

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,” is hereby amended, and Sections 50-2(g) Definitions and 50-7(b)-(f) Limits on Cannabis Business Licenses shall read as follows:

Section 50-2. Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this Section unless the context clearly requires otherwise: ...

- g) "County Executive Officer" or "CEO" means the County Executive Officer of the County of Santa Barbara, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter, including scoring and ranking the Neighborhood Compatibility Proposals for storefront retail, 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. The CEO may appoint others to assist in administering the provisions of this Chapter.

...

Section 50-7. Limits on Cannabis Business Licenses.

...

- b) Limits on Cannabis Storefront Retail Licenses. No more than six 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, 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) Community Input and Priorities for Cannabis Storefront Retail Selection. Two months prior to any Notice of Criteria-Based Application and Submission Process, County staff shall conduct a public meeting in each of the six community plan areas. Following each community plan meeting, the County Executive Office will post the resulting list of neighborhood compatibility priorities based on consistency with the relevant community plan and compliance with zoning standards on the County’s website.
- d) Criteria-Based Application and Selection Process for Cannabis Storefront Retail. The limited retail licenses, as outlined in Subsection b above, will be issued to those applicants who comply with the requirements of the County Code and are selected through a criteria-based selection process administered by the County Executive Office as follows:
 1. Notice of Criteria-Based Application and Submission Process. The County Executive Office will publish notice of availability of applications for Cannabis Storefront Retail licenses and the deadline for submission of applications at least 30 calendar days prior to availability of the application. All notices required by this subsection will be published once in a newspaper of general circulation in the County and will be posted on the County’s website. The application will be available for seven (7) calendar days before the submittal deadline.
 2. Criteria-Based Scoring Sheet. The County Executive Office will publish on the County’s website the criteria-based scoring sheet for Cannabis Storefront Retail licenses, including scoring and ranking of the Business Operations Proposal and the Neighborhood Compatibility Proposal, on the same day as the Criteria-Based Application and Submission Process noted in Subsection 1 above.
 3. Criteria-Based Application Process.
 - i. Any person interested in obtaining a cannabis storefront retail business license described in this Section must first timely submit a complete application in accordance with Section 50-7.d.3 to the County Executive Office by the published submittal deadline pursuant to Subsection 1 above, to be included in the criteria-based selection process. Applicants shall have no right to a cannabis business license until the license is actually issued in accordance with this Chapter, and then only for the duration of the license term. Each applicant assumes the risk that, at any time prior to the issuance of a license, the County may amend, terminate or delay the licensing program created under this Chapter.

- ii. Application submission packets will be limited to no more than one hundred fifty (150) one-sided letter-sized (8 ½” x 11”) pages inclusive of all text, graphics, document attachments, and any forms required by the County. All fonts, within all portions of the submitted application, are required to be 12-point or larger. Two-sided applications complying with these requirements will also be accepted as long as the application packet is no longer than seventy five (75) total pages. Any application submission that fails to meet these application submission requirements will be disqualified.
- iii. The application shall include:
 - A. All information, documents and attestations as required in Section 50-8 below, except that:
 1. Evidence of submittal to live scan will be accepted pursuant to Section 50-8.b.6.ii; and
 2. Submission of the State cannabis license application pursuant to Section 50-8.b.2.vi.A, the State seller’s permit pursuant to Section 50-8.b.vi.D, and the County’s land use application or entitlement pursuant to Section 50-8.b.2.vii will not be required as part of this Criteria-Based Application.
 - B. A non-refundable application fee.
 - C. A Business Operations Proposal which will be evaluated based on the following criteria:
 1. Experience owning or operating a cannabis related business;
 2. Record of cannabis operations:
 - i. In Santa Barbara County;
 - ii. In California;
 - iii. In the United States;
 3. Proof of Corporate Status from California Secretary of State;
 4. Step-by-step procedures to demonstrate compliance with State and local regulations for the proposed business including cash management plan;

5. Finance plan and pro forma financial statement, including projected revenue and expenses and proof and level of capitalization;
6. Employee training program;
7. Product procurement and delivery plan;
8. Communications/marketing strategic plan that demonstrates compliance with state and local regulations;
9. Local employment goals and supply chain support plan;
10. Labor protections for retailers with more than fifteen (15) employees; and
11. Any other information determined by the CEO to be necessary for the purpose of criteria-based selection.

