



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: November 1, 2022
Placement: Departmental
Estimated Time: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director(s) Contact Info: Mona Miyasato, County Executive Officer
Jeff Frapwell, Assistant County Executive Officer
Brittany Heaton, Principal Analyst, Cannabis

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SUBJECT: Amend Chapter 50 of the County Code - Licensing of Cannabis Operations

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: NA

Recommended Actions:

That the Board of Supervisors:

- a) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending Chapter 50 of the Santa Barbara County Code, Licensing of Cannabis Operations in the unincorporated area of the County (Attachment 1 and 2);
- b) Read the title and waive further reading of the Ordinance in full;
- c) Set a hearing on the Administrative Agenda for November 29, 2022 to consider recommendations, as follows:

On November 29, 2022:

- i) Consider adoption (Second Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending Chapter 50 to the Santa Barbara County Code, Licensing of Cannabis Operations; and
- ii) Determine for the purposes of CEQA that:
 - 1) 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) [Case No. 17EIR-00000-00003, State Clearinghouse No. 2017071016] adequately describes this activity for the purposes of CEQA.

- 2) 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 following situations elements of CEQA Guidelines Section 15162(3) apply.

Summary Text:

In November of 2021 the Board directed staff to return with an ordinance amendment that would address cannabis cultivation operations which had reserved acreage in the acreage cap but were not cultivating all the acreage that had been reserved. Over the past year, staff received feedback from business license applicants that many of their operations need some time to phase in cultivation operations. This amendment proposes up to three years for cannabis growers who have reserved acreage under the acreage cap to phase in operations. The amendment also accommodates requests for fallowing, allowing operators to not grow for up to one year, limited to once every three years.

The purpose of this agenda item is for Board consideration of an ordinance amending Chapter 50, Licensing of Commercial Cannabis Operations, to reflect desired changes in the business licensing process. Revisions are summarized below.

Background: In May 2018, the Board adopted Chapter 50 of the Santa Barbara County Code, Licensing of Cannabis Operations. Since the effective date of the cannabis ordinances (June 2018 in the inland area, November 2018 in the coastal zone), cannabis operations have been applying for County cannabis land use permits and business licenses. Chapter 50 has since been amended several times to reflect necessary changes in the business licensing process. It was most recently amended in February 2022, and the Board requested that staff return with a subsequent amendment to establish deadlines by which cannabis operations would need to reach their requested acreage being reserved under the acreage cap, and make other adjustments to allow operators to fallow their land for requested periods of time.

Proposed Amendments to Cannabis Licensing Ordinance

Issue Area	Proposed Amendment	County Code section
Definitions	1. Updates the definition of <i>State Licensing Authorities</i> to reflect the State's consolidation of several agencies into the Department of Cannabis Control.	County Code § 50-2
License Requirements for Distributors	2. Clarifies that an approved land use entitlement may not be necessary for all business license types, i.e. Distributor for operators located outside the county.	County Code § 50-6
		County Code § 50-7

Maintenance of Requested Acreage	<ol style="list-style-type: none"> 3. Requires licensed cultivators to secure their requested acreage by demonstrating that they reached that amount in actual cultivation activities upon the second renewal (year three of operation) or risk losing the unused acreage on the eligibility list. 4. Allows licensed cultivators to request to fallow for up to one year, once the requested acreage has been reached and or maintained for at least three consecutive years. 	
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The specific amended Chapter 50 sections are provided in Attachment A (Non-redlined) and Attachment B (Redlined).

Maintenance of Requested Acreage

Chapter 50 established acreage caps of 186 and 1,575 acres for the Carpinteria Agricultural Overlay District and the Unincorporated Inland Areas respectively. Over the last year the acreage cap in the Unincorporated Inland Area was committed. The County established a Wait List and currently there are requests to cultivate over 200 acres on the Wait List. The Board asked staff to propose language in the ordinance that would ensure acreage being held by operators within the cap is cultivated in a reasonable amount of time to secure that acreage. If they are unable to demonstrate actual use of the full acreage, unused acreage would be released and offered to the next person on the Wait List.

Currently a business license applicant may request acreage up to the amount approved in the associated land use entitlement and be placed on the Eligible Business License Applicants List of the associated area if the total acreage has not been committed. If the total acreage has been committed, the business license applicant may be placed on the Wait List of the Eligible Business License Applicants List. The proposed amendment gives applicants three years to phase in cultivation operations to reach the acreage in the original license application. If the operator is unable to reach the total requested acreage in year three of operation, the unused acreage is removed from their reserved acreage and reflected accordingly on the associated Eligibility List. That freed up acreage is then offered to the next person on the Wait List. The acreage approved in the applicant's land use entitlement continues to be permitted and the operator may be placed on the Wait List to secure that lost acreage at a future date, subject to acreage cap availability. The amendment also includes language that requires that operators maintain cultivation of at least eighty percent of the licensed acreage for subsequent renewals, after year three, once the total acreage amount has been established.

Requests for Fallowing

Cannabis cultivators requested that the ordinance include language allowing an operation to fallow, or take time off from cultivation activities. The proposed language allows operators a request to fallow once actual operations reach the number of acres reserved and is maintained for at least three consecutive years. The request can be for up to twelve consecutive months of fallowing and a new request is allowed no more than once every three years. Pauses in cannabis cultivation between crops during a license period are not considered fallowing for the purposes of the proposed amendment.

CEQA Determination:

Adoption of the proposed ordinance is 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).

The current acreage limits on business licenses for cannabis cultivation, nurseries, and microbusinesses with cultivation were adopted after consideration and certification of the PEIR, and were determined to be within the scope of the PEIR at the time of adoption. The proposed ordinance changes in how the cap is administered are within the scope of the PEIR and will not result in new or a substantial increase in the severity of previously-identified significant effects due to substantial changes in the prior project or its circumstances or new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time that the PEIR was certified.

Performance Measure:

NA

Contract Renewals and Performance Outcomes:

NA

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

NA

Narrative:

The cost of making and implementing the amendments to Chapter 50 will not increase or decrease the anticipated costs of the cannabis business licensing program.

Key Contract Risks:

NA

Attachments:

Attachment A – Ordinance Amending Chapter 50, Licensing of Cannabis Operations, To the Santa Barbara County Code (Non-redlined version)

Attachment B – Ordinance Amending Chapter 50, Licensing of Cannabis Operations, To the Santa Barbara County Code (Redlined version)

Attachment C – CEQA Findings

Attachment D – Link to the Program Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program, 17EIR-00000-00003:

<https://cosantabarbara.app.box.com/s/o9fp2865sykaqn98s0702plaa96xj7t5/folder/72887579662>

Attachment E – PEIR Statements of Overriding Consideration

Special Instructions:

The Clerk of the Board shall publish the ordinance in accordance with Government Code section 25124.

Authored by:

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