



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: September 19, 2017  
Placement: Departmental  
Estimated Time: 3 hours  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors  
*QB on behalf of*  
**FROM:** Ad Hoc Subcommittee Members  
Supervisors Das Williams and Steve Lavagnino  
Contact Info: Dennis Bozanich, Deputy County Executive Officer, 805-568-3400  
**SUBJECT:** Status Report on the Ad Hoc Subcommittee on Cannabis Operations and  
Discussion of Conceptual Cannabis Licensing and Land Use Options

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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 and file a report on cannabis licensing types, land use options and the status of the Ad Hoc Subcommittee on Cannabis;
- B. Provide direction to staff on conceptual licensing and land use options;
- C. Direct staff to provide an update to the Board in November on the status of local cannabis regulations including potential business licenses;
- D. Provide other direction to staff; and
- E. 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:**

This agenda item provides the Board and public with an update on the work of the Ad Hoc Subcommittee on Cannabis Operations and a Board discussion on conceptual licensing and zoning options for cannabis operations. *This discussion provides the Board an opportunity to direct staff on potential local cannabis business licensing and zoning regulations. Providing conceptual direction for staff to consider in more detail certain types of licensing and zoning options does not foreclose or narrow any options on cannabis currently being studied in the Environmental Impact Report and does not prevent the Board from taking a different action when it considers ordinances regarding cannabis.* In October, staff is planning to present the Board with amendments to the current medical cannabis cultivation prohibition ordinance (Article X) as directed by the Board on July 11, 2017. Additionally, staff will return in November with an update on amendments to county ordinances and provide a report on possible economic impacts of cannabis operations within Santa Barbara County, and tax options for a possible June 2018 ballot measure.

### **Background:**

#### **A. CURRENT LAWS AND ORDINANCES**

The regulations affecting cannabis policy in Santa Barbara County are complex. Currently, federal, state, and local regulations form the legal framework for cannabis-related activities. For reference, a brief overview of relevant federal, state, and county regulations affecting medical and non-medical cannabis operations is provided.

**Federal Regulations:** The Controlled Substances Act of 1970 (21 USC § 812) defines cannabis (tetrahydrocannabinols [THC]) as a Schedule 1 narcotic. Schedule 1 narcotics are defined by the federal government as drugs having a high potential for abuse and no currently accepted medical use in treatment.

**State Regulations:** Between 1996 and 2015, voters and the state legislature took a series of actions to allow individuals, then collectives and cooperatives, to cultivate medical marijuana. In 2015, in response to challenges regarding the regulation of the medical marijuana industry, Governor Brown signed into law the Medical Cannabis Regulation and Safety Act (MCRSA), which increased regulation of medical marijuana across the State of California.

In November 2016, the voters passed Proposition 64 – Adult Use of Marijuana Act (AUMA), which legalized non-medical adult use of cannabis. In response, the State began developing licensing requirements and other regulations regarding both medical and non-medical cannabis activities. These efforts culminated in the “Cannabis Trailer Bill” (SB 94), which Governor Brown signed into law on June 27, 2017. The bill consolidated state statutes that had been enacted through the MCRSA and AUMA, under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA established methods for collecting taxes and reconciling the two laws, restructured the Bureau of Medical Cannabis Control as the Bureau

of Cannabis Control, and consolidated authority that was previously intended to be dispersed among several state agencies.

State agencies continue to develop regulations and anticipate accepting applications to issue state licenses starting in January 2018. Failure to comply with the regulations will prevent initial licensure and, once a licensee obtains a license for a cannabis operation, failure to continue to comply with the State regulations could lead to revocation of the license and/or civil and criminal penalties. Additionally, local government retains the ability to regulate or prohibit medical and non-medical marijuana activities separately or completely.

**Local Regulations:** In 2011, the County prohibited medical marijuana dispensaries in all zone districts.

Given the regulations set forth in MCRSA, in January 2016, the Board prohibited medical marijuana cultivation in all land use zones except for: (1) limited personal medical cultivation of up to 100 square feet, and (2) operations which were in existence prior to January 19, 2016, and compliant with California State law and local zoning ordinances.

