



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:** June 18, 2019  
**Placement:** Administrative  
**Estimated Time:** N/A  
**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  
Steven Yee, Fiscal & Policy Analyst – County Executive Office

**SUBJECT:** Update on Cannabis Compliance, Enforcement and Taxation – Third Quarter

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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) Receive an update on the status of cannabis land use permitting, business licensing, tax collection, enforcement, and State licensing;
- b) Find that the proposed actions are administrative activities of the County, which will not result in direct or indirect changes to the environment and therefore are not a “project” as defined for the purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5).

**Summary Text:**

This item provides the Board and public an update on the third quarter (from February 1, 2019 to April 30, 2019) of implementation of the County’s cannabis regulations including land use permitting, business license activity, cannabis enforcement, third quarter tax receipts, State licensing activity, and goals for the next quarters.

In summary of third quarter cannabis program efforts, the County completed 12 enforcement actions against illegal cannabis operators: 38,800 plants were eradicated with an estimated street value of \$9.7 million, and an additional 14,900 pounds of processed product was seized worth an estimated \$14.9 million. Ninety-nine operators have sought permits and nine of those operators have successfully obtained land use entitlement permits. State data shows that operators held 581 active State Temporary

Licenses and 394 Provisional Licenses in Santa Barbara County. Nine business license applications were submitted and one cannabis business license has been issued. Third quarter gross receipts tax totaled \$1.4 million paid by 38 operators.

**Background:**

On November 8, 2016 the voters of California adopted Proposition 64 (Prop 64), the Adult-use of Marijuana Act (AUMA), which legalized the use of cannabis for adult-use and allowed for local control of related cannabis land uses. In response to the passage of Prop 64, the County of Santa Barbara formed an Ad Hoc Committee in February 2017, comprised of two Board Supervisors (1<sup>st</sup> District Supervisor Williams and 5<sup>th</sup> District Supervisor Lavagnino) to explore available options and ultimately establish the County’s cannabis regulatory framework, which was reviewed and approved by the Board of Supervisors. Permitting and licensing regulations were operationalized in June 2018 in the inland area of the County. Regulations were subsequently adopted in the Coastal Zone following certification by the California Coastal Commission and became operational in November 2018. With regulations in place, staff continues to execute the Board’s direction in all cannabis program segments, including land use permitting, business licensing, tax collection, and enforcement, all of which is reported on below in detail.

**Cannabis Compliance: Land Use Planning Permits**

As of the end of this quarter, April 30, 2019, cannabis operators have submitted 137 permit applications to the Planning & Development Department. The status of the applications is as follows:

<b>Land Use Permitting Status</b>	<b>Number</b>
Land Use Permits Issued	9
Land Use Permit Applications Pending	42
Conditional Use Permit Applications Pending	19
Coastal Development Permit Applications Pending	30
Development Plan Applications Pending	22
Coastal Development Hearing Applications Pending	7
Other	8
Total	137

Nine of 51 Land Use Permit (LUP) applications have been issued. Other Land Use Permit applications have been reviewed but require additional information from applicants before action can be taken. Many of the properties do not have adequate information on the water source, or require biological surveys or fencing plans that sufficiently meet the Land Use and Development Code (LUDC) requirements. Numerous applications also require complete site plans/topographic maps and must show proof of legal lot status or permitted structures. One Coastal Development Permit (CDP) was approved by Planning & Development staff as having met all Coastal Zoning Ordinance (CZO) requirements, but was ultimately appealed before a permit was issued. Appealed land use entitlement permits are subject to a hearing conducted by the County’s Planning Commission. The County Planning Commission heard this appeal on June 5, 2019, and voted to deny the appeal.

Nineteen Conditional Use Permit applications have been received through this third quarter reporting period with none having been issued. Each of these applications have been determined to be incomplete and additional information has been requested from the applicants. Commonly, more information is needed on water well data, fencing plans, and adequate site plans/topographic maps.