D. A Neighborhood Compatibility Proposal which will be evaluated based on the following criteria:

1. Site visit;
 2. Customer and community education plan;
 3. Community engagement and local involvement plan that address specific needs within the community hosting the cannabis storefront retail location;
 4. Neighborhood compatibility plan including, but not limited to, interior and exterior design, odor control, onsite parking, compliance with community plan standards and comprehensive plan standards; and
 5. Any other information determined by the CEO to be necessary for the purpose of criteria-based selection, including, but not limited to, the list of priorities established in Subsection c) above.
- iv. 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.

- v. Determining Accepted Applications. The County Executive Office will review all timely submitted applications.
- A. The County Executive Office will forward all timely and complete 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 and is within a designated community plan in accordance with Section 50-7.b above, that the location meets all setback requirements, etc.).
 - B. Applications that successfully comply with the submittal standards listed in Subsections i through iv above, and pass the preliminary zoning and permitting standards review in Subsection A above will be considered accepted applications. A list of accepted applications, by business name listed on the application, will be posted on the County's website.
 - C. Non-accepted applications will be notified by email and first-class mail, at the addresses submitted in the application, of non-acceptance and reason for the application not being accepted. Notwithstanding anything in this Chapter to the contrary, the County reserves the right to reject any or all applications if it determines it would be in the best interest of the County, taking into account the health, safety and general welfare of the community. Reasons for non-acceptance may include, but are not limited to:
 - 1. The application was received after the submittal deadline;
 - 2. The application is incomplete, is not on the required form, or does not comply with the requirements in this Section, including excessive pages, failure to submit all required proposals, information, or documents, contains excess or extraneous materials not called for in the application package, etc.;
 - 3. The full application fee was not submitted;
 - 4. More than one application per location is submitted;

5. The proposed operation site does not preliminarily meet the zoning and permitting standards;
 6. The applicant or owner has a felony conviction as addressed in Sections 50-11 or 50-17.c; or
 7. The applicant or owner made a false, misleading or fraudulent statement or omission of fact in the application or criteria-based selection process.
- D. Any applicant whose application is not accepted will have five (5) business days after notification is posted in accordance with Subsection B above and sent in accordance with Subsection C above to file a written non-acceptance protest with the County Executive Office. Non-acceptance protests will be considered by the County Executive Office and all decisions of the County Executive Office are final.
- E. Accepted applications may be forwarded to a contracted third-party consultant for scoring and/or ranking as discussed in Subsection vi below. The CEO and the third party consultant may consult with departments involved with cannabis business licensing identified in Section 50-9, as well as Sections 50-10 through 50-14 below, to determine compliance with County Code requirements. Accepted applications and listed applicants and owners are nontransferable.
1. If the results from the live scan are not received by the time that the County Executive Office concludes its review of the submitted applications, then the application will be deemed conditionally accepted and may subsequently be rejected based on the live scan results as noted in Subsection 6 above.
- vi. Scoring and Ranking Process. Accepted applications will be scored and ranked by community plan area based on the criteria established in this Section using the scoring sheet provided with the Notice of Criteria-Based Application.
- A. Scoring. Each accepted application will be scored based on the submittal elements listed in the score sheet.
1. Points assigned to each submittal element will be based on a minimum scale of 0-5 point, with 0 points

being unacceptable and 5 points being Excellent or Exceptional.

