



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:** County Executive  
Office  
**Department No.:** 012  
**For Agenda Of:** November 5, 2019  
**Placement:** Departmental  
**Estimated Time:** 2 hours  
**Continued Item:** No  
**If Yes, date from:** NA  
**Vote Required:** Majority

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**TO:** Board of Supervisors

**FROM:** Department Director(s) Mona Miyasato, County Executive Officer  
Contact Info: Dennis Bozanich, Deputy County Executive Officer

**SUBJECT:** Cannabis Business Licensing Program – Potential Ordinance Changes to Chapter 50 for Cannabis Storefront Retail

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors (Board):

- A. Consider potential changes to the County's current cannabis storefront retail business licensing regulations;
- B. Provide conceptual direction on possible amendments to Chapter 50 (Licensing of Commercial Cannabis Operations), of the County Code, to improve the effectiveness of the cannabis regulatory system;
- C. Provide any other direction to staff to amend the County's cannabis regulatory program;
- D. Determine, pursuant to the California Environmental Quality Act (CEQA) Guidelines 15378(b)(5), that the above actions are not a project subject to CEQA review because they are administrative activities that will not result in direct or indirect physical changes in the environment.

**Summary Text:**

The Board approved ordinances for land use permitting and licensing of commercial cannabis in February and May 2018 respectively, and requested that once the cannabis regulatory system was operational, staff return with possible revisions to improve its effectiveness and address unforeseen issues. The land use entitlement ordinances went into effect in March 2018 in the inland portion of the county and then in November 2018 in the coastal zone. The Business License ordinance took effect in June 2018.

In April and in August 2019, the Board made amendments to Chapter 50. At the August 20, 2019 meeting, the Board directed staff to revise cannabis storefront retail requirements to include a criteria-based selection process as an alternative to the currently adopted random selection process.

This report identifies changes that the Board may want to consider specifically on the selection process and scoring process for cannabis storefront retail based on criteria rather than random selection. Staff is seeking general direction on amendments and will return later, as directed, with amending language for Board consideration.

## **Background:**

### **Current legal framework for Cannabis Storefront Retail**

All limits (e.g. caps) on the number of cannabis operations are found in Chapter 50, Licensing of Commercial Cannabis Operations. Section 50-7.b limits cannabis storefront retail to eight total locations countywide. The eight locations are allocated one each to six community plan areas and two locations for all areas not covered by community plans. Chapter 50-7.b.1 states:

“To avoid excessive concentration of storefront retail operations within the County, a maximum of one storefront retail operation may be allowed in each of six community plan areas: 1) Orcutt, 2) Los Alamos, 3) Santa Ynez, 4) Eastern Goleta Valley, 5) Isla Vista/Goleta, and a combined 6) Summerland & Toro Canyon, plus up to two countywide for all sites in areas not covered by the six community plan areas listed above., as defined on the effective date of the Ordinance adding this Section.”

The selection of the cannabis storefront retail licensees is to be by random selection of pre-qualified applicants. The code allows only one application per person per proposed business location. Applications are non-transferable.

The first eight randomly selected applicants have 90 days to submit applications to the Planning and Development Department. If selected applicants, for whatever reason fall out of the application process prior to land use permitting and business licensing, the next pre-qualified selected applicant will have the ability to begin the cannabis storefront retail permitting and business licensing process. All permitted and licensed storefront retail operators will also be required to hold the required state cannabis licenses.

All cannabis business licenses are good for one year. They must be renewed. Licenses can be suspended, revoked or non-renewed for failure to comply with the County’s regulations. There are a number of operational requirements in Chapter 50 of the County Code. Staff is not recommending any changes to those provisions affecting operational requirements or the business license term or any causes of action that may lead to losing a license.

## **Possible Changes**

Staff has reviewed several cannabis storefront retail selection processes from other jurisdictions, including the County of Marin and the cities of Santa Barbara, Chula Vista, San Luis Obispo and Goleta. Staff identified amendment suggestions and options for the Board to consider and seeks general direction on these possible amendments, or others. Staff will return with amendment language or additional information as the Board may direct.

