



Cannabis Regulatory Program Potential Amendments - Chapter 50 Potential Amendments

Santa Barbara County

Board of Supervisors

July 9, 2019



Background

- Cannabis land use and business licensing became operational in the inland portion of the County in June 2018
- Coastal Commission confirmed certification on November 7, 2018 of cannabis land use in the Coastal Zone following the Board's acceptance of recommended modifications
- In April 2019, the Board amended Chapter 50 to increase the usefulness of the business licensing program.
- Suggestions for other amendments were made at the April hearings as well as during the Planning Commission hearing on possible amendments to the LUDC



Possible Amendments to Licensing

Possible Amendment	What needs to be changed
1. Countywide cannabis cultivation operations acreage cap	County Code § 50-7
2. Demonstrate odor control operation during Cannabis Business License application process	County Code § 50-8(b)(8)
3. Concurrent processing of Business License Application with an accepted land use entitlement application	County Code § 50-6, 50-8
4. Place operators in the Carpinteria Agricultural Overlay on an “Eligible List” for the 186 acre cultivation cap upon approval of a land use entitlement	County Code § 50-7(a)(2),(d)(1)
5. Broaden the definition of Hearing Officer to match County Code Chapter 24A	County Code § 50-2(h)



1. Limiting Cultivation Countywide

- *Existing County Regulations*
 - Chapter 50 does not limit the number or scale of cannabis cultivation other than in the Carpinteria Ag Overlay District
- *Area of Concern*
 - Members of the public have expressed concerns about cumulative impacts
- *Options*
 - Option #1 – Amend County Code § 50-7 to cap the number of cannabis cultivation operations countywide;
 - Option #2 – Amend County Code § 50-7 to cap the acres of cannabis cultivation countywide while maintaining the established Carpinteria Ag Overlay cap; or
 - Option #3 - A combination of Options 1 and 2; or
 - Option #4 - Maintain existing regulations



2. Odor Control during License Review

- *Existing County Regulations*
 - Operators must comply with odor control requirements set forth in land use entitlements based on Chapter 35, Zoning
 - Cultivators with valid State Provisional Cultivation licenses currently are able to operate without this odor control requirement
 - Odor control is required of indoor or mixed light cultivation only
- *Area of Concern*
 - Business license requirement might take several weeks after the permit to take effect
 - Permit approval is taking 3 to 10 months, and appeals an additional 3-6 months or more
 - Given public comment on nuisance odors, staff looked at accelerating the timeframe for requiring odor control
 - With Option #3 below, would implement odor control much sooner
- *Options*
 - Option #1 – Add that cultivators currently growing cannabis demonstrate the effectiveness of the proposed odor control systems **during** the business license review
 - Option #2 - Maintain existing regulations



3. Dual processing of Permit & License

- *Existing County Regulations*
 - Chapter 50 requires the submission of the cannabis operation's land use entitlement (permit) with the Cannabis Business License application
- *Area of Concern*
 - Applications for land use permits can take months for final approval
 - Processing cannabis Business License applications takes approximately six to eight weeks.
 - During this application review period, the requirement to operate odor control systems is not in full effect.
 - Concurrent review of land use entitlement and business license applications would reduce the amount of time for odor control requirements to become effective.
- *Options*
 - Option #1 – Amend County Code § 50-8(b)(2)(vii) and 50-8(c) to require the submission of the cannabis operation's land use entitlement or evidence that a cannabis land use entitlement application has been accepted for processing by the Planning & Development Department;
 - Option #2 – Maintain existing regulations



4. Place operators in the Carp Ag Overlay on an “Eligible List” upon approval of a land use entitlement

- *Existing County Regulations*
 - County Code establishes a Cultivation License Eligibility List for the random selection process for the 186 acre cap
 - Cannabis business licenses will only be issued to persons with an approved and issued land use entitlement
 - Land use entitlements are not issued until the appeal periods have expired and any filed appeals have been resolved
- *Area of Concern*
 - Lengthy application and appeals timelines
 - Applicants holding State provisional licenses may not complete appeals process until after the 186 acre cap is reached
- *Options*
 - Option #1 – Amend County Code §50-7 to specify that “approval” of a land use entitlement is “pre-qualifying” for purposes of being placed in order on the Cultivation License Eligibility List from which business licenses will be issued;
 - Option #2 – Maintain existing regulations

5. Broaden Hearing Officer Pool

- *Existing County Regulations*
 - Defines a “Hearing Officer” as a County department executive or manager not involved in the cannabis permitting or licensing
 - Hearing Officers are used to consider appeals of denial, suspension or revocation of cannabis business licenses
- *Area of Concern*
 - Current definition may severely limit the pool of eligible hearing officers
 - If there are a large number of appeals, it may overburden that limited pool of eligible senior staff
 - County Code defines a role titled alternative hearing examiner which would provide additional individuals to the pool of eligible hearing officers.
- *Options*
 - Option #1 – Amend County Code § 50-2(h) to expand who may be used as hearing officers including adding the role of an alternative hearing examiner as defined in County Code § 24A-7(d);
 - Option #2 – Maintain existing regulations.

Other Concerns Raised

- Enforce against the operators who were not “legal non-conforming” operators and lied on their affidavits
- Implement controls for pending County permit applicants with legal nonconforming cannabis cultivation operations to immediately implement odor control systems, lighting plans, and noise plans that meet the County standards
- Require quarterly monitoring by County staff to ensure ongoing compliance
- Prohibit over concentration of cannabis cultivation in one area
- Expand buffers to sensitive receptors
- Regulate hemp

Status of State Licenses

- SBC has 10 active State temporary cannabis cultivation licenses remaining
- SBC has 669 active State provisional annual cultivation and nursery licenses
- SBC now has fewer than are active in Humboldt County (n=829)
- Humboldt licenses equate to slightly over 237 acres countywide
- SBC licenses equal just under 156 acres countywide
- SBC has actively licensed acreage of 0.02% of all agriculturally zoned property.
- SBC has 52 unique operators with active State cultivation licenses on 52 parcels countywide
- Humboldt's active licenses are held by 454 unique operators



Status of CEQA

- State provisional annual licenses are not exempt from CEQA. The State provisional license requires a local determination that CEQA analysis is “underway.”
- The Board directed staff to authorize licenses as having CEQA underway as long as P&D had accepted a land use permit application for that operation
- The recently approved budget trailer bill (SB97) amended some cannabis statutes but did not change this CEQA “underway” provision
- The use of “underway” rather than “completed” by the State is likely because many jurisdictions did not complete an Environmental Impact Report prior to launching
- In SBC, CEQA analysis was completed through a Programmatic Environmental Impact Report that was approved by the Board in 2018.
- In SBC, every cannabis land use permit application includes a site-specific CEQA review using a checklist consistent with the CEQA guidelines
- During this site-specific CEQA review, additional permit or license requirements consistent with the CEQA analysis will be required, or the permit will not be issued.

Recommended Actions

- Review areas for potential amendment to the County's current cannabis permitting and licensing regulations;
- 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;
- Provide any other direction to staff to amend the County's cannabis regulatory program including the County's zoning ordinances;
- 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