCE NO. _____**AN ORDINANCE AMENDING AND SUPERSEDING 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: Findings.

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, "The Compassionate Use Act," codified as Health and Safety Code Section 11362.5, which was intended to decriminalize cultivation and possession of medical marijuana under certain circumstances; and

WHEREAS, in 2004, the State of California enacted the "Medical Marijuana Program Act" (codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 and the authority of counties to adopt and enforce local ordinances (Health and Safety Code Section 11362.83); and

WHEREAS, on October 9, 2015, the State of California enacted the Medical Marijuana Regulation and Safety Act (former Business & Professions Code Section 19300, et seq.; "MMRSA"). MMRSA created a state licensing program for commercial medical cannabis activities and allowed for local government regulation of medical cannabis activities; and

WHEREAS, on November 8, 2016, the voters of California adopted Proposition 64, the Adult-use of Marijuana Act (AUMA), which legalized the use of cannabis for adult-use and established a maximum cultivation allowance of six plants for personal use; and

WHEREAS, the AUMA allows for local control of adult-use cannabis land uses, and reasonable regulation of personal cultivation; and

WHEREAS, on June 27, 2017, the State of California enacted the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (Business & Professions Code Section 26000, et seq.; "MAUCRSA"), which combined MMRSA and AUMA into a single State licensing system for both medicinal and adult-use cannabis; and

WHEREAS, MAUCRSA allows counties and cities to maintain local regulatory authority over commercial cannabis activities and adopt business licensing requirement (Business and Professions Code Section 26200); and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Section 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana; and

WHEREAS, the Santa Barbara County Board of Supervisors (Board) voted on February 6 and 27, 2018, to adopt a series of land use zoning and permitting amendments to the Land Use and Development Code, the Coastal Zoning Ordinance and the Montecito Land Use and Development Code that permits certain activities in specific zones, specifies necessary land use permits and establishes development standards, with regard to cannabis-related land uses and development; and

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 once on January 14, 2020 by Ordinance No. 5098 is hereby being amended for the third time; and

WHEREAS, to determine the reasonable cost of providing the services and regulatory activities for the County's Cannabis Business Licensing Program the County updated the initial fee analysis performed in May 2018. The updated fee schedules are attached to the January 11, 2022 Board Agenda Letter and includes the internal and external costs to be incurred as part of the County's Cannabis Business Licensing Program as described in the updated Attachment A to this Ordinance; and

WHEREAS, the revised fees are proposed as fixed fees based on the updated fee analysis replacing the current deposit fee model for annual compliance and renewal applications; and

WHEREAS, existing initial business license applications that are in process and have already paid a fee based on the deposit fee model will remain a deposit fee due to the significant number of applications that have already been submitted and that are currently in process; and

WHEREAS, the updated fee analysis determined that the updated costs of the Cannabis Business Licensing Program are included in Attachment B to this Ordinance based on the costs and rates for application review, site inspections, and compliance activities as identified in Attachment A and as required by the 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 January 11 and 25, 2022, 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, 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.; and

WHEREAS, 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; 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: Authority

The fees set forth in this Ordinance are hereby adopted pursuant to California Business and Professions Code Section 16100 to recover the cost of administering the Cannabis

Business Licensing Program established in Santa Barbara County Code Section 50-1 *et seq.* as well as Government Code Section 66000 and 54985.

SECTION 3: Fees.

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 fixed fee for all new renewal and compliance applications received upon or after effective date of this ordinance, as set forth in Attachment B, based on estimated time spent conducting the review and compliance activities identified in Attachment A and as required by the County's Cannabis Business Licensing Ordinance. Initial applications received upon or after effective date of this ordinance are subject to the new deposit fee.

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 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.

- B. Said fees are to be charged to all persons applying for, holding, and renewing a Cannabis Business License as required by Section 50-3 of the Santa Barbara County Code.

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. Ordinance 5041 replaced in its entirety.

This amendment shall supersede Ordinance 5041, 5089, and 5098, An Ordinance Establishing the Cannabis Business Licensing Fee including Attachments A and B to Ordinance 5041 and subsequent amendments.

SECTION 6: 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 7: 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 _____ 2022 by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

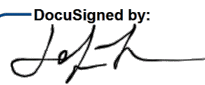
COUNTY OF SANTA BARBARA

By: _____
JOAN HARTMANN, CHAIR
BOARD OF SUPERVISORS

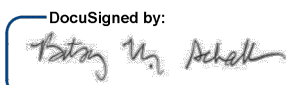
ATTEST: MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: Deputy Clerk

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

DocuSigned by:

By: 1D1AFA8A16B14D7...
Deputy County Counsel

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

DocuSigned by:

By: FE2388B572B0431
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
- Review State METRC data for consistency with local reporting requirements
- 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

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

ATTACHMENT B: CANNABIS BUSINESS LICENSE FEE SCHEDULE**Initial Application Deposit Fee (for applications already in process):**

All License Types: \$3,250

Initial Application Deposit Fees:

	Unincorporated	Carp Ag Overlay
Cultivation		
<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 (includes both storefront & non-storefront)	\$ 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 Fixed Fees:

	Unincorporated	Carp Ag Overlay
Cultivation		
<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 Application Fixed Fees:

	Unincorporated	Carp AgOverlay
Cultivation		
<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