The overall number of permitting applications submitted has increased significantly from the second to third quarters, correlating with the expiration of State Temporary Licenses. On December 31, 2018, the State's authority to issue Temporary Licenses expired, as did their authority to issue Temporary License renewals. Temporary Licenses are valid for 120 days and many have already expired, or will soon be expiring. State Provisional Licenses were made available to operators as a means to continue operating while navigating through local jurisdiction permitting and licensing processes if they meet the following criteria: 1) they currently hold or have held a Temporary License, and 2) have submitted an application and all required documents for State Annual Licensing, except for proof of completed CEQA compliance.

On January 29, 2019, the Board designated the County Executive Office as the Point of Contact to provide any requested notification to the State licensing authority, as needed for operators to obtain a Provisional License, of cannabis operators engaging in permitting and/or licensing with the County if an applicant has either: 1) a permit application accepted for processing by Planning and Development and paid the requisite processing fee; or 2) obtained approval of the land use entitlement application for the proposed cannabis operation and submitted a complete application for the corresponding local cannabis business license.

The expiration of Temporary Licenses continues to incentivize operators to submit permit applications as they transition to Provisional Licenses. Obtaining a land use entitlement permit requires applicants to demonstrate compliance with established development standards, namely odor abatement, noise, and lighting requirements, all of which represent the most common complaints received. Furthermore, Provisional License holders are required to participate in the State's Track-and-Trace system used statewide to record the inventory and movement of cannabis products through the commercial supply chain – from cultivation to sale. Participation in the State's Track-and-Trace inventory system will provide County compliance and enforcement staff a valuable tool to ensure that cannabis is inventoried and legal. As Temporary Licenses continue to phase out, submittal of permit applications will continue to increase, funneling operators through the County's regulatory structure, as intended by the Board.

Consistent with any new County program, the Board and staff continue to evaluate established regulations in an effort to improve their effectiveness and address unforeseen issues. Pursuant to Board direction, staff presented options to the County Planning Commission to amend the zoning ordinances. On May 1, 2019, the Planning Commission voted to recommend that the Board amend the zoning ordinances by increasing the noticing requirements for commercial cannabis permit applications in an Existing Developed Rural Neighborhood (EDRN) or Rural Neighborhood (RN), and requiring a CUP in the inland areas for all commercial cannabis activities on AG-I lots. Additionally, the Planning Commission voted to make an advisory recommendation that the Board, as part of future cannabis ordinance amendments, consider adopting the amendments associated with requiring a CUP for all commercial activities on all AG-I lots in the Coastal Zone, in order to have uniformity in zoning regulations. The Board will consider the Planning Commission's recommendations and amendments to the cannabis provisions in the County's zoning ordinances at a hearing on July 9, 2019.

### **Cannabis Compliance: Business Licensing**

As of April 30, 2019, the County received nine Cannabis Business License applications from operations that have completed the land use entitlement permitting process. The first business license was issued for an outdoor cultivation operation in Los Alamos. The remaining eight applications are in the licensing review process with the County's interdepartmental team of license application reviewers. Commonly identified issues include site security requirements such as fencing, lighting, and surveillance that have not been implemented prior to site inspections conducted by staff. Other common issues noted by staff relate to water well and septic issues that need addressing before obtaining the reviewing department's approval.

Staff continues to assess established business licensing regulations in an effort to improve their effectiveness and provided ordinance amendment options to the Board that were ultimately adopted on April 9, 2019. Adopted Business License Ordinance amendments include the following: 1) elimination of agriculture employee Live Scan requirement to address operator access to laborers and avoidance of immigrant status issues, 2) alternative storefront retail allocation methodology to allow a limit of one license per each of the County's six community plan areas and two licenses in areas not covered by the six community plan areas, 3) assignment of energy conservation plan review responsibility to the Community Service Department's Sustainability Division, and 4) increased authority to reject license applications on the basis of applicants having knowingly, willfully, or negligently made a false statements of material fact or omitted a material fact from either their business license application or any prior affidavit to the County concerning cannabis, whether medical or non-medical. These amendments became operational May 9, 2019.

The County's new online licensing application portal (Accela) has been configured by staff and is expected to be operational prior to the date of this hearing. This licensing application portal will provide citizen access to submit new applications online and the ability to track the application status through all phases of the business licensing review process.