In February 2017, the Board received a report on the impacts of voter approval of Proposition 64 on the cannabis industry. The Board directed staff to return with an urgency ordinance prohibiting nonmedical cannabis cultivation and other cannabis activities in unincorporated Santa Barbara County while staff develops an ordinance to prohibit or regulate cannabis. The Board also appointed Supervisors Lavagnino and Williams as an Ad Hoc Subcommittee on Cannabis Activities.

On April 4, 2017, the Board approved an urgency ordinance to prohibit all non-medical (recreational) cannabis operations in the unincorporated area of Santa Barbara County – except for limited amounts of cultivation for non-medical personal use as allowed by State law (Health & Safety Code §§ 11362.1 and 11362.2). The urgency ordinance will expire in March 2019. The purpose of the prohibition was to provide the County with time to consider, develop, and approve local regulations or a prohibition.

On April 11, 2017, the Board also approved an ordinance establishing a limited term non-personal cultivation and related activities registry program. The purpose of the registry program was to collect data on past, current, and planned cannabis cultivation or related operations and to inform future cannabis studies including environmental and economic impact studies. The registry closed on June 30, 2017, as required by the ordinance. A comprehensive list of cannabis related legislative actions is available as Attachment 4.

In short, the current County ordinances that reference marijuana or cannabis, include the following:

- County Code Chapter 6 (Outdoor Festivals) states that allowing or permitting the sale use or delivery of marijuana could lead to the revocation of an outdoor music festival permit.
- County Code Chapter 13A (Drug Paraphernalia) defines marijuana as a “controlled substance” and prohibits the sale of drug paraphernalia which includes equipment that is

used for “cleaning or refining” marijuana to remove seeds and stems, test the potency, manufacture, concentrate or increase the potency of a controlled substance, including marijuana. In addition, Chapter 13A states that it is unlawful to use, possess, deliver, or manufacture any paraphernalia that might be used to plant, propagate and cultivate a controlled substance.

- County Code Chapter 35, Land Use and Development Code (LUDC) § 35.42.195, Montecito Land Use and Development Code (MLUDC) § 35.430.125, and Article II Coastal Zoning Ordinance § 35-144I, ban medical marijuana dispensaries.
- County Code Chapter 35, Article X prohibits medical marijuana cultivation in all land use zones except for (1) limited personal medical cultivation of up to 100 square feet, and (2) operations which were in existence prior to January 19, 2016, and compliant with California law and local zoning ordinances.
- Interim Urgency Ordinance. On April 4, 2017, the Board approved an urgency ordinance to prohibit all non-medical cannabis operations in the unincorporated area of Santa Barbara County.

## **B. POSSIBLE NEW LOCAL REGULATIONS**

**Development of New Local Regulations:** As stated above, the Board created an Ad Hoc Subcommittee to assist staff with the development of new local regulations, given the adoption of State cannabis regulations. *The Board has discretion to regulate or prohibit any or all cannabis operations in the unincorporated area of Santa Barbara County. However, the County is prohibited from banning personal cultivation of six plants indoors, and from preventing transportation or delivery of cannabis and cannabis products on public road by a State cannabis licensee.* However, granted these limited exceptions, the County has the discretion to regulate or prohibit commercial cannabis activities.

In order to inform the development of possible local regulations, the Ad Hoc Subcommittee conducted a number of public outreach efforts. On April 25<sup>th</sup>, June 30<sup>th</sup>, and August 25<sup>th</sup>, 2017, in Santa Barbara, Santa Maria, and Carpinteria (respectively), the Ad Hoc Subcommittee conducted public workshops on regulating cannabis operations. Attendance was slightly over 100 for each of the three sessions.

On July 11, 2017, The Board received a status report on the work of the Board-appointed Ad Hoc Subcommittee on Cannabis Operations. Additionally, the Board provided direction to staff to prepare and return to the Board with ordinance amendments to Chapter 35, Article X that:

- Establish a process for the determination of legal non-conforming status pursuant to County Code § 35-1003.A.2 for existing medicinal cannabis cultivators; and
- Establish a date by which all legal non-conforming cultivation sites must either obtain County permits or cease operations.

The County Planning Commission will consider the draft ordinance amendments on September 13, 2017, and staff anticipates presenting the County Planning Commission's recommendation on the draft Article X ordinance amendments to the Board in October 2017.

