

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50, LICENSING OF 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 (ff), is hereby amended and shall read as follows:

(ff) "State licensing authorities" means the **California Department of Cannabis Control**, ~~the California Department of Food and Agriculture or CalCannabis, the California Department of Public Health or the Manufactured Cannabis Safety Branch, the California Department of Consumer Affairs or the Bureau of Cannabis Control~~, or other state department(s), bureau(s) and/or office(s) that issue cannabis licenses.

SECTION 2. Chapter 50 of the Santa Barbara County Code, titled “Licensing of Cannabis Operations,” Section 50-6, Other licenses and permits, subsection (a), is hereby amended and shall read as follows:

Sec. 50-6. Other licenses and permits.

- (a) An applicant must receive all necessary land use entitlements, 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. To apply for a cannabis business license, an applicant shall possess an approved land use entitlement, **as required.**

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SECTION 3. Chapter 50 of the Santa Barbara County Code, titled “Licensing of Cannabis Operations,” Section 50-7, Limits on Cannabis Business Licenses, subsection (a), is hereby amended and shall read as follows:

Sec. 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 miles of the Urban Rural Boundary or city boundary in the coastal zone.
 - (2) No more than one hundred eighty-six acres of cannabis planting, growing, and harvesting; 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. Eligibility List. 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:
 - A. Any person interested in obtaining a cannabis business license described in this section must first obtain an approved land use entitlement. Cannabis operators who have obtained an approved land use entitlement, submitted a business license application for their cannabis activity within the overlay area that has been accepted by the County Executive Office, and paid any required application fees are eligible to be added to the eligibility list in accordance with subsection B below.
 - 1) Any person who submitted a cannabis business license application that has been accepted by the County Executive Office with any required fees before receiving an approved land use entitlement is required to notify the CEO, in writing within five (5) days of approval of the land use entitlement. The applicant is also required to notify the CEO of any denial or appeal. Failure to provide notice, will prevent the business from being added to the eligibility list unless a new business license application is submitted in accordance with this chapter.
 - B. Prior to the acre limit being committed, persons with an approved land use entitlement and complete business license application that

has been accepted by the county executive office and paid any required fees will be placed on an “Eligible Business License Applicants List: Carpinteria Ag Overlay” in order based on: i) receipt by the CEO of all the requirements listed herein, or ii) of notification from the business that the land use entitlement has been approved in accordance with subsection (2)(i)(A)(1) above. 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, or the amount of acreage as allowed by subsection (a)(2)(iii) below.

- 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 except as provided in Section 50-23.
- 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. Maintenance of Requested Acreage.

A. The acreage authorized by the initial business license (year one of operation) is limited by subsection (a)(2)(i)(B) above.

B. Upon the first renewal (year two of operation):

1) If the licensed cultivator is able to demonstrate the operation reached the amount of acreage requested for planting, growing, harvesting, nursery, or a microbusiness with cultivation in actual operations during the prior year, the licensed cultivator is able to secure up to the acreage amount in the initial business license in renewal licenses going forward, subject to requests to fallow as discussed in subsection (a)(2)(iii)(F) below.

2) If the licensed cultivator did not reach the amount of acreage requested for planting, growing, harvesting,

nursery, or a microbusiness with cultivation in actual operations during the prior year, the licensed cultivator is able to secure up to the acreage amount in the initial business license for one renewal.

C. Upon the second renewal (year three of operation):

1) If the licensed cultivator is able to demonstrate the operation reached the amount of acreage requested for planting, growing, harvesting, nursery, or a microbusiness with cultivation in actual operations during the prior year, the licensed cultivator is able to secure up to the acreage amount in the initial business license in renewal licenses going forward, subject to requests to fallow as discussed in subsection (a)(2)(iii)(F) below.

2) If the licensed cultivator did not reach the amount of acreage requested for planting, growing, harvesting, nursery, or a microbusiness with cultivation in actual operations during the term of the first renewal license, then the second renewal license may only be issued for up to the amount of acreage reached in actual operations. The applicable Eligible Business License Applicants List will be adjusted by the CEO to reflect actual licensed acreage, the licensed cultivator would no longer have a hold on the additional acreage, and it becomes available for the next person on the Wait List, pursuant to subsection (a)(2)(iv).

D. Upon subsequent renewals, if the planting, growing, harvesting, nursery, or a microbusiness with cultivation reached in actual operations dips below eighty (80) percent of the licensed acreage, the next renewal would be subject to the requirements in subsection (a)(2)(iii)(B) then subsection (a)(2)(iii)(C) the following year.

