

ORDINANCE NO. 5188

**AN ORDINANCE AMENDING ORDINANCE NO. 5181
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. These findings supplement the findings set forth in Ordinance No. 5181.

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, and once on January 25, 2022 by Ordinance No. 5148, and once on May 16, 2023 by Ordinance No. 5181 is hereby being amended for the fifth 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 performed an additional fee analysis to add fees for the cannabis licensing program to recover cost for the use of the California Cannabis Authority's data analytics platform 'the Platform'. The Platform aids County regulation and enforcement of the cannabis program by analyzing the substantial transaction activity of commercial cannabis licensees derived from the State's 'track and trace' database. The additional fee to be passed through to business license applicants and licensees includes the cost to be incurred as part of the County's Cannabis Business Licensing Program as described in the updated Attachment C to this Ordinance; and

WHEREAS, the additional fees will be billed quarterly based on the supplemental fee analysis; and

WHEREAS, the supplemental fee analysis determined that the updated costs of the Cannabis Business Licensing Program are included in Attachment C to this Ordinance based on the cost of access to the data platform that relays Metrc track-and-trace data for every licensed operation in the county at the license level; and

WHEREAS, the proposed fees are directly related to the cost reasonably necessary to regulate the County's Cannabis Business Licensing Program; 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 August 22, 2023, 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: Ordinance No. 5181, the Section entitled "Fees" is hereby amended to read as follows:

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. Additionally, all cannabis business license applicants or licensees shall pay all costs the County incurs using the California Cannabis Authority's (CCA) data analytics platform. The fee for the Platform will be billed quarterly in January, April, July, and October and shall be due thirty (30) days from date of the invoice. The fee is calculated to be a fixed percentage of the State fee charged for renewing a cannabis license, as set forth in Attachment C.

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 fees set forth in Attachment C shall be reviewed annually by the County Executive Office and may be adjusted pursuant to track the annual State Department of Cannabis Control (DCC) License Fee. 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 holding any active State cannabis license in Santa Barbara County as required by Section 50-3 of the Santa Barbara County Code.

SECTION 4: Ordinance No. 5181 is hereby amended to add Attachment C.

SECTION 5: 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 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 Independent and the Santa Maria Times*, 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 29th day of August 2023 by the following vote:

AYES: Supervisors Williams, Capps, Hartmann and Nelson

NOES: Supervisor Lavagnino

ABSTAIN: None

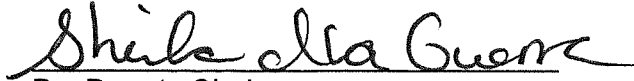
ABSENT: None

COUNTY OF SANTA BARBARA

By: 

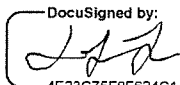
DAS WILLIAMS, CHAIR
BOARD OF SUPERVISORS

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

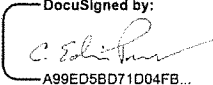


By: Deputy Clerk

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

DocuSigned by:

By: 4E23C75E9E624C1
Deputy County Counsel

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

DocuSigned by:

By: A99ED5BD71D04FB...
Deputy