Finally, staff has conducted a number of workshops and presentations regarding possible new regulations, as well as the environmental analysis regarding possible new regulations. More specifically, on July 25<sup>th</sup> and 26<sup>th</sup>, 2017, in Santa Barbara and Santa Maria (respectively), staff conducted public workshops on the Notice of Preparation for the EIR, Scoping Document, and Proposed Draft Cannabis Land Use Ordinance. On August 16<sup>th</sup> and September 13<sup>th</sup>, 2017, staff provided informational presentations on regulating cannabis operations, to the Montecito Planning Commission and the County Planning Commission (respectively). Finally, on August 25, 2017, the Ad Hoc Subcommittee conducted a workshop in Carpinteria.

**Three Possible Levels of Regulation:** If the Board is interested in regulating, rather than prohibiting cannabis operations, the Board may want to consider developing a three part licensing and permitting system that would require each cannabis operator in the County to attain and retain one or more local cannabis business licenses, a land use permit and one or more state cannabis licenses that correspond to the State's licensing schedule. This Board Letter and the presentation on September 19, 2017, will be primarily focused on the possible use of state and local licenses as a means of regulating cannabis operations in Santa Barbara County.

### C. COMMERCIAL CANNABIS STATE LICENSE TYPES

**Cannabis Business Categories (i.e. Commercial Uses):** Prior to June 2017, the State's medical cannabis laws included a set of medical cannabis license types and Proposition 64 created a slightly different set of license types for adult use cannabis operations. Senate Bill (SB) 94 created a streamlined schedule of twenty different licenses (only seventeen of them available between January 1, 2018 and January 2023) for cannabis operations (e.g. cultivation, distribution, manufacturing, and sales). Each state license will be either designated as medical (M) or adult use (A). These state license designations will allow the state's track and trace program to identify the correct application of taxes to medical or adult use cannabis operations.

The Board, if it decides to regulate rather than prohibit cannabis operations, could consider any or all of the twenty different license types and whether to locally utilize the medical and adult use designations for the identification of any local cannabis operation business licenses. The latter decision would be valuable if the County would consider or would like to consider different rates or basis for cannabis taxation depending on whether it was for medical or non-medical adult use.

**Cultivation:** Based on the information collected in the Registry, there is currently a wide range of cannabis cultivation types and locations throughout the County. These include medium to large greenhouse growers, outdoor growers (often in mountainous areas), and indoor growers in commercial and industrial areas. Types of cultivation in the County generally include:

- **Outdoor** – cultivation occurs in an open-air space with access to only natural light. Cultivated area can either have unobstructed access to sunlight or can be covered with a light-permeable structure (e.g., hoop-house or Quonset hut with transparent cover). Structures used in outdoor cultivation are commonly temporary and do not involve permanent structural elements (e.g., footings, foundations, plumbing, and electrical wiring). Outdoor cannabis cultivation is often secured with fencing and located in relatively inaccessible areas on private properties to dissuade trespassing and theft, or in some cases through trespass on public lands. Often the cannabis plants are not planted directly into native soil, but are in soil-filled containers or bags.
- **Indoor** – cultivation occurs in an enclosed space with full suppression of natural light. Artificial lights, irrigation, dehumidifiers, and HVAC equipment are typically used to control interior climate. Indoor facilities are typically secured and locked to prevent trespassing and theft. Indoor operations may occur within a range of structures, including large farm structures (e.g., barns), garages, or commercial buildings which have been converted for indoor cultivation.
- **Greenhouse and Permanent Agricultural Structures** – cultivation occurs inside a permanent agricultural structure which can provide mixed light sources, such as a greenhouse or Quonset hut located on a permanent foundation. Passive greenhouses and other agricultural structures use only natural light, though it can be controlled with shading or removable plastic, and typically use drip or recirculating irrigation. Mixed light structures may supplement natural light with light suppression/shielding and artificial lights, along with HVAC and other climate controls, including CO<sub>2</sub> enrichment systems. Light suppression systems (such as utilization of blackout curtains) are a common industry technique for plants that benefit from adjusted daylight hours; including poinsettias, and chrysanthemums. Greenhouses and permanent agricultural structures are typically secured and locked to prevent trespassing and theft.