E. If a licensed cultivator has reached the amount of acreage requested for planting, growing, harvesting, nursery, or a microbusiness with cultivation in the prior license year and the associated land use entitlement authorizes additional acreage, upon renewal the licensed cultivator may request additional acreage if it is available under the applicable Eligibility List or may request to be placed on the Wait List for the additional acreage.

F. Request to Fallow. Once the amount of acreage requested has

been reached in actual operations and maintained for at least three (3) consecutive years, the licensed cultivator may submit a request to the CEO to fallow cannabis planting, growing, harvesting, nursery, or a microbusiness with cultivation operations for up to twelve (12) months. The licensee shall maintain their cannabis business license and remain in good standing with the terms of this Chapter. Each operation may submit a fallowing request no more than once every three years. Pauses in cannabis cultivation of less than four (4) months between crops during a license period shall not be considered fallowing for purposes of this section.

iiiiv. Wait List. Once, and whenever, the one hundred eighty-six acre limit is committed, as determined by the acreage requested by eligible business license applicants in accordance with subsection B above, persons with an approved land use entitlement will be placed on an “Eligible Business License Applicants List: Carpinteria Ag Overlay Wait List” (Wait List) as follows:

- A. To be placed on the Wait List, a person must have an approved land use entitlement and must submit notification to the CEO of the desire within five (5) days of approval of the land use entitlement **or within five (5) days of submittal of a renewal license requesting additional acreage.**
- B. Once the acre limit is committed by the issuance of business licenses to all applicants on the Eligible Business License Applicants List: Carpinteria Ag Overlay no additional licenses will be issued unless and until an issued license is revoked or not renewed, or otherwise becomes available. At the CEO’s discretion, when additional acreage becomes available for cannabis planting, growing, and harvesting, nurseries and microbusinesses with cultivation, the next person on the Wait List will be notified in writing by the county and given the opportunity to complete the licensure process **or amend their existing license or license application to include the additional acreage.** If the county removes cannabis drying, curing, and trimming from the acre limit, upon the effective date of that change, each operation on the Eligible Business License Applicants List: Carpinteria Ag Overlay with acreage committed for cannabis drying, curing, or trimming will be given a right of first refusal to seek to amend,

revise, or apply for a new land use entitlement and license to expand their operation by the amount of acreage of cannabis drying, curing, and trimming previously committed by their operation; if an operation declines or their land use entitlement is denied, at the CEO's discretion, the next person on the Wait List will be notified by the county and given the opportunity to complete the licensure process.

- 1) After county notification, the person on the Wait List has thirty days to submit a business license application and any required fees to the CEO.
- 2) Failure to act within thirty days, as required in subsection 1) above, will result in forfeiture of the applicant's place on the Wait List and the CEO may contact the next eligible person on the Wait List.

C. Persons on the Wait List shall annually renew their interest in remaining on the Wait List by submitting a written request to the county executive office on the anniversary of being placed on the Wait List or on another date established by the CEO. Failure to provide timely notification will result in removal of the person from the Wait List.

- (3) No more than one thousand five hundred seventy-five acres of cannabis planting, growing, and harvesting; nurseries; and microbusinesses with cultivation shall be licensed at any one time within the unincorporated area outside of the Carpinteria Agricultural Overlay (as defined in Section 50-2) of the County of Santa Barbara. This one thousand five hundred seventy-five acres shall be in addition to the one hundred eighty-six acres of cultivation, nurseries and microbusiness with cultivation allowed in the Carpinteria Agricultural Overlay District under subsection (a)(2) above.
 - i. Eligibility List. Applications for cannabis planting, growing, and harvesting, nursery and microbusinesses business licenses will be processed and licenses will be issued up to the acreage limit established in subsection (3) above using the same process outlined in subsection (a)(2)(i) above **or the amount of acreage as allowed by subsection (a)(2)(iii) above**, however the list shall be entitled "Eligible Business Applicants List: Unincorporated".
 - 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. Wait List. Once, and whenever, the one thousand five hundred seventy-five acre limit is committed, as determined by the acreage requested by eligible business license applicants, persons with an approved land use entitlement will be placed on an “Eligible Business License Applicants List: Unincorporated Wait List”. The Wait List will be established and maintained using the same process outlined in subsection (a)(2)(~~iviii~~) above.
- iv. If a cannabis operation that claimed legal nonconforming status pursuant to County Code Section 35-1003 has an approved land use entitlement and has been placed on the Eligible Business License Applicants List: Unincorporated, but does not have an approved and issued business license by October 31, 2022, the operation must suspend all commercial cannabis activity no later than October 31, 2022. The applicant may continue to pursue a business license and the operation shall retain its place on the Eligible Business License Applicants List: Unincorporated, but must suspend all commercial cannabis activity by the date provided in this subsection unless and until a business license is approved and issued. If the operation still does not have a business license approved and issued by December 31, 2022, it shall cease all commercial cannabis activity and lose its place on the Eligible Business License Applicants List: Unincorporated, and staff shall provide written notification to the state pursuant to section 50-31(b) of this chapter.