Issue Area	Possible Changes	County Code section to change
Retail Selection Process	1. Establish a criteria-based application and site visit review, ranking and selection process	County Code § 50-7c & d
Retail Selection Process	2. Roles in a criteria-based application review, ranking and selection process	County Code § 50-7
Criteria & Scoring Options	3. Require cannabis storefront retail applicants to submit a Business Operations Proposal and/or a Neighborhood Compatibility Proposal for evaluation and scoring by the County Selection Committee or third party reviewer	County Code § 50-7c2
Criteria & Scoring Options	4. Application format and submittal guidelines	County Code § 50-7c2

**Selection Process Options for Cannabis Storefront Retail**

**1. Establish a criteria-based application review, ranking and selection process**

*Existing county regulations:* Chapter 50 requires a very basic pre-qualification review process, placement of all “qualified applicants” on an eligible list, followed by a random selection process to rank the qualified applicants by community plan area and “at large.”

*Area of Concern:* Members of the public and the Board expressed concern that the current random selection process left no ability to identify the high quality cannabis storefront retail operators for selection in each of the community plan areas.

*Options for amendments:*

Option #1 – Amend County Code § 50-7.c to create a three-step criteria-based selection process that scores and ranks:

- Applications containing multiple neighborhood and business-related criteria (criteria detail below) for each application to determine the top three applicants in each community plan area; and
- Noticed hearings to receive public comment on the top three applicants for each community plan area. Hearings will be held in each community plan area; and
- Site visit of the top three ranked applicants will be scored or ranked to determine the final top ranked applicant in each of the six community plan areas and two outside the community plan areas; or

Option #2 – Amend County Code § 50-7.c to create a three-step criteria-based pre-qualification process that scores applications, public hearing and comment and a site visit as described above in

Option #1. Then, conduct a random selection process on all applicants within a community plan area that score a minimum of 80% or higher in the pre-qualification process.

Option #3 - Maintain existing regulations.

*Staff recommends Option #1 or Option #2.*

## **2. Roles in a criteria-based application review, ranking and selection process**

*Existing county regulations:* Given the existing County Code § 50-7 is a random selection process, it does not have a prescribed role for staff or the Board of Supervisors in a criteria-based process.

*Area of Concern:* Given the desire to ensure neighborhood compatibility, the Board could have a role in a criteria-based application review, ranking and selection process. In some other jurisdictions reviewed, staff and/or a third party consultant ranked applications pursuant to the criteria, and the elected bodies had either no role in the selection process or final approval.

*Options for amendments:*

Option #1 – Amend County Code § 50-7.d to include the Board member, or a delegate, on the County Selection Committee for the community plan areas in their district; and/or

Option #2 – Amend County Code § 50-7.d to create a County Selection Committee to review and score cannabis storefront retail applications, and hold a public hearing for input prior to final selection; and/or

Option #3 – Amend County Code § 50-7.d to allow a contracted third-party consultant to review and score cannabis storefront retail applications, and hold a public hearing for input prior to final selection; and/or

Option #4 – Amend County Code § 50-7.d to approve the final selections at an open session of the Board; and/or

Option #5 – Maintain existing regulations.

*Staff recommends Options #2 and #3. A third-party consultant would be utilized for reviewing business plan components – see below – while a staff committee would be utilized for reviewing neighborhood compatibility issues. The Board’s involvement would occur in the development of selection process and criteria. Appeals would be processed under the terms identified in County Code § 50-27.*

## **Criteria and Scoring Options for Cannabis Storefront Retail**

### **3. Require cannabis storefront retail applicants to submit a Business Operations Proposal and/or a Neighborhood Compatibility Proposal for evaluation and scoring by the County Selection Committee or third party reviewer**

*Existing county regulations:* County Code § 50-7.c.2 only requires the submission of proposed operation location address and parcel number, proof of right to occupy for a cannabis operation and some attestations for pre-qualification for the random selection process.