**Cannabis Product Processing:** Processing of cannabis is similar to that for cut flowers, hops, or lettuce operations, which prepare a crop onsite to be transferred from the soil or other growing medium to distribution. For cannabis plants, the product is generally transferred to dispensaries, testers, or manufacturers. Processing does not typically involve liquids or pressure, and is instead reserved for physical manipulation of the raw plant. The plant is dried, picked apart, the flowers trimmed, with the leaf and prepared buds stored separately until transfer. Drying rooms are sometimes kept at a cooler temperature, though this is not required. Processing typically results in three outputs, including the cannabis flower, trimmings, and the unusable stems and large leaves of the plant.

**Cannabis Product Packaging:** Currently, packaging does not comprise a large amount of space at cannabis operator locations, as there were no previously adopted requirements and it could occur at any location. Bulk packaging is typically conducted on-site after processing for delivery to testers, manufacturers, and dispensaries elsewhere. Processed cannabis flowers are frequently stored within large glass or plastic containers, turkey bags, and similar visible storage vessels.

Trimming are frequently stored for delivery within large Mylar or similar bags to preserve a partial vacuum on the product.

Individual packaging at dispensaries located outside of the County or within local city jurisdictions is limited to over-the-counter glass and plastic containers or bags. Packaging for individual use may occur after manufacturing or at dispensaries, which is directly sold as a product with its own wrapping within plastic bags (i.e., small Mylar, plastic, or snack bags), plastic containers (i.e., film or pill containers), glass containers (i.e., mason jars), among other vessel types.

**State Cultivation Licenses:** With passage of SB 94, there are fourteen cultivation license types, of which, only eleven are available prior to January 2023. These license types allow cultivation indoor, outdoor, and in mixed light (e.g., greenhouses) and also vary by size. The chart below illustrates the differences between the state’s cultivation licenses.

The County, however, if it chooses to allow cultivation may restrict the size and type (e.g. indoor, outdoor, or mixed light) of cultivation, and is not required to allow relatively large scale commercial operations. Issues for consideration when determining whether, and to what extent, to allow cultivation within the County are water and electrical usage, odor, visibility of the plants, terrain and resources at the cultivation site, and security. The County could consider prohibiting commercial non-medical cultivation in any zone, though this would make the County ineligible for potential grant funding from the State’s cannabis tax revenue pursuant to SB 94.

Cultivation License Types	
Type 1 – Outdoor – Up to 5,000 ft <sup>2</sup>	Type 3 – Outdoor – 10,001 ft <sup>2</sup> to 1 acre
Type 1A – Indoor – 501 to 5,000 ft <sup>2</sup>	Type 3A – Indoor – 10,001 to 22,000 ft <sup>2</sup>
Type 1B – Mixed light – 2,501 to 5,000 ft <sup>2</sup>	Type 3B – Mixed light – 10,001 to 22,000 ft <sup>2</sup>
Type 1C – Cottage – up to 2,500 ft <sup>2</sup>	Type 4 – Nursery
Type 2 – Outdoor – 5,001 to 10,000 ft <sup>2</sup>	Type 5, 5A & 5B not available until 2023
Type 2A – Indoor – 5,001 to 10,000 ft <sup>2</sup>	Multiple licenses can exist on a parcel; licensed premises must be separate and distinct
Type 2B – Mixed light – 5,001 to 10,000 ft <sup>2</sup>	

**Manufacturing:** Cannabis product manufacturing is defined as production, preparation, propagation, or compounding of manufactured cannabis products directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, at a fixed location dedicated to packaging or repackaging cannabis. This process may also involve the transition of raw cannabis into other products, such as oil, rosin, hash, or tinctures, which is then often used in other products, such as edibles, salves, and cosmetics. Manufacturing can use intensive processes, such as closed system, super-critical carbon dioxide processes for hash production and heated hydraulic pressing for creating rosin, or

less intensive methods, such as screen filtering for straining hash or soaking cannabis in alcohol to create tinctures. The division between volatile extraction methods and nonvolatile processes is not well defined.

