



**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 2, 2021  
**Placement:** Departmental  
**Estimated Time:** 45 minutes  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**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

DocuSigned by:  
*Mona Miyasato*  
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**SUBJECT:** Amend Chapter 50 of the County Code - Licensing of Commercial Cannabis Operations

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**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 Commercial 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 9, 2021 to consider recommendations, as follows:

On November 9, 2021:

- 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 Commercial 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 May 2018, the Board adopted Chapter 50 of the Santa Barbara County Code, Licensing of Commercial 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 in April, August, and December of 2019, January 2020, and February of 2021.

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. Significant revisions are summarized below.

**Background:** In February of 2021, the Board directed staff to return later in the year with an ordinance amendment that would provide further clarification in Chapter 50 around changes in ownership, management of the Eligibility List for the Acreage Cap, and timelines for legal, non-conforming operations. Over the past year as the business licensing process continues implementation, staff received feedback from the cannabis stakeholder community including residents, department staff, and business license applicants on the process. These proposed amendments seek to address inefficiencies and inconsistencies in the process as well as codify the post acreage administrative process for permitted operations. Also included is the request to require outdoor grows to notify adjacent properties when a harvest period will begin and end.

**Proposed Amendments to Cannabis Licensing Ordinance**

Issue Area	Proposed Amendment	County Code section
Definitions	1. Add and revise various definitions as needed.	County Code § 50-2
Business License Required	2. Revise the timeline for applicants to submit a business license application to 30 days of approval of a land use entitlement, from 15 days previously	County Code § 50-3
Issue Area	Proposed Amendment	County Code section

Business License Exemptions	3. Establishes a sunset date for legal, non-conforming operators that did not secure a spot in the associated eligible business license applicant list before the acreage in the cap is committed	County Code § 50-5
Other Licenses and Permits	4. Clarifies the requirement that applicants have an approved land use entitlement/permit before applying for a cannabis business license	County Code § 50-6
Limits on Cannabis Business Licenses/Acreage Cap	5. Defines the process for post cap management by establishing a Wait List for applicants with an approved land use entitlement	County Code § 50-7
Business License Application Content	6. Reinforces the requirement that business license applicants possess an approved land use entitlement before applying.	County Code § 50-8
Application Review Process	7. Clarifies that business license application review only occurs if there is acreage available under the acreage cap	County Code § 50-9
Application Review Process – Sheriff	8. Adds requirements that applicants notify Sheriff of changes to site security and employment statuses	County Code § 50-11
Business License Operating Requirements	9. Adds requirements that operators provide an API key to the State’s track-and-trace system; and that outdoor cultivation sites provide notice of harvest to properties within a 1,000-foot radius	County Code § 50-25

The specific amended Chapter 50 sections are provided in Attachment 1 (Non-redlined) and Attachment 2 (Redlined).

### **Legal, Non-Conforming Operations without Land Use Approval, Post-Acreage Cap Committed**

The County allowed cannabis cultivators to continue operations under a legal, non-conforming status with submittal of an affidavit to the County that stated they were cultivating medicinal cannabis prior to January 19, 2016. These operators had to submit a land use entitlement application by August 6, 2018 to continue to cultivate in the inland areas. Staff identified six legal, non-conforming operations that entered the land use entitlement process by that deadline but do not yet have an approved permit and were therefore ineligible to apply for a business license and be placed on the Eligible Business License Applicants List: Unincorporated County. Currently, the acreage limit for this eligibility list is committed based on the number of eligible applicants and applications. Given this and that over three years has elapsed since the deadline to submit a land use entitlement application, staff recommends notifying these six operations that did not secure a place on the Eligible Business License Applicants List that they have 120 days from the adoption of this proposed ordinance amendment to cease all cannabis cultivation activities. A similar notification would go out to operators in the Carpinteria Ag Overlay Area if and when that acreage limit for the eligibility list is committed. These applicants may continue through the permitting process with the Planning & Development Department if they would like to pursue a spot on the eligibility wait list but must cease all legal non-conforming operations within the 120-day timeframe.

### **Legal, Non-Conforming Operations with Land Use Approval and Acreage Secured Under the Cap**

Additionally, staff is seeking direction from the Board to establish a sunset date for all existing, legal non-conforming uses in cannabis cultivation that secured a place on the Eligible Business License Applicants List: Unincorporated County. County Code Section 35-1003.C established a termination date for legal non-conforming operators should the operator fail to submit a land use entitlement application. Staff

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recommends pursuing an amendment to County Code Section 35, Article X that would codify a termination date of June 30, 2022 for the Unincorporated County area to ensure that these legal, non-conforming operators continue to make appropriate progress toward permit and business license issuance. Final permit and license issuance are imperative to the County's compliance efforts, and setting a sunset date provides incentive for operators to proceed with due diligence through these processes after securing a spot in the acreage cap. Once the June 30<sup>th</sup> date is reached these applicants could continue through permitting and license processes, but must cease all legal non-conforming uses. Exceptions could be made for applicants that are on appeal for their land use entitlement, which prevents them from receiving an issued land use entitlement and therefore a business license. This date would apply to the Unincorporated inland area only since the acreage cap has not yet been committed in the Carpinteria Agricultural Overlay area. Staff will return with a recommendation for the Carpinteria area once the acreage limit is committed.

### **Acreage Balance and Definitions**

The County Executive Office has received correspondence and comments from cannabis industry stakeholders that highlight an issue with the definition in Chapter 50 of activities that constitute cannabis cultivation and how that acreage is accounted for in the cap. The crux of the issue is that the Ordinance did not consider an acreage balance between cultivation, drying, and processing. In addition, the county's definition of cultivation area in acres varies from the state's definition of acreage as defined by the plant cultivation canopy only. Consequently, there are very few existing or proposed processing facilities in the County resulting in cannabis product being transported out of the County for drying and processing. This results in loss of a substantial amount of tax revenue from the drying and processing cannabis business segments. This proposed amendment does not contemplate changing the definition but should the Board be interested in options for addressing these issues the County Executive Office would work with County Counsel and Planning & Development to determine options for ordinance amendments as needed.

### **Future Amendments**

It was the intent of this amendment to include revisions to section 50-23 addressing changes in ownership in an attempt to maintain consistency with the State. The State released new emergency regulations as part of their agency consolidation on September 27<sup>th</sup> and included significant revisions to sections affecting this issue. Staff needs additional time to review the new state regulations with Counsel and cannabis industry stakeholders before proposing amendments to this section. Staff will return with a future amendment that focuses on this complex issue.

The business licensing program continues to evolve and mature. Staff anticipates seeking further amendments to address additional stakeholder concerns including timelines for effectuating acreage in the cap once a business license is issued and cultivation area measurements and definition. Staff will also work to provide additional clarification to applicants and operators in the form of established policies, and procedures that reinforce the County Code.

### **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. Expenses for Cannabis Business Licensing expenses are offset by Business License fee revenue.

**Key Contract Risks:**

NA

**Attachments:**

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

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

Attachment C – CEQA Findings

**Special Instructions:**

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

**Authored by:**

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