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SECTION 4. Chapter 50 of the Santa Barbara County Code, titled “Licensing of Cannabis Operations,” Section 50-19, Cannabis business license renewal process, is hereby amended and shall read as follows:

Sec. 50-19. Cannabis business license renewal process.

- (a) Each cannabis business license shall expire one year after the date of its issuance. The treasurer-tax collector may renew a cannabis business license if:
 - (1) The county executive office receives a timely renewal application by the licensee with a renewal application fee;
 - (2) The licensee has complied with the requirements of this chapter and the licensee's county license, state license(s) and/or county land use entitlement(s) have not been suspended or revoked;

- (3) The licensee has allowed any county staff necessary to determine compliance with this chapter, to conduct site inspections of the cannabis operation to verify licensee's compliance with this chapter; and
 - (4) The county executive office confirms that the commercial cannabis operation meets the standards for issuance of a license pursuant to this chapter and approves the license issuance.
- (b) Any application for renewal shall be filed with the county executive office at least sixty calendar days before expiration of the cannabis business license, but no earlier than ninety calendar days before expiration. The renewal application shall include:
- (1) The legal name of the licensed entity;
 - (2) The date of the county business license expiration;
 - (3) The licensee's mailing address and premise address;
 - (4) Authorization for an onsite inspection of the premises during standard business hours to confirm compliance with this chapter;
 - (5) Log of odor complaints and responses to complaints, in compliance with chapter 35, zoning, of the County Code;
 - (6) If any of the documentation and information supplied by the applicant pursuant to section 50-8 has changed since the issuance of the cannabis business license, the applicant shall submit updated information and documentation with the application for renewal and shall provide such other information as the county executive office may require; and
 - (7) The documentation required in subsections 50-8(b)(8) and (9).
 - (8) Documentation including, but not limited to, photographs and a diagram with boundaries in feet to support the acreage of actual planting, growing, harvesting, nursery, or a microbusiness in operation during the prior license period and an updated Acreage Request form reflecting the acreage they will plant, grow, harvest; maintain a nursery; or a microbusiness with cultivation in accordance with subsection (a)(2)(iii) and (a)(3)(i) above.**
 - (9) If the licensed cultivator is requesting to fallow planting, growing, harvesting, nursery, or a microbusiness with cultivation operations, a request and documentation to support that the requirements in subsection (a)(2)(iii)(F) are satisfied.**

- (c) In accordance with the procedure listed in section 50-9, the county executive office will review the renewal license application and forward the application to all applicable county departments. The county executive office will then provide the treasurer-tax collector with approval to issue the license renewal or provide notice of a denial of the renewal application.
- (d) If a complete renewal application is submitted in compliance with subsection (b) above and the licensee is operating in good standing in accordance with the terms of this chapter, the licensee may continue to operate until the treasurer-tax collector provides a license renewal or a notice of denial of the renewal application.

SECTION 5. Except as amended by this Ordinance the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION 6. 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 7. 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 8. 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: 1) the County Treasurer is not able to deposit cannabis-related funds in a suitable financial institution; and/or 2) the Board of Supervisors submits a proposed County tax on commercial cannabis activity to the voters and the voters do not approve the tax. 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

Ordinance Amending Chapter 50 – Licensing of Commercial Cannabis Operations

Adopted: May 1, 2018

Amended: April 9, 2019, August 27, 2019, December 17, 2019, February 2, 2021, November 2, 2021, and March 1, 2022

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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:

JOAN HARTMANN, 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:
RACHEL VAN MULLEM
COUNTY COUNSEL

By _____
Deputy County Counsel