A wide range of chemical and base materials are used depending on the manufacturing process, including ethanol, CO<sub>2</sub>, butane, propane, and other natural gases, as well as isopropyl (rubbing) alcohol, hydrogen, liquid nitrogen, and lipids (e.g., coconut/olive oil or butter). These chemicals are used during the manufacturing process and typically stored onsite. Required manufacturing equipment varies depending on the process and can include machinery engineered specifically for extraction, such as closed loop CO<sub>2</sub> extraction machines, distillation machines, rosin presses, and chromatography machines to simple household appliances, such as crockpots, ovens/stoves, and food processors or blenders. Additionally, manufacturers also use machinery to package products, such as capsule fillers. Following extraction, the products are then manufactured into tetrahydrocannabinol (or THC is the psychoactive component of cannabis) or cannabidiol (or CBD which is the non-psychoactive component) concentrates, edibles, topical products, and cartridges for vape pens for distribution to consumers. Commercial manufacturing process locations can vary in size and range from a 100-square foot room to a 5,000-square foot warehouse floor.

Types of cannabis products typically include:

- **Hash** – a product made from filtered cannabis plant matter. Methods of filtering can include screening with mesh, cold water filtration, and heat pressing to form rosin.
- **Tinctures** – a product made by dissolving cannabis in alcohol, such as ethanol or glycerin.
- **Infusions** – a product made using heat to infuse foods, oils, or liquids with cannabis.
- **Extractions** – a product made using solvents to dissolve THC from the cannabis plant matter. Processes can be volatile and potentially explosive, such as production of Butane Hash Oil (BHO) and high-pressure CO<sub>2</sub> extract, or non-volatile, such as the production of low-pressure CO<sub>2</sub> extract.

These products are created using a variety of manufacturing processes that range from low input/low risk to high input/high risk, as described below.

- **Infused Products** - Infuses raw cannabis flower/leaves or prepared concentrate into different media (e.g., oil, milk, butter, or other lipids) to make new products such as edibles like baked goods, tinctures, lotions, salves, soaps, and cartridges for vape pens.
- **Non-flammable Extraction** - Using cold water, ice, heat press, lipid (butter, milk, or oil) or other non-chemical extraction method to make bubble hash, kief, rosin, cannabis-infused lipid, etc.; CO<sub>2</sub> extraction to make cannabis concentrates/oil (closed loop only) under pressure.



- **Flammable Extraction** - Compressed and uncompressed liquid solvents using pentane, hexane, butane, propane, ethanol, etc. to make cannabis concentrates/oil (closed loop only); post-extraction refinement, taking previously extracted cannabis concentrates and further refining through processes such as chromatography, to make distillates.

After January 1, 2018, the State will issue two types of licenses for commercial manufacturing:

- **Type 6 - Manufacturing 1** for those using non-volatile solvents (e.g., CO<sub>2</sub> compressed gas, water, vegetable oils, or animal fat), and
- **Type 7 - Manufacturing 2** for manufacturing using volatile solvents (e.g. butane, propane, or ethanol). Manufacturing is the extraction or refinement of THC for use in consumer products such as baked goods, topical ointments, or aromatics. The use of volatile compounds in THC extraction is generally the less expensive option, but it involves the storage of solvents that can combust or explode if mixed with air.

Manufacturing is typically done indoors in an industrial setting. Local business licensing and land use permitting regulations can prohibit or limit the type of manufacturing allowed, establish security requirements, and restrict the design and location. The Board may want to consider limiting the licensing of cannabis manufacturing by extraction methods or consider incorporating security and aesthetic criteria.

**Testing:** Quality control testing is conducted to ensure that products are safe for human consumption. Testing involves shipment of the cannabis product that is ready to be sold from the cultivator or manufacturer to the testing laboratory. Once approved, the cannabis product can be sold to consumers.

Under California licensing laws effective January 1, 2018, a holder of a retail or microbusiness license cannot sell cannabis or cannabis products unless a **Type 8 - Testing Laboratory** tests a representative sample of the cannabis or cannabis products. Testing labs will provide a certificate of tested lots of cannabis or cannabis products that the labeled pharmacologically active ingredients are present in the manner described on the packaging including the presence of THC and CBD. Testing will also test for the presence of contaminants. Testing of cannabis and cannabis related products would occur prior to distribution to retail and microbusiness license holders.