### **Cannabis Compliance Program Staffing**

The Board approved FY2018-19 Adopted Budget included 11 Full Time Equivalent (FTEs) needed for cannabis land use permitting and business licensing. All staff added for cannabis compliance activities have been hired or filled through reassignment of existing staff. These are all fee-covered positions budgeted at \$1.6 million in the FY2018-19 Budget. On June 11, 2019, the Board approved the FY2019-20 budget, which increases cannabis-permitting staff in the Planning & Development Department by 4.0 FTEs, for a total of 6.0 Planners, to address the high volume of permit applications being submitted. Additionally, the Sheriff's Department shifted 1.0 FTE from cannabis licensing, to cannabis enforcement efforts. The Board-approved FY2019-20 budget for the Cannabis compliance program includes a total of 14.0 FTEs at a cost of \$2.4 million covered by fees.

### **Cannabis Enforcement**

Enforcement efforts remain a top priority of the County's Cannabis Program and the Enforcement Team continues to vigilantly pursue illegal cannabis operations and eliminate access to illegal and untested cannabis. Coordination of enforcement actions has been led by the Sheriff's Office in conjunction with staff from the Agricultural Commissioner, County Executive Office, District Attorney, Environmental Health, and Planning & Development, as well as State partners from CalCannabis and State Fish &

Wildlife Enforcement Team members. The Enforcement Team meets every other week to coordinate activities. Frequently, enforcement actions are initiated as a result of complaints that come from members of the public through the cannabis web portal's complaint form. Enforcement of unpermitted cultivation, without state licenses or historic cultivation, has been the highest priority and most violations are the result of operators not having valid state licenses to cultivate cannabis.

During the third quarter, Sheriff staff initiated 12 enforcement actions against unlicensed cannabis operators resulting in 11 arrests and the eradication of 38,800 plants, with an estimated street value of \$9.7 million in the unlicensed market. Approximately five pounds of highly concentrated honey oil/wax from illegal butane hash oil (BHO) laboratories was seized, worth an estimated \$28,000. An additional 14,900 pounds of processed product was seized equating to an estimated street value of \$14.9 million.

The Planning and Development Department opened 18 new zoning enforcement cases, all of which are still in progress. Twelve Notices of Violation to address cannabis cultivation violations and cannabis-related zoning and building code violations have been issued. Four of the cases were opened as a result of odor complaints. Staff responded to 40 odor-related complaints in the unincorporated area of Carpinteria. Most violations continue to be associated with operators using night lighting, installing unpermitted containers for use as offices or storage, and constructing hoop structures without permits. Enforcement operations are mostly complaint-driven, however some of the sites have been identified based on staff investigations or inspections.

### **Cannabis Enforcement Staffing**

The Board approved FY2018-19 Adopted Budget included 10.5 Full Time Equivalent (FTEs) for cannabis enforcement activities. In December 2018, the Board approved the addition of one District Attorney Investigator position that was previously vacant and unfunded. This position was filled as of January 2019. The Enforcement Team is fully staffed with a total of 11.5 FTEs dedicated to cannabis enforcement against unlicensed cannabis operations. The cost of the team is \$1.9 million in FY2018-19 and is funded by cannabis tax revenue. On June 11, 2019, the Board approved the FY2019-20 budget, which increases enforcement staffing by 1.0 FTE for a Sheriff Deputy (shifted from cannabis licensing) and 0.5 FTE for a Sheriff Sergeant (a change from half-time to full-time), bringing total Enforcement staffing to 13.0 FTEs. The FY2019-20 approved budget for cannabis enforcement increases to \$2.8 million, reflecting the additional enforcement staff, as well as additional equipment and supplies costs associated with enforcement operations.

### **Cannabis Taxes**

For the third quarter reporting period, the Treasurer-Tax Collector reported collecting \$1.4 million from 38 cannabis operators. Tax revenue received this fiscal year-to-date totals \$4.6 million and is projected to reach \$5.7 million by fiscal year end. Nineteen operators stated that they had no gross receipts during the third quarter and 41 of the 98 State licensed operators did not submit reports. Taxes paid by cannabis operators fund the Cannabis Program's Enforcement efforts and are therefore critical to enforcing against illegal cannabis operations and eliminating access to illegal and untested cannabis. On June 11, 2019, the Board approved funding of \$100K for a cannabis tax audit to begin in FY2019-20.

