



**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:** February 15, 2022  
**Placement:** Departmental  
**Estimated Time:** 45 minutes  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

**TO:** Board of Supervisors

**FROM:** Department: Mona Miyasato, County Executive Officer  
Director(s):  
Contact Info: Jeff Frapwell, Assistant County Executive Officer  
Brittany Heaton, Principal Analyst, Cannabis

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**SUBJECT:** Amend Chapter 50 of the County Code - Licensing of Cannabis Operations

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: NA

**Recommended Actions:**

That the Board of Supervisors:

- a) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending Chapter 50 of the Santa Barbara County Code, Licensing of Cannabis Operations in the unincorporated area of the County (Attachment 1 and 2);
- b) Read the title and waive further reading of the Ordinance in full;
- c) Set a hearing on the Administrative Agenda for March 1, 2022 to consider recommendations, as follows:

On March 1, 2022:

- i) Consider adoption (Second Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending Chapter 50 to the Santa Barbara County Code, Licensing of Cannabis Operations; and
- ii) Determine for the purposes of CEQA that:
  - 1) Pursuant to CEQA Guidelines section 15168(c) 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.

- 2) 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 due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects; ii) no substantial changes have occurred with respect to the circumstances under which the ordinance is undertaken which require major revisions of the PEIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects; 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 that shows any of the following situations elements of CEQA Guidelines Section 15162(3) apply.

**Summary Text:**

In November 2021, the Board directed staff to return promptly with an ordinance amendment that would allow cannabis processing activities in the County despite the acreage cap being committed, as well as a broader discussion of options for streamlining and encouraging processing in the County. Over the past year, staff has received feedback from business license applicants that they did not include processing activities in their projects because it would increase the time to obtain permit approval and the ability to make it into the acreage cap. This amendment would address this issue, make amendments in Chapter 50 around changes in ownership, and set forth additional timelines for legal, non-conforming operations.

The purpose of this agenda item is for Board consideration of an ordinance amending Chapter 50, Licensing of Commercial Cannabis Operations, to reflect desired changes in the business licensing process. Revisions are summarized below.

**Background:** In May 2018, the Board adopted Chapter 50 of the Santa Barbara County Code, Licensing of Cannabis Operations. Since the effective date of the cannabis ordinances (June 2018 in the inland area, November 2018 in the coastal zone), cannabis operations have been applying for County cannabis land use permits and business licenses. Chapter 50 has since been amended several times to reflect necessary changes in the business licensing process. It was most recently amended in November 2021 and the Board requested that staff return with a subsequent amendment that could address the lack of processing facilities in the County, impose additional deadlines for legal, non-conforming operators, and make other adjustments to change in ownership and transferability of cannabis business licenses.

**Proposed Amendments to Cannabis Licensing Ordinance**

Issue Area	Proposed Amendment	County Code section
Limits on Cannabis Business Licenses/ Acreage Cap and Processing	<ol style="list-style-type: none"> <li>1. Removes processing activities from the acreage cap by more narrowly defining