*Area of Concern:* The basic pre-qualification submission in the current code would not allow for the ranking of cannabis retail operators in each of the community plan areas.

*Options for amendments:*

Option #1 – In addition to the application content requirements in County Code § 50-8, amend County Code § 50-c.2 to require submission of a Business Operations Proposal which includes the following uniform elements for evaluation and ranking by the County Selection Committee or third party reviewer:

- Experience owning or operating a cannabis related business;
- Record of compliant cannabis operations in Santa Barbara County;
- Step-by step procedures to demonstrate compliance with State and local regulations for the proposed business including cash management plan;
- Finance plan and pro forma financial statement, including projected revenue and expenses and proof of capitalization;
- Employee training program;
- Product procurement and delivery plan;
- Communications/Marketing strategic plan that demonstrates compliance with state and local regulations;
- Local employment goals and supply chain support plan; and
- Security plan.

Option #2 – In addition to the application content requirements in County Code § 50-8, amend County Code § 50-c.2 to require submission of a Neighborhood Compatibility Proposal which includes the following uniform elements for evaluation and ranking by the County Selection Committee or third party reviewer:

- Customer and community education plan;
- Community engagement and local involvement plan; and
- Neighborhood compatibility plan including interior and exterior design, odor control and parking.

Option #3 – Both Option#1 and #2.

Option #4 – Maintain existing regulations.

*Staff recommends Option #3. Appeals would be processed under the terms identified in County Code § 50-27.*

#### **4. Application format and submittal guidelines**

*Existing county regulations:* County Code § 50-7.c.2 does have a very broad description of what to submit but is non-specific about format.

*Area of Concern:* Given the amount of interest from prospective applicants, the Board may want to provide direction on certain applicant formatting or submission guidelines. Staff recommends that all components described below be included in a revised application submission.

*Options for amendments:*

Option #1 – Limit Business Operations Proposal, and/or Neighborhood Compatibility Proposal, application packages for criteria-based application review to no more than one hundred 8.5 x 11 pages. Pages may contain images and a minimum of eleven point font for any text; and/or

Option #2 – Notice the opening of the application period for at least 30 calendar days in local newspapers and County website and then open the actual application period for five days; and/or

Option #3 - Complete application packages will require all of the elements identified previously, as well as, application requirements identified in County Code § 50-8 (e.g. Background/Live Scan check results, Zoning Verification Letter, Copy of receipt showing application fee payment and proof of ownership or consent of the landlord;

Option #4 – Any combination of Options #1-3; or

Option #5 – All Options #1, #2 & #3; or

Option #6 – Maintain existing regulations.

*Staff recommends Option #5.*

**Cannabis Retail Licenses relationship to permitting**

Land Use permitting for cannabis retail licensing is within County Code Chapter 35 and no changes are being proposed to those regulations at this time. Under County Code § 50-7.e.2, following the cannabis storefront retail selection process, the selected applicants would have 90 days to submit an application to the Planning and Development Department and they may also apply for their Cannabis Business license at that same time. Cannabis retailers would also be required to obtain their State retail license from the Bureau of Cannabis Control prior to be allowed to operate in the unincorporated area.

**Performance Measure:**

NA

**Contract Renewals and Performance Outcomes:**

NA

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

<b><u>Funding Sources</u></b>	<b><u>Current FY Cost:</u></b>	<b><u>Annualized On-going Cost:</u></b>	<b><u>Total One-Time Project Cost</u></b>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative: Staff time to develop amendments for cannabis storefront retail is already appropriated in the Board-adopted FY 2019-20 budget. Depending on direction provided by the Board, there may be additional financial impacts. Cannabis licensing fee revenue will be used to cover directly attributed costs of this licensing program to each applicant.

**Key Contract Risks:**

NA

**Staffing Impacts:** NA

**Legal Positions:**

**FTEs:**

**Special Instructions:**

NA

**Attachments:**

NA

**Authored by:** Dennis Bozanich, Deputy County Executive Officer