



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: March 20, 2018  
Placement: Departmental  
Estimated Time: 2 hours  
Continued Item: No  
If Yes, date from: NA  
Vote Required: Majority

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**TO:** Board of Supervisors

**FROM:** Department: Mona Miyasato, County Executive Officer  
Director(s)  
Contact Info: Dennis Bozanich, Deputy County Executive Officer

**SUBJECT:** Cannabis Business License Ordinance and Cannabis Cultivation Cap Options

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: Treasurer-Tax Collector  
As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors (Board):

- a) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara adding Chapter 50 to the Santa Barbara County Code, Establishing a Commercial Cannabis Business License (Attachment 1);
- b) Read title: "An Ordinance Adding Chapter 50, Licensing of Commercial Cannabis Operations, to The Santa Barbara County Code," and waive reading of the Ordinance in full;
- c) Receive and consider options from staff and provide direction, as necessary, on the establishment of cultivation and/or retail caps or limits;
- d) Receive an update on state temporary medical cannabis cultivation licenses in Santa Barbara County;
- e) Set a hearing on the Administrative Agenda for April 3, 2018 to consider the adoption (Second Reading) of an Ordinance Adding Chapter 50 to the Santa Barbara County Code, Licensing of Commercial Cannabis Operations; and
- f) Make the required CEQA findings and determine for the purposes of CEQA that:
  - i. 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.

- ii. 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; ii) no substantial changes have occurred with respect to the circumstances under which the ordinance is undertaken which require major revisions of the PEIR; 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.

### **Summary Text:**

In February, the Board approved amendments to Chapter 35 of the County Code establishing land-use zoning, permitting and development standards for cannabis operations in the unincorporated area of Santa Barbara County and asked staff to return with information on possible retail caps. On February 27, 2018, the Board also asked staff to return with options for cultivation caps.

The purpose of this agenda item is for your Board's consideration of an ordinance that would add a local commercial cannabis business license to the County Code. These license applications would require inspections of the proposed cannabis operations, compliance reviews during the active license period by an interdepartmental team made up of Planning & Development, Sheriff, Agricultural Commissioner and, in some cases, Fire and Public Health staff. These staff inspections would be funded by a licensing fee charged to each cannabis operator.

### **Background:**

#### **Business License Ordinance**

In late 2016 and continuing to the current day, commercial cannabis operations have been occurring in spite of county-adopted prohibitions with only extremely limited exemptions to those prohibitions. Neighborhood groups, local elected officials and even the cannabis industry sought greater clarity about who was allowed to grow cannabis, where they were allowed to grow cannabis and under what requirements. The current regulations had ceased to work for many people. In February of 2017 the Board formed an Ad Hoc Subcommittee to help provide guidance to staff and to expedite the development of options for greater regulation or an enforceable prohibition.

In July 2017, staff presented the Board with a strategy for addressing the impacts of commercial cannabis operations in Santa Barbara County through a combination of:

- Local land use zoning and permitting ordinances to address where and how commercial cannabis operations should be allowed, if any; and
- Local business license ordinance to address who would be operating and what types of commercial cannabis operations should be allowed, if any; and
- State annual licensing of cannabis operations.

After completing an Environmental Impact Report (EIR), the Board in February 2018 certified the EIR and adopted a series of amendments to Chapter 35, Zoning of the County Code to identify which zone districts would allow commercial cannabis operations, what type of permit would be required and what development standards would be required.

If adopted by the Board, the Licensing of Cannabis Operations Ordinance (Attachment 1) will:

- Add Chapter 50 to the County Code;
- Require a local Cannabis Business License for anyone engaged in any activity, recreational or medicinal, including the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or retail sale of cannabis and cannabis products;
- Require that Cannabis Business Licenses to be renewed every year and are non-transferable;
- Establish that a license is required for each entity conducting a cannabis operation on each parcel;
- Establish the cannabis retail license cap and a selection process for those that may seek a cannabis retail license;
- Require licensees to maintain their operations in compliance with their land use permits, state cannabis licenses and require that they pay their taxes;
- Establish clear roles and procedures for cannabis businesses, and county departments, as they engage in processes of applying, reviewing, inspecting, approving or denying, renewing, suspending, revoking or appealing cannabis business licenses;
- Establish a multi-departmental cannabis compliance team from Planning & Development, Sheriff, Agricultural Commissioner, Fire, and Public Health to support the County Executive approving or rejecting applications and renewals and the Treasurer-Tax-Collector in issuing the cannabis business license or noticing the applicant of a denial; and
- Establish standards for operations, compliance reviews, as well as, enforcement and penalties for failure to comply with cannabis business license requirements.

