

ATTACHMENT 4: LAND USE AND DEVELOPMENT CODE ORDINANCE AMENDMENT

ORDINANCE NO. 5161

AN ORDINANCE AMENDING SECTION 35-1, THE SANTA BARBARA COUNTY LAND USE AND DEVELOPMENT CODE (LUDC), OF CHAPTER 35, ZONING, OF THE COUNTY CODE TO AMEND ARTICLE 35.4, STANDARDS FOR SPECIFIC LAND USES; ARTICLE 35.10, LAND USE AND DEVELOPMENT CODE ADMINISTRATION; AND ARTICLE 35.11, GLOSSARY; TO REQUIRE A CONDITIONAL USE PERMIT FOR CERTAIN COMMERCIAL CANNABIS ACTIVITIES AND MAKE OTHER RELATED AMENDMENTS.

Case No. 22ORD-00000-00001

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

ARTICLE 35.4, Standards for Specific Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to revise Table 4-10 Permit Requirements for Cannabis in Agricultural Zones, of Section 35.42.075, Cannabis Regulations, of Chapter 35.42, Standards for Specific Land Uses, to read as follows:

Table 4-10 Permit Requirements for Cannabis in Agricultural Zones	P	Permitted use, Land Use Permit required (2)
	MCUP	Minor Conditional Use Permit required
	CUP	Conditional Use Permit required
	—	Use Not Allowed
LAND USE (1)	PERMIT REQUIRED BY ZONE	
	AG-I	AG-II

CANNABIS CULTIVATION AND MICROBUSINESS

Cultivation – Outdoor	CUP (2)(5)(6)	CUP (2)(6)
Cultivation – Mixed-light	CUP (2)(5)(6)	CUP (2)(6)
Cultivation – Indoor	CUP (2)(5)(6)	CUP (2)(6)
Cultivation – Processing (Excluding Manufacturing)	See Section 35.42.075.B.7	See Section 35.42.075.B.7
Nursery	CUP (4)(5)(6)	CUP (4)(6)
Microbusiness	—	CUP (2)(3)(6)

CANNABIS DISTRIBUTION, MANUFACTURING, AND TESTING

Distribution	CUP (2)(5)(6)	P (2)(6)
Non-volatile Manufacturing	CUP (2)(5)(6)	P (2)(6)
Volatile Manufacturing	CUP (2)(5)(6)	CUP (2)(6)
Testing	—	—

CANNABIS RETAIL

Retail	—	—
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Key to Zone symbols

AG-I	Agriculture I	AG-II	Agriculture II
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Notes:

- (1) See Article 35.11 (Glossary) for land use definitions.
- (2) The cannabis operation shall not be located within 750 feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the premise, without regard to intervening structures.
- (3) Microbusiness - only allows non-storefront retail.
- (4) Nursery operation shall not be located within 600-feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the closest premise of the cannabis activity is to be located, without regard to intervening structures.
- (5) Commercial cannabis activities are prohibited on AG-I zoned lots that are equal to, or less than, 20 acres in size.
- (6) Commercial cannabis activities are prohibited within Existing Developed Rural Neighborhoods.

SECTION 2:

ARTICLE 35.4, Standards for Specific Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to revise Table 4-12 Permit Requirements for Cannabis in Industrial Zones, of Section 35.42.075, Cannabis Regulations, of Chapter 35.42, Standards for Specific Land Uses, to read as follows:

Table 4-12 Permit Requirements for Cannabis in Industrial Zones	P Permitted use, Land Use Permit required (2) MCUP Minor Conditional Use Permit required CUP Conditional Use Permit required — Use Not Allowed		
	LAND USE (1)	PERMIT REQUIRED BY ZONE	
	M-RP	M-1	M-2

CANNABIS CULTIVATION AND MICROBUSINESS

Cultivation – Outdoor	CUP(2)(4)	CUP(2)(4)	CUP(2)(4)
Cultivation – Mixed-light	CUP(2)(4)	CUP(2)(4)	CUP(2)(4)
Cultivation – Indoor	P(2)(4)	P(2)(4)	P(2)(4)
Cultivation – Processing (Excluding Manufacturing)	See Section 35.42.075.B.7	See Section 35.42.075.B.7	See Section 35.42.075.B.7
Nursery – Indoor	P(3)(4)	P(3)(4)	P(3)(4)
Nursery – Outdoor	CUP(3)(4)	CUP(3)(4)	CUP(3)(4)
Microbusiness	—	CUP(2)(4)	CUP(2)(4)

CANNABIS DISTRIBUTION, MANUFACTURING AND TESTING

Distribution	P(2)(4)	P(2)(4)	P(2)(4)
Non-volatile Manufacturing	P(2)(4)	P(2)(4)	P(2)(4)
Volatile Manufacturing	—	P(2)(4)	P(2)(4)
Testing	P(2)(4)	P(2)(4)	P(2)(4)

CANNABIS RETAIL

Retail	—	P(2)(4)	—
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Key to Zone Symbols

M-RP	Industrial Research Park	M-2	General Industry
M-1	Light Industry		

Notes:

- (1) See Article 35.11 (Glossary) for land use definitions.

- (2) The cannabis operation shall not be located within 750 feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the premise, without regard to intervening structures.
- (3) Nurseries shall not be located within 600-feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the closest point of the nursery premises, without regard to intervening structures.
- (4) Commercial cannabis activities are prohibited within Existing Developed Rural Neighborhoods.

SECTION 3:

ARTICLE 35.4, Standards for Specific Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to revise Section 35.42.075, Cannabis Regulations, Subsection B.5, and to add Section 35.42.075, Cannabis Regulations, Subsection B.7 to read as follows:

B. Allowed uses and permit requirements.

...

5. **Permit requirements for commercial cannabis activities on lots zoned AG-I.** Commercial cannabis activities are prohibited on AG-I zoned lots that are equal to, or less than, 20 acres in size.

...

7. **Permit requirements for certain commercial cannabis cultivation processing activities on lots zoned AG-I, AG-II, M-RP, M-1, and/or M-2.** On lots zoned AG-I, AG-II, M-RP, M-1, and/or M-2, new processing activities—excluding manufacturing—of cannabis shall require approval of a:
 - a. Land Use Permit (Section 35.82.110), if the processing activities will be added to existing commercial cannabis cultivation that is subject to an approved Land Use Permit for cannabis cultivation or if it is located in the M-RP, M-1, or M-1 zone district (Section 35.42.075.B.4);
 - b. Revised Conditional Use Permit (Section 35.84.040.E), if the processing activities will be added to existing commercial cannabis cultivation that is subject to an approved Conditional Use Permit; or
 - c. Conditional Use Permit (Section 35.82.060), if the processing activities are proposed on a project site that is not subject to an approved land use entitlement for cannabis cultivation.

SECTION 4:

ARTICLE 35.4, Standards for Specific Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to revise Section 35.42.075, Cannabis Regulations, Subsection C.3 and C.6 to read as follows:

C. General commercial cannabis activities development standards.

...

3. **Landscape Plan and Screening Plan.** The applicant for a permit to allow outdoor, indoor, mixed-light, or nursery cannabis cultivation development shall submit a Landscape Plan and Screening Plan

to the Department for review and approval, and shall be subject to Design Review if located within the Critical Viewshed Corridor (CVC) Overlay Zone or Design Control (D) Overlay Zone, consistent with the requirements of Section 35.28.070 or 35.28.080. The requirements in this Section shall also apply to the cannabis cultivation as part of a microbusiness. All cultivation shall be screened to the maximum extent feasible to avoid being seen from public places, including, but not limited to, public rights of way, shall comply with Chapter 35.34 (Landscaping Standards), and the standards listed below. The Landscape Plan and Screening Plan shall be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project as applicable. The applicant shall demonstrate to the Department that all aspects of the Landscape Plan and Screening Plan comply with the following requirements:

...

6. **Odor Abatement Plan.** The applicant for cultivation, nursery, manufacturing (volatile and non-volatile), microbusiness, and/or distribution permits, shall (1) prepare and submit to the Department for review and approval, and (2) implement, an Odor Abatement Plan. No odor abatement plan shall be required in AG-II zoning, unless it is adjacent to an EDRN or Urban Rural boundary or the cultivation area exceeds 51% of the subject lot area (gross). The Odor Abatement Plan must prevent odors from being experienced within residential zones, as determined by the Director. The Odor Abatement Plan shall be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project, as applicable. The Odor Abatement Plan must include the following:

...

SECTION 5:

ARTICLE 35.4, Standards for Specific Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to revise Section 35.42.075, Cannabis Regulations, Subsection D to delete subsections D.1.b, D.1.i, and D.1.m, and renumber the remaining subsections of Section 35.47.075.D.1 accordingly.

SECTION 6:

ARTICLE 35.10, Land Use and Development Code Administration, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to add a new Subsection G, Minor Changes to Land Use Permits for Commercial Cannabis Cultivation, of Section 35.84.040, Changes to an Approved Project, of Chapter 35.84, Post Approval Procedures, to read as follows:

- G. **Minor Changes to Land Use Permits for Commercial Cannabis Cultivation.** Minor changes to an approved Land Use Permit for commercial cannabis cultivation (outdoor, mixed-light, indoor, and nursery) in the AG-II, M-RP, M-1, and M-2 zones may be allowed. A request shall be processed in the following manner:
 1. The Director may approve a minor change to an approved Land Use Permit where the Director determines:

- a. The minor change is either environmentally beneficial (e.g., changes to improve the efficacy of odor control systems) or does not result in new, adverse environmental effects not analyzed or discussed at the time of project approval or in the need for additional mitigation measures;
 - b. The minor change does not substantially deviate from the approved plans and the originally approved permit;
 - c. There is no change in the use or scope of the development;
 - d. The minor change does not result in a change to the Director's conclusions regarding the project's specific conformance to development standards and findings;
 - e. The Land Use Permit has not expired; and
 - f. The minor change is exempt from Design Review in compliance with Section 35.82.070 (Design Review).
2. Where a minor change of an approved Land Use Permit is approved, the permit shall have the same effective and expiration dates as the original permit and no additional public notice shall be required.
 3. If the Director determines a proposed change to an approved Land Use Permit does not meet the above criteria, a new Conditional Use Permit shall be required.
 4. Determinations made pursuant to this subsection are not subject to Appendix C (Guidelines for Minor Changes to Land Use Permits) or Appendix F (Substantial Conformity Determination Guidelines).
 5. The determination to allow a minor change to an approved Land Use Permit for commercial cannabis cultivation is final and not subject to appeal.

SECTION 7:

ARTICLE 35.10, Land Use and Development Code Administration, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to a new Subsection C, Previous Land Use Permits for commercial cannabis cultivation, of Section 35.101.080, Nonconforming Due to Lack of a Discretionary Permit, of Chapter 35.101, Nonconforming Uses, Structures, and Lots, to read as follows:

- A. Conformity of uses requiring a discretionary permit.** Except as provided in Subsection 1, below, a use lawfully existing without the approval of a discretionary permit that would be required by this Development Code, shall be deemed conforming only to the extent that it previously existed (e.g., maintain the same site area boundaries, hours of operation).
- B. Previous permits in effect.** A use that was authorized by a discretionary permit but is not allowed by this Development Code in its current location may continue, but only in compliance with the discretionary permit.
- C. Previous Land Use Permits for commercial cannabis cultivation.** This section shall not apply to commercial cannabis cultivation (outdoor, mixed-light, indoor, and nursery) in the AG-II, zones that was authorized by a Land Use Permit and remains allowed by this Development Code in its current location.

SECTION 8:

ARTICLE 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to revise Section 35.110.020, Definitions of Specialized Terms and Phrases, of Chapter 35.110, Definitions, to revise the definition of “Nonconforming Use,” to read as follows:

Nonconforming Use. A use of land, or structure that was lawful prior to the effective date of this Development Code or any amendment, or previously adopted County Ordinances, and that does not conform to the present regulations on use of this Development Code, including:

1. A land use established where the use is not identified as a permitted use by the zone applicable to the lot on which the use is located;
2. A land use that is identified as a permitted use by the zone applicable to the lot on which the use is located but is not allowable on the particular site because of planning area standards of a Community and Area Plan Overlay;
3. A land use that was lawfully established without obtaining a planning entitlement (e.g., Conditional Use Permit, Development Plan) pursuant to the Development Code. This definition does not apply to commercial cannabis cultivation (outdoor, mixed-light, indoor, and nursery) in the AG-II zone that is lawfully existing under this zoning ordinance with a Land Use Permit and continues to conform to the Land Use Permit;
4. A land use that is operated or conducted in a manner that does not now conform with the standards of this Development Code, including floor area ratios, minimum site area, limitations on use, or location criteria; or
5. A residential use that exceeds the number of dwelling units or bedrooms allowed on the lot by this Development Code.

SECTION 9:

All existing indices, section references, and figure and table numbers contained in Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 10:

Except as amended by this Ordinance, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 11:

This Ordinance shall take effect 30 days from the date of its passage and shall become operative on January 31, 2023. 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. However, cannabis applications that have a final approved permit as of the operative date of this Ordinance are exempt from the requirements of this Ordinance. For purposes of this section a “final approved permit” is a permit that has been: 1) approved and the appeal period has expired without an appeal; 2) approved on appeal with a final decision rendered by the County on the permit application by the operative date of this Ordinance, or 3) approved and subject to litigation, which if the permit is upheld shall be exempt from this Ordinance, but if not upheld by the Court then the applicant shall comply with all County Codes going forward including this Ordinance.

SECTION 12:

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 planning and zoning 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 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 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.

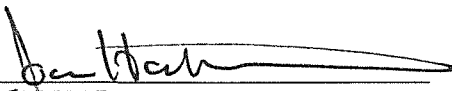
PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 16th day of August, 2022, by the following vote:

AYES: Supervisors Williams, Hart, Hartmann, Nelson, and Lavagnino

NOES: None

ABSTAINED: None

ABSENT: None



JOAN HARTMANN, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: 

Cannabis Ordinance Amendments
Case No. 22ORD-00000-00001
Board of Supervisors
Hearing Date: August 16, 2022
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Deputy Clerk

APPROVED AS TO FORM:

RACHEL VAN MULLEM
COUNTY COUNSEL

By:  _____
Division Chief