	<b>Tax Revenue Received</b>	<b>Operators with Gross Receipts</b>	<b>Operators with Zero Gross Receipts</b>	<b>Operators that Did Not Report</b>	<b>Operator Totals</b>
Q1 Tax Data	\$1.8 Million	30	41	31	102
Q2 Tax Data	\$1.4 Million	55	27	16	98
Q3 Tax Data	\$1.4 Million	38	19	41	98

**Outreach and Education**

This quarter, County Staff has conducted the following outreach and education sessions for members of the public and industry representatives:

February 2019	<ul style="list-style-type: none"> <li>• Cannabis Worker Health &amp; Safety Workshops with an emphasis on pesticide use, facilitated by the Ag Commissioner and Cal. Department of Pesticide Regulations.</li> <li>• Industry Information Meeting on enforcement, permitting, and business licensing for current and prospective operators. State partners from CDFA (Cal. Department of Food &amp; Ag), EDD (Cal. Employment Development Department), and ALRB (Cal. Agriculture Labor Relations Board) provided updates and a Q&amp;A session.</li> </ul>
April 2019	<ul style="list-style-type: none"> <li>• CEO staff presented options to the Board of Supervisors for cannabis regulatory amendments to the Cannabis Business License Ordinance (County Code, Chapter 50).</li> <li>• Planning &amp; Development staff presented LUDC and CZO amendment options to the County Planning Commission.</li> </ul>
Ongoing	<ul style="list-style-type: none"> <li>• Cannabis Education Program implemented by the Public Health Department targeting youth (ages 12-20), parents and mentors, and pregnant/breastfeeding women. Campaign runs from Jan-Sept, 2019.</li> <li>• Updates to the FAQs, Complaint Form, and Informational Documents on the County’s Cannabis website.</li> </ul>

**State Licensing**

As of April 30, 2019, there were 581 State Temporary licenses and 394 State Provisional licenses active in the County of Santa Barbara compared to second quarter data that showed 2,197 active State Temporary licenses and no State Provisional licenses having been issued. The high number of active State Temporary licenses reported in the second quarter was largely due to the expiration of the State’s authority to issue Temporary licenses on December 31, 2018. This motivated operators to apply for additional licenses prior to expiration of the State’s issuance authority as the licenses were easy to obtain and would allow operators to continue to operate for 120 days. As mentioned previously, the expiration of Temporary Licenses also continues to incentivize operators to submit permitting applications as they transition to Provisional Licenses. Without State Provisional licenses, existing cannabis operators not in possession of a local land use entitlement, local cannabis business license, and a State Annual license will have to cease operations upon expiration of their State Temporary licenses. During this third quarter reporting period, no existing cannabis operators had obtained a local land use entitlement permit, a local cannabis business license, and a State Annual license.

## **Emerging Issues**

### **Pending Legislation:**

- **Senate Bill 67 (McGuire)** – This bill would, until September 15, 2019, revalidate an expired State Temporary license if the Temporary license holder submitted an application and fees for an annual license before the Temporary license’s expiration date. The bill passed the Assembly’s Agriculture Committee and has been referred to the State Assembly.
- **Budget Trailer Bill** – A separate budget trailer bill has been proposed which would extend the State’s authority to issue State Provisional Licenses past December 31, 2019, which is when the authority to issue State Provisional Licenses is currently set to expire.

**Local and State Processing Times** – The amount of time required for an operator to navigate through the County’s local processes to obtain a land use entitlement permit, including scheduling permit appeal hearings conducted by the County’s Planning Commission, Board of Supervisors, and/or Coastal Commission, and obtain a cannabis business license, is proving to be a lengthy process. In addition to the County’s requirements, operators are also required to navigate the State’s Annual licensing process which currently has processing times of up to six months.

### **Implementation Goals for the Upcoming Quarters**

During the fourth quarter, staff involved in the cannabis operations team (permitting, licensing and enforcement) have three goals:

1. Continue enforcement activities,
2. Initiate the process of making retail storefront licenses available via notifying the public of the pre-qualification and drawing process, and
3. Increase the speed of permit and license issuance to provide the protections sought by residents.

### **Fiscal and Facilities Impacts:**

Budgeted: Yes

### **Authored by:**

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