### **Cultivation License Cap Options**

At the February 27, 2018 Board meeting, staff was asked to return at this meeting with options for cannabis cultivation license limits (caps) for the Board to discuss and consider. Staff has identified three possible options for implementing these caps. Staff examined administering any proposed cap either by limiting the number of local business licenses for cannabis cultivation or limiting the acres of cannabis cultivation operations. If the Board chooses to impose a cap, staff recommends limiting the number of local cannabis cultivation business licenses to reduce the overall number of operations as the most practical way to manage any possible future selection processes.

Based on public testimony and the Board discussion in February, staff identified three potential options:

**Option #1 – Coastal Zone Cap:** This option would limit cannabis cultivation licenses in the coastal zone countywide.

The goal of Option 1 is to limit visual impacts in the Coastal Zone by limiting cannabis cultivation and the possible increased use of greenhouses or hoop houses within the Coastal Zone of the County.

The EIR (see page 3.1-15 referencing Section 35.28.150 of the *Land Use and Development Code*) and public comment expressed concerns about the visual impacts of cannabis cultivation. This is particularly true in the Coastal Zone where greenhouse and hoop cultivation of cannabis are prevalent and preferred by industry. While the development standards adopted as a part of the Article II Coastal Zoning Ordinance in February address these concerns generally, limiting the cannabis cultivation licenses in the Coastal Zone would further reduce reflected light during the day. The findings adopted by the Board in February state, in part, "...related future development in combination with other County projects and plans would contribute considerably to aesthetics and visual impacts."

Any limit on cannabis business licenses imposed on the Coastal Zone could be added to the Business Licensing Ordinance by expanding Section 50-7.

A series of maps of the Coastal Zone is available at Attachment 3.

**Option #2 – Carpinteria Greenhouse Overlay Boundary Cap:** This option would cap cannabis cultivation licenses within the existing Carpinteria Agricultural Overlay District boundary.

In 2004, the Board adopted Ordinance 4529 which amended Article II of Chapter 35 (Coastal Zoning Ordinance) to include a Carpinteria Agricultural Overlay District to direct the development of the greenhouses, shade structures and hoop structures in the Carpinteria Valley. The boundaries are defined in this 2004 ordinance as *Area A* (allowed additional greenhouse development) and *Area B* (restricted additional greenhouse development.) *Area A* is described as south of Highway 192/Foothill Road, east of Nidever Road and west of Linden Avenue. *Area B* as described encompasses the remainder of the AG-I zoned lands in the Carpinteria Valley. A map of the Carpinteria Overlay District is available at Attachment 4.

The area of the Carpinteria Greenhouse Overlay has been the most impacted with cannabis odors as evidenced by public comment over the past year. This area has the greatest concentration of greenhouses in the county and the greatest concentration of existing medical cultivation sites. The goal of Option 2 is to distribute the impacts of cannabis throughout the County and prevent excessive concentration in one area.

A limit on cannabis cultivation licenses using the existing Carpinteria Agricultural Overlay Boundary would limit cultivation in the Carpinteria Valley. Any limit on cannabis business licenses imposed on this geographical area could be added to the Business Licensing Ordinance by expanding Section 50-7.

**Option #3 – Williamson Act Uniform Rule-based Cap:** This option would effectively cap cannabis cultivation through the application of Uniform Rule 2-4 on "compatible uses" to agriculture operations on Williamson Act contracted parcels at a percentage low enough to have the effect of a cap. The proposed amendments to the Uniform Rules to be considered by the Board at this meeting designates cannabis operations as "compatible use" but not qualifying uses on contracted land. Cancellation or non-renewal of Williamson Act contracts are one of the potential consequences of setting a cannabis cultivation limit too low. Cancellation of Williamson Act contracts would require the Board to make findings that the cancellation is "consistent with the purposes" of the Williamson Act or in the "public interest." It also requires reimbursements of staff processing costs and a cancellation fee of 12.5% of the fair market value

without the contract. Non-renewal of a Williamson Act contract does not require the findings or the fees of cancellation, but does require nine years of continued compliance with the Uniform Rules.

A limit on cannabis cultivation by defining it as a “compatible use” on Williamson Act contracted land would have an effect countywide. It would be implemented through adoption of the desired language in the Uniform Rules to be heard as another item on March 20, 2018.

