

Attachment A

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**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. _____

A Resolution of the Monterey County Board
of Supervisors Amending Articles IX, XVII,
and I.E of the Monterey County Fee
Resolution to Establish New Fees.

WHEREAS, On July 19, 2016, the Monterey County Board of Supervisors adopted ordinances adding Chapters 7.90 and 7.95 to the Monterey County Code.

WHEREAS, Chapter 7.90 requires commercial medical cannabis operations to obtain an annual permit to conduct commercial medical cannabis activities, including cultivation, dispensaries, manufacturing, testing, transportation, and distribution in accordance with state law.

WHEREAS, Chapter 7.95 requires individuals to obtain an annual personal medical cannabis permit for cultivation of one hundred square feet total canopy area or less of medical marijuana when such cultivation is by a qualified patient for personal medical use or by a primary caregiver exclusively for the personal medical use of no more than five qualified patients.

WHEREAS, State law allows the County, after noticed public hearing, to adopt a resolution to adopt new fees or increase existing fees for processing permits and entitlements, provided the fees do not exceed the estimated reasonable cost of providing the service for which the fee is charged.

WHEREAS, Section 1.40.010 of Chapter 1.40 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind collected by the County may be specified in the Monterey County Fee Resolution.

WHEREAS, The purpose of this action is to establish application fees for commercial cannabis permits and personal cannabis permits, as created by County ordinance. Per the proposed amendments to the Monterey County Fee Resolution, the commercial cannabis permit fee would be based on actual time spent by staff in the Resource Management Agency (RMA) – Planning, Environmental Health Bureau, and County Counsel processing applications for these permits and would require an upfront deposit. The personal cannabis permit fee would be a flat fee, covering the estimated reasonable cost of RMA processing the permit.

WHEREAS, The fees established by this resolution cover a portion of the staff cost of processing applications for permits. The fees do not exceed the reasonable or actual costs of performing the services, processing permit applications and associated activities. Any and all newly established fees reflect no more than the actual cost of the service or benefit received by the payor. To the extent that the fees do not result in full cost recovery, the discount does not result in increased charges to other payors; the increased cost will be covered by an increased subsidy from the County General Fund.

WHEREAS, These fees are not a “tax” and are exempt from voter approval under section 1(e)(1)-(3),(5) and (6) of Article XIII C of the California Constitution (Proposition 26, excepting from the definition of “tax” charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs to a local government for issuing permits and the administrative enforcement thereof, fines and penalties and charges for violation of law, and property development charges.) These fees are imposed for a specific government service provided directly to the applicant that is not provided to those not charged, are imposed for the reasonable regulatory costs to the County for issuing permits for property development and the administrative enforcement thereof, and do not exceed the reasonable costs to the County of providing these services.

WHEREAS, This action to modify fees is not a project under the California Environmental Quality Act because it is a governmental funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines section 15378(b)(4).)

WHEREAS, Said amendments to the fees shall take effect no sooner than 60 days following final action on the adoption of the amendments.

WHEREAS, The Board of Supervisors held a duly noticed public hearing on September 27, 2016 to consider these fee adjustments. Notice of this matter was provided by publication of notices in a newspaper of general circulation in the County and distribution of notice to interested persons, and all testimony from staff and the public has been heard and considered.

NOW, THEREFORE, BE IT RESOLVED by the Monterey County Board of Supervisors as follows:

- a. The foregoing recitals are true and correct.
- b. Articles IX (RMA-Planning), XVII (County Counsel), and I.E (Health Department) of the Monterey County Fee Resolution are hereby amended as shown in Exhibits 1, 2, and 3, attached hereto and incorporated herein by reference, to establish new fees for commercial medical cannabis permits and personal medical cannabis permits.
- c. These amendments do not change the other fees set forth in Articles IX, XVII and I.E which remain in full force and effect.
- d. Said amendments to the Articles shall take effect on the sixty-first day following adoption.

PASSED AND ADOPTED this ____ day of _____, **2016**, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book_____for the meeting on_____.

Dated:

Gail T. Borkowski, Clerk of the Board of
Supervisors County of Monterey, State of
California

By: _____
Deputy

EXHIBIT 1

AMENDMENT TO ARTICLE IX RMA-PLANNING DEPARTMENT FEES

Subdivision A (Various fees pursuant to Government Code Section 65104 for planning services provided by the Department) of Section 2 of Article IX is amended to add the following fees:

[Description]	[Amount]	[Unit]
Commercial Cannabis Permit –initial permit	\$1,350.00	Deposit
Commercial Cannabis Permit -- renewal	\$516.00	Deposit
Personal Cannabis Permit – initial permit	\$170.00	Flat Fee
Personal Cannabis Permit - renewal	\$0.00	N/A

EXHIBIT 2

AMENDMENT TO ARTICLE XVII COUNTY COUNSEL FEES

Subdivision D (Fees for Miscellaneous Services) of Section 1 of Article XVII is amended to add the following fees:

[Description]	[Amount]	[Unit]
Commercial Cannabis Permit –initial permit	\$424.00	Deposit
Commercial Cannabis Permit -- renewal	\$212.00	Deposit

EXHIBIT 3

AMENDMENT TO ARTICLE I.E HEALTH DEPARTMENT FEES

Subdivision C (Miscellaneous Permits and Fees) of Section 5 of Article I.E is amended to add the following fees:

[Description]	[Amount]	[Unit]
Commercial Cannabis Permit –initial permit	\$2,700.00	Deposit
Commercial Cannabis Permit -- renewal	\$300.00	Deposit