

Attachment F

This page intentionally left blank.

ATTACHMENT F
DRAFT

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

Resolution No. _____

A Resolution of the Monterey County Board of Supervisors to:)

(a) Declare that Administrative Permit fees for inland commercial cannabis activities apply prospectively from the effective date of the ordinance amending the type of permit required for the cannabis activities; and)

(b) Declare that applicants who previously paid fees for Use Permits for commercial cannabis activities are not entitled to a refund of the difference between the Use Permit and Administrative Permit fees.)

WHEREAS, Section 1.40.010 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind collected by the County may be adopted by resolution.

WHEREAS, on November 6, 2018, the Monterey County Board of Supervisors adopted an ordinance amending Title 21 (non-coastal zoning ordinance) to change commercial cannabis activities from a conditional use allowed subject to a Use Permit in each case within specified zoning districts, to a principal use allowed subject to an Administrative Permit in each case within the same specified zoning districts.

WHEREAS, pursuant to the Monterey County Fee Resolution adopted by the Board of Supervisors, the fee for a Use Permit is more than the fee for an Administrative Permit. As of the date of this Resolution, the fees adopted by the Board of Supervisors for a Use Permit are \$8,654.27 and the fees for an Administrative Permit are \$6,226.28.

WHEREAS, fees for Use Permits and Administrative Permits are based on a flat fee covering the estimated reasonable cost of staff in the Resource Management Agency, Environmental Health Bureau, Water Resources Agency, and County Counsel for processing applications for these permits. The fees do not exceed the reasonable or actual costs of performing the services, processing permit applications and associated activities.

WHEREAS, the purpose of this action is to clarify how fees will be administered given the change in permit requirements for inland commercial cannabis activities. Many applicants have applied for a Use Permit, but are still in the permitting process.

WHEREAS, the actual costs of processing Use Permit applications for commercial cannabis activities that were submitted prior to the effective date of the above-mentioned

ordinance is equal to or greater than the flat fee established by the adopted Monterey County Fee Resolution for Use Permits because:

- Many of the applications submitted thus far are for commercial cannabis activities that are already operating under a temporary status in advance of obtaining the required permits and entitlements. Staff time associated with coordination on state temporary licensing, communications and compliance inspections for ongoing “good standing” verification, and other related efforts to simultaneously enforce temporary permissions, in addition to processing entitlements to permit on-going operations far exceed the difference in fee amounts;
- State law, and consequently County regulations, for commercial cannabis activities have changed rapidly in the last two years. As a result of these changes, staff has spent more than the average estimated average time associated with processing Use Permits for commercial cannabis activities while getting accustomed to new state laws, new local regulations, and new procedures for cannabis permitting; and
- Many properties where commercial cannabis activities are proposed have outdated infrastructure. Staff has spent more than the average estimated time reviewing and processing Use Permit applications involving improvements to buildings, potable water systems, wastewater systems, stormwater drainage facilities, and fire suppression systems.

WHEREAS, the decision to withhold refunds in the difference in permit fees is not a “tax” and is 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 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).)

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

- a. The foregoing recitals are true and correct;
- b. Declare that Administrative Permit fees for inland commercial cannabis activities apply prospectively from the effective date of the ordinance amending the type of permit required for the cannabis activities; and
- c. Declare that applicants who previously paid fees for Use Permits for commercial

cannabis activities are not entitled to a refund of the difference between the Use Permit and Administrative Permit fees.

PASSED AND ADOPTED on this 6th day of November 2018, by the following vote:

AYES:

NOES:

ABSENT:

I, Valerie Ralph 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:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____

Deputy

This page intentionally left blank