**Option #4 – The Market:** The most effective cultivation cap, and staff recommendation, would be the cannabis market itself. Supply and demand and wholesale pricing for licensed cannabis and cannabis products will effectively limit the amount of cultivation. Imposing a cap or limiting the number of cannabis cultivation licenses does have significant consequences. One major consequence is that it creates an artificial shortage that is likely to affect business decisions particularly as the number of licenses come close to reaching the cap. Some operators may choose to “hoard” licenses to either keep their future growth options open or to prevent competition from being able to attain a license. In these circumstances, a business is highly likely to not place the licensed operation into production. This may cause a reduction in any possible tax revenue.

**Update of State Temporary Licenses**

On December 14, 2017 at a Special Meeting of the Board of Supervisors, staff was directed to provide a County letter to entities that provided a sworn affidavit attesting to their non-adjudicated exemption to County Code § 35-1003. At that same meeting, staff informed the Board about emergency regulations promulgated by the State licensing authorities including the ability of cannabis cultivators to receive unlimited small (less than 10,000 square feet each) cultivation licenses.

As of March 7, 2018, staff has received County letter requests and affidavits for State temporary medical cannabis cultivation licenses from 124 operations (99 individuals, some on multiple parcels). The California Department of Food and Agriculture has issued 482 cannabis licenses. Staff has provided a series of maps (Attachment 5) identifying the location and quantity of State temporary cannabis cultivation licenses.

	<b>Number</b>	<b>Acres</b>
<b>Total County letters provided</b>	<b>124</b>	
<b>Total individuals provided County letters</b>	99	
In Carpinteria Valley	28	
In Santa Barbara & Goleta area	11	
In the Lompoc Valley	29	
In Santa Ynez Valley	15	
In Santa Maria Valley/Tepusquet	16	
<b>SBC Registry Data on individual medical cannabis cultivators currently operating (presented in July 2017)</b>	<b>240</b>	
In Carpinteria Valley	52	

In Santa Barbara & Goleta area	38	
In the Lompoc Valley	58	
In Santa Ynez Valley	33	
In Santa Maria Valley/Tepusquet	41	
<b>Total parcels for which letters were provided</b>	<b>105</b>	
In Carpinteria Valley	24	
In Santa Barbara & Goleta area	11	
In the Lompoc Valley	32	
In Santa Ynez Valley	19	
In Santa Maria Valley/Tepusquet	19	
<b>State temporary medical cannabis cultivation licenses issued</b>	<b>482</b>	<b>119.01</b>
In Carpinteria Valley	215	50.20
In Santa Barbara & Goleta area	6	0.69
In the Lompoc Valley	225	53.55
In Santa Ynez Valley	14	6.16
In Santa Maria Valley/Tepusquet	22	8.41

**Performance Measure:**

NA

**Contract Renewals and Performance Outcomes:**

NA

**Fiscal and Facilities Impacts:**

Budgeted: Yes **Fiscal Analysis:**

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

**Narrative:**

Adopting the Cannabis Business Licensing Ordinance will require additional costs for staffing that are not budgeted in the current Fiscal Year 2017-18 Adopted Budget. The current estimate of additional staffing costs is approximately \$2.5 million annually when licensing begins. This is not likely until FY 2018-19 and is contingent on the Treasurer-Tax Collector opening a bank account in a suitable financial institution. Fee revenue will be generated from license application and compliance fees charged to those applying for

and receiving cannabis business license. Following Board adopted budget policies, the fees will fully recover the cost of the licensing compliance program. Following adoption of the Cannabis Business License Ordinance, staff will refine the staffing requirements based on the approved scope of responsibilities approved by the Board. A fee study will also be finalized. Both the staffing plan and a cannabis business license fee ordinance will be brought back to the Board of Supervisors for consideration on April 10, 2018.

**Key Contract Risks:**

None

**Staffing Impacts:** Item with staffing plan will return on April 10, 2018.

**Legal Positions:**

**FTEs:**

**Special Instructions:**

**Attachments:**

Attachment 1 – Ordinance Adding Chapter 50, Licensing Of Commercial Cannabis Operations, To the Santa Barbara County Code

Attachment 2 – Cross reference of State Licensing requirements with County Land Use Permit and Business Licensing Requirements

Attachment 3 – Map of the Coastal Zone for Option 1

Attachment 4 – Map of Carpinteria Overlay Zone for Option 2

Attachment 5 – Maps of Temporary State Medical Cannabis Cultivation Licenses in Santa Barbara County

Attachment 6- CEQA Findings

**Authored by:** Dennis Bozanich, Deputy County Executive Officer, 805-568-3400

**cc:**