



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:** Planning and Development  
**Department No.:** 053  
**For Agenda Of:** 01/19/2016  
**Placement:** Departmental  
**Estimated Time:** Two hours  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Glenn S. Russell, Ph.D., Director, Planning and Development  
Director(s) (805) 568-2085  
Contact Info: Matt Schneider, Deputy Director, Long Range Planning  
(805) 568-2072  
**SUBJECT: Medical Marijuana Regulations – Cultivation and Delivery  
All Supervisorial Districts**

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** N/A

**Recommended Actions:**

Approve Case Number 15ORD-00000-00018, which would add a new Article X, titled “Medical Marijuana Regulations,” to Chapter 35, Zoning, of the Santa Barbara County Code, to implement regulations to prohibit medical marijuana cultivation and delivery with a limited exemption for marijuana cultivation for personal medical use.

Your Board’s actions should include the following:

- a) Make the findings for approval, including CEQA findings, included as Attachment 1 of this board letter;
- b) Determine that the adoption of the proposed ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the Guidelines for Implementation of CEQA, included as Attachment 2 of this board letter; and
- c) Adopt an ordinance, Case Number 15ORD-00000-00018, adding a new Article X, titled “Medical Marijuana Regulations” to Chapter 35, Zoning, of the Santa Barbara County Code, to implement new regulations regarding medical marijuana cultivation and delivery within the unincorporated areas of Santa Barbara County, included as Attachment 3 of this board letter.

Refer back to staff if your Board takes other than the recommended actions for appropriate findings.

**Summary Text:**

On October 9, 2015, Governor Brown signed Senate Bill 643 and Assembly Bills 243 and 266 collectively known as the Medical Marijuana Regulation and Safety Act (MMRSA). According to the MMRSA, the state will become the sole licensing authority for medical marijuana cultivation if a city or county does not have an ordinance regulating or prohibiting this activity in effect by March 1, 2016. Many cities and counties are enacting ordinances to prohibit medical marijuana cultivation in response to this short statutory deadline. Such ordinances preserve local government control over medical marijuana cultivation and allow cities and counties to enact medical marijuana regulations in the future should they choose to permit the use.

Similarly, the state will become the sole licensing authority for medical marijuana delivery if a city or county does not have an ordinance regulating or prohibiting this activity in effect when the state begins issuing licenses for medical marijuana dispensaries. Several provisions in the MMRSA imply that the state will begin issuing licenses for dispensaries and other medical marijuana activities in January 2018. The MMRSA includes an exemption for marijuana cultivation for personal medical use.

The MMRSA's short statutory deadline does not allow the County sufficient time to develop a comprehensive ordinance to regulate medical marijuana cultivation. In addition, uncertainty exists regarding future state regulations for medical marijuana cultivation and delivery. The MMRSA infers that state regulations may be available by July 1, 2017.

Staff recommends that the County retain local control by immediately adopting an ordinance to prohibit medical marijuana cultivation and delivery within the unincorporated areas of Santa Barbara County, with a limited exemption for marijuana cultivation for personal medical use. The County may reconsider this decision when additional information is available, such as new state regulations for licensing medical marijuana cultivation and delivery.

**Background:**

The County Planning Commission staff report (Attachment 4) contains detailed information regarding the MMRSA and the proposed ordinance. In summary, the MMRSA creates a comprehensive state licensing system for commercial cultivation, manufacturing, testing, transportation, and distribution of medical marijuana. These activities will also require a city or county permit or license unless a city or county chooses to yield licensing authority to the state.

Several California cities and counties have reported negative impacts from marijuana cultivation, processing, and distribution activities, including illegal sales and distribution of marijuana, trespassing, and theft. In addition, marijuana plants can produce strong odors that may be offensive to some people and detectable beyond property boundaries. In part, the MMRSA aims to address these negative impacts. However, state regulations and state licensing are not anticipated until July 1, 2017 and January 2018, respectively.

The proposed ordinance would declare and prohibit medical marijuana cultivation and delivery as a nuisance. However, it would exempt marijuana cultivation for personal medical use. Specifically, a qualified patient or person with an identification card or that patient's or person's primary caregiver would be allowed to cultivate marijuana for personal medical use provided:

1. The cultivation occurs on the lot that contains the lawful residential structure occupied by the qualified patient or person with an identification card;

2. The cultivation occurs on a single cultivation site that does not exceed 100 square feet;
3. The cultivation conforms to all applicable zoning regulations and current California and County building codes;
4. The qualified patient or person with an identification card does not sell, distribute, donate, or provide marijuana to any other person or entity; and
5. The primary caregiver does not sell, distribute, donate, or provide marijuana to any other person or entity for which they are not acting as the primary caregiver in accordance with the Medical Marijuana Regulation and Safety Act.

County staff would use standard zoning enforcement procedures to address potential and actual violations of the proposed ordinance. Staff would coordinate with the County Sheriff's Office to protect the safety of staff performing site visits and other acts necessary to enforce the proposed ordinance.

The Board of Supervisors should take immediate action if it wishes to retain local control over medical marijuana cultivation. It must adopt an ordinance to regulate or prohibit medical marijuana cultivation by January 26, 2016 in order to have such an ordinance in effect by the statutory deadline of March 1, 2016. Without action, the County will lose its authority to permit and regulate medical marijuana cultivation.

**Environmental Review:**

Staff recommends that your Board determine that the project is exempt from environmental review pursuant to Section 15061(b)(3) of the *California Guidelines for Implementation of the California Environmental Quality Act (CEQA)*. Section 15061(b)(3) states an activity is exempt from CEQA “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment...” As explained in Attachment 2, Notice of Exemption, the proposed ordinance would not result in any significant effect on the environment.

**Montecito and County Planning Commission:**

On December 16, 2015, the Montecito Planning Commission held a public hearing and voted 3-0 to recommend that the County not adopt the proposed ordinance. The Montecito Planning Commission also voted 3-0 to clarify that the intent of its first motion is that the County adopt future state regulations for medical marijuana cultivation and delivery, which are not anticipated until July 1, 2017.

On January 6, 2016, the County Planning Commission held a public hearing and voted 5-0 to recommend that the Board of Supervisors not adopt the proposed ordinance. The County Planning Commission also voted unanimously to recommend that the Board of Supervisors consider adding medical marijuana regulations to the *2016-2017 Annual Work Program* for the Long Range Planning Division (Attachment 5).

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

Costs to prepare the proposed ordinance are fully budgeted in the Long Range Planning Division of the Planning and Development Department's budget in the adopted Santa Barbara County Operational Plan

for Fiscal Years 2015-2016 (page D-295). No additional funding is required. Staff time and costs to prepare the proposed ordinance will total approximately 210 hours and \$16,500.

The proposed ordinance prohibits most medical marijuana cultivation and all medical marijuana delivery. Staff cannot predict how many violations may occur as a result of the proposed ordinance. Therefore, staff cannot quantify the fiscal, staffing, and facilities impacts of enforcing the proposed ordinance.

**Special Instructions:**

The Planning and Development Department will fulfill all noticing requirements and provide a copy of the notice and proof of publication to the Clerk of the Board of Supervisors.

The Clerk of the Board will provide copies of the Minute Order and signed ordinance to the Planning and Development Department, attention Allen Bell, Supervising Planner.

**Attachments:**

1. Findings
2. CEQA Notice of Exemption
3. 15ORD-00000-00018, Article X, Medical Marijuana Regulations
4. County Planning Commission Staff Report (Hearing Date: January 6, 2016)
5. County Planning Commission Action Letter (Hearing Date: January 6, 2016)

**Authored by:**

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