2. Scored submittal elements shall be weighted as follows: 25% based on the general application submittal required in Section 50-7.d.3.iii.A, and 75% based on the Business Operations Proposal required in Section 50-7.d.3.iii.C.
3. Each accepted application must receive a score of 85% or greater to be considered a qualified application. In no case will an application that receives less than 85% of the possible criteria-based points available be placed on the Preliminary Ranked Storefront Retail List.

B. Ranking. For each application that receives 85% or more of the total points in Subsection A above, the evaluator(s) will use a forced ranking method to identify the overall highest-ranked application and to rank the other accepted and qualified applications. Ranking shall be weighted as follows: 10% based on the application as a whole and 90% based on the Neighborhood Compatibility Plan. If multiple evaluators are used to rank accepted and qualified applications, the rankings will be averaged to determine the ranking that will be included on the Preliminary Ranked Storefront Retail List.

- vii. Preliminary Ranked Storefront Retail List. The County Executive Office will post the Preliminary Ranked Storefront Retail List of all scored and ranked accepted and qualified applications by each community plan area on the County's website and a copy of the lists will be available in the County Executive Office. All accepted and qualified applications will be notified of the Lists posting via email and first class mail, based on the addresses provided in the application. Any accepted applicant will have five (5) business days after the posting of a List on the County's website to file a written scoring protest with the County Executive Office. Scoring protests will be considered by the County Executive Office and all decisions of the County Executive Office are final.
- viii. Final Ranked Storefront Retail List. Following the resolution of any protest, the County Executive Office will create and post on

the County’s website the Final Ranked Storefront Retail List for each community plan area as allowed in Section 50-7.b.

e) Cannabis Retail Ranked Lists.

1. Once the Final Ranked Storefront Retail List for each community plan is complete, the lists will be valid for five years or until all names are exhausted from the List. Upon exhaustion of the List or at the end of five years, the process listed above may begin anew if the maximum number of cannabis storefront retail business licenses have not been issued.
2. Applicants on the Final Ranked Storefront Retail List will need to renew their interest in remaining on the List(s) annually, by submitting a written request to the County Executive Office on the anniversary of creation of the List(s) or on another date established by the CEO.
3. If a community plan area fails to have any applicants on the Final Ranked Storefront Retail List, the process listed above may begin anew.

f) Permitting and Licensing of Retail Cannabis Operations.

1. The highest ranked application per List, will be selected and invited to start the process to obtain a land use entitlement/permit and a cannabis business license.
2. The selected applicants will have 90 days to submit an application to the Planning and Development Department consistent with the applicant’s criteria-based application required and evaluated under this Section. If the Planning and Development Department deems the application incomplete, the Department will establish a deadline by which the selected applicant needs to complete the application or lose their status and ability to proceed with permitting and licensing of the proposed cannabis storefront retail operation. Failure to timely file an application or filing an application that is not consistent with the criteria-based application will result in the selected applicant being removed from the Final Ranked Storefront Retail List and losing their status, and the next highest ranked applicant on the applicable Final Ranked Storefront Retail List will be invited to submit an application for a land use entitlement/permit.
3. The Criteria-Based Application and Selection Process will serve as the start of the Cannabis Business License Application process. However, a County cannabis business license shall not be issued until after the applicant has received all necessary and final land use entitlements and has submitted a complete Cannabis Business License Application, including all the materials and deposits required in Section 50-8, which

complies with this Chapter. 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 applicant being removed from the Final Ranked Storefront Retail List and losing their status.

4. Once a selected applicant has obtained a land use entitlement, a cannabis business license and the applicable State cannabis storefront retail license, that applicant 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 licensed retailer's cannabis business license is revoked or not timely renewed, or their land use entitlement is revoked, or their State license is revoked or is not timely renewed, the licensed retailer will lose their status and the next highest ranked applicant on the applicable Final Ranked Storefront Retail List may start the permitting and licensing process.

SECTION 2. Except as amended by this Ordinance the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

SECTION 3. 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 4. 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 5. 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 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