Like manufacturing, testing is an indoor, light industrial activity. A business holding a testing license is not eligible to hold any other license. The purpose of this license is to have an independent third party inspecting and certifying all cannabis products before they are distributed to retailers. Local land use or business license regulations can establish security requirements, and restrict the type and location of signage.

The Board may want to consider regulating cannabis testing operations through a County business licensing and through zoning regulations in Chapter 35 of the County Code. The Board may consider limiting Testing licenses to certain land use zones, or consider prohibiting quality control and testing operations of cannabis products in Santa Barbara County.

**Retail Sales and Microbusinesses:** Currently, retail sales for cannabis products is administered to patients with medical identification for usage of cannabis products. Retail stores, referred to as dispensaries, contain a variety of products which cater to patient preferences for consumption and use. These items include natural cannabis or flowers, concentrates or oils, hash, edibles, vape cartridges, drinks, tinctures, wax, and seeds, among other items. Retail stores vary widely in size, though generally match the surrounding business establishments, such as within strip malls or plazas. Delivery service operators utilize a variety of smartphone applications or other web-based options to connect with consumers, and then deliver the product(s) from personal vehicles. Delivery services handle most regulated cannabis sales.

After January 1, 2018, **Type 10 - Retailer** licenses would allow holders to conduct retail sales and deliveries of cannabis or cannabis products to customers. A retailer would be required to have a permitted premises which is a physical location from which commercial cannabis retail operations are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery, and a licensed retail or microbusiness license holder must make the deliveries. **Type 12 - Microbusiness** licenses would allow holders to cultivate cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

Retail sales operations are the public face of the cannabis business. Local governments can regulate their operational hours, location, size, design, and security requirements through local business license requirements or conditions on land use permits. Local governments may also regulate product types or window displays to limit attracting underage interest. Delivery services handle most regulated cannabis sales.

SB 94 provides that the County may allow onsite consumption of marijuana at licensed retail sales locations. Cannabis cafés could be proposed as ancillary uses to retail sales operations. While these commercial retail operations would remain subject to smoking and vaporization regulations, local governments may permit, regulate, or restrict edible, topical, or other non-inhaled means of ingesting cannabis products. The County could consider prohibiting cannabis retail operations in any zone, though this would make the County ineligible for potential grant funding from the State's cannabis tax revenue pursuant to SB 94.

The Board may want to consider allowing and regulating cannabis retail and/or microbusinesses, regulation or prohibition of on-site consumption of cannabis and restrictions on delivery operations/hours.

**Distributor Licenses:** Existing cannabis product distribution consists of preparing the product for transport and physically loading it into appropriate transport vehicles. Currently, dispensaries or manufacturers distribute cannabis products shipments directly from the cultivators. A third-party entity may also ship cannabis products, though it is not necessary. Due to the size of the product, transport of cannabis products is generally not conducted via semi-trucks; instead, depending on the level of security, the product may be transported via standard pickup trucks (potentially within a lock box or truck vault), locked vans, or armored vehicles.

After January 1, 2018, **Type 11 - Distributor** licenses will be required in the State of California for the warehousing and transportation of cannabis products. Only employees of persons holding a Distributor license may transport cannabis and cannabis products. Distributor licensees would be required to receive and distribute cannabis and cannabis-based products from and to other licensed entities. For example, holders of a Distributor's license would only be able to pick up and store cannabis from a licensed cultivator and would only be able to ship to a licensed manufacturer or licensed retailer. Introduction of unregulated black market product or diversion of product to the black market to avoid taxation would undermine the legitimate cannabis market, impact government revenue, and encourage criminal activity. Both distribution and transportation operators will participate in the state's track-and-trace monitoring system as cannabis products are monitored from "seed-to-sale" to ensure quality, origin, and potency are accurately presented to the customer and that taxes are duly collected.

Cities or counties cannot prohibit licensed cannabis distributors from driving on the roads in the unincorporated area of Santa Barbara County or to a licensed business in the County of Santa Barbara. A distributor's license will not be allowed to conduct retail delivery.

The Board may want to consider regulating cannabis distributor operations through a County business licensing procedure and through zoning regulations in Chapter 35 of the County Code. The Board may consider limiting Distributor licenses to certain land use zones, or consider prohibiting warehousing of cannabis products.

**Other Potential Commercial Licenses in the Future:** The State could create new licenses including packing, direct delivery, fulfillment centers, non-profits or non-extraction manufacturing (e.g. baking). While none of these licenses exist in current law, some or all of them could be implemented in the future.

**Personal, Non-Commercial Uses:** The County currently allows a qualified patient, or a primary caregiver, to cultivate 100 square feet of medical cannabis, either indoors or outdoors, at his or her primary residence for personal use. This ordinance is consistent with the personal cultivation provisions allowed under MCRSA (Health & Safety Code section 11362.77).

With the passage of the AUMA, however, any person over the age of 21 may now lawfully cultivate up to six cannabis plants for non-medical purposes within a single residence or upon the ground of the residence at one time. While the County may place reasonable restrictions on the cultivation of these six plants, including entirely prohibiting outdoor cultivation, it is preempted from prohibiting indoor cultivation of up to six non-medical cannabis plants for personal use. The County could consider prohibiting outdoor personal cultivation in any zone, though this would make the County ineligible for potential grant funding from the State's cannabis tax revenue pursuant to SB 94.

#### **D. POTENTIAL ZONES FOR COMMERCIAL CANNABIS ACTIVITIES**

When developing the project description for the environmental impact report (EIR) for the Cannabis Land Use Ordinance and Licensing Program, the Ad Hoc Subcommittee and staff considered the following factors:

- State regulations—particularly with regard to the State license types (described above) that will be available, and the conditions under which cannabis activities must be conducted in order for an operator to obtain and maintain a valid State license;
- The basic purpose/objective of each zone set forth in Chapter 35 of the County Code;
- Other similarly situated, non-cannabis uses that are currently allowed in each zone;
- Comments received on the Notice of Preparation (NOP) for the EIR and at public outreach events associated with this project;
- Very preliminary direction that the Board has provided to date on this project, as part of past Ad Hoc Subcommittee updates to the Board;
- Information set forth in the registry regarding where potential cannabis operators would like to conduct cannabis activities, assuming the Board allows commercial cannabis activities; and
- Providing the Board with as many cannabis policy options as possible, given the other factors set forth above.

Based on these factors, staff identified the following zones as possible areas in which commercial cannabis activities could be appropriate (at least, under certain conditions):

- Agricultural I (AG-I)
- Agricultural II (AG-II)
- Limited Commercial (C-1)
- Retail Commercial (C-2)
- General Commercial (C-3)
- Service Commercial (C-S)
- Shopping Center (SC)
- Professional and Institutional (PI)
- Industrial Research Park (M-RP)
- Light Industry (M-1)
- General Industry (M-2)
- Mixed Use (MU)
- Community Mixed Use – Los Alamos (CM-LA)
- Old Town – Residential/Light Commercial (OT-R/LC)
- Old Town – Residential/General Commercial (OT-R/GC)

Attachment 1 to this Board letter lists the purpose/objective of each of these zones, as set forth in Chapter 35 of the County Code. Attachment 2 consists of maps that identify the locations of these zones. The tables on the following page identify the zones in which the Board might allow the commercial cannabis activities, based on the State license types described in this Board letter (above).

### Potential Zones for Commercial Cannabis Activities

Use	Zones															
	AG-I	AG-II	All Res Zones	CN	C-1	C-2	C-3	C-S	CH	CV	SC	PI	M-RP	M-1	M-2	M-CR
<b>Cultivation License Types</b>																
Types 1-3 (outdoor, indoor, mixed light) medical and non-medical	X	X	--	--	--	--	X*	--	--	--	--	--	X*	X*	X*	--
Type 4 - Nursery	X	X	--	--	--	--	X*	--	--	--	--	--	X*	X*	X*	--
Type 5 – Large Cultivation (not allowed until 2023)	X	X	--	--	--	--	X*	--	--	--	--	--	X*	X*	X*	--
<b>Manufacturing License Types</b>																
Type 6 - Non-Volatile Extraction	X	X	--	--	X	X	X	X	--	--	X	--	X	X	X	--
Type 7 - Volatile Extraction	X <sup>1</sup>	X	--	--	--	--	--	--	--	--	--	--	--	X	X	--
Type 8 – Testing Lab	--	--	--	--	--	--	X	--	--	--	--	X	X	X	X	--
<b>Commercial Sales</b>																
Type 10 – Retailer (retail sale and delivery)	--	--	--	--	X	X	X	X	--	--	X	--	--	X	--	--
Type 11 - Distributor	X	X	--	--	--	--	X	--	--	--	--	--	X	X	X	--
Type 12 – Micro-business	--	X <sup>2</sup>	--	--	X	X	X	X	--	--	--	--	--	X <sup>2</sup>	X <sup>2</sup>	--

-- = Prohibited; X = Permitted (type of entitlement required, yet to be determined); X\* = Indoor only

<sup>1</sup>Special development standards would likely be required to address proximity to homes, types of volatile extraction, etc.

<sup>2</sup>Type 12 in AG-II zones would only consist of delivery retail--not store front type retail.

Use	Mixed Use Zones				
	MU	CM-LA	NTS	OT-R/LC	OT-R/GC
<b>Cultivation License Types</b>					
Types 1-3 (outdoor, indoor, mixed light) medical and non-medical	--	--	--	--	--
Type 4 - Nursery	--	--	--	--	--
Type 5 – Large Cultivation (not allowed until 2023)	--	--	--	--	--
<b>Manufacturing License Types</b>					
Type 6 - Non-Volatile Extraction	X	X	--	X	X
Type 7 - Volatile Extraction	--	--	--	--	--
Type 8 – Testing Lab			--		
<b>Commercial Sales</b>					
Type 10 – Retailer (retail sale and delivery)	X	X	--	X	X
Type 11 - Distributor	--	--	--	--	--
Type 12 – Micro-business	--	--	--	--	--

Zones	
AG-I	Agriculture I
AG-2	Agriculture II
CN	Neighborhood Commercial
C-1	Limited Commercial
C-2	Retail Commercial
C-3	General Commercial
C-S	Service Commercial
CH	Highway Commercial
CV	Visitor Serving Commercial
SC	Shopping Center
PI	Public and Institutional
M-RP	Industrial Research Park
M-1	Light Industry
M-2	General Industry
MU	Mixed Use
CM-LA	Community Mixed Use Los Alamos
NTS	Naples Townsite
OT-R/LC	Old Town - Residential/Light Commercial
OT-R/GC	Old Town - Residential / General Commercial

Besides the minimum State licensing requirements which are known at this time (e.g., 600-foot buffers around schools and youth-serving facilities, in which cannabis activities would be prohibited), to date, staff has contemplated but not yet developed possible additional development standards that would need to be satisfied in order to conduct certain cannabis activities in certain zones. Some of these standards will result from mitigation measures set forth in the EIR, while others will be developed after completion of the Draft EIR pursuant to legal requirements that must be satisfied in order for the Board to adopt zoning ordinance amendments (e.g., findings of approval that the Board must make in order to adopt zoning ordinance amendments).

Finally, although the tables identify zones in which commercial cannabis activities might be allowed, the tables do not specify the type of land use entitlement that would be required in order to conduct each cannabis activity. Staff will be better prepared to make a recommendation on the appropriate type of entitlement for each cannabis activity in each zone, after completing the EIR for this project. However, the Ad Hoc Subcommittee and staff recommend that—if the Board decides to allow a commercial cannabis activity—the Board should require a land use permit or a more complex, discretionary entitlement (e.g., Conditional Use Permit) to ensure that staff has the ability to monitor the cannabis activity’s compliance with the ordinance standards and conditions of the permit.

**Performance Measures:**

Not Applicable

**Contract Renewals and Performance Outcomes:**

Not Applicable

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

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

**Narrative:** Staff time and contracted services to support the development of possible regulations of the cannabis operations in unincorporated Santa Barbara County is included in the Fiscal Year 2017-18 Adopted Budget.

**Key Contract Risks:**

Not Applicable

**Staffing Impacts:**

**Legal Positions:**

**FTEs:**

Not Applicable

**Special Instructions:**

None

**Attachments:**

Attachment 1 – Purpose/Objective of Zones Included in the Cannabis Land Use and Licensing Program

Attachment 2 – Maps of Zones in which Commercial Cannabis Activities Could Occur

Attachment 3 – Cannabis Schedule of Upcoming Events

Attachment 4 – Previous County of Santa Barbara Actions on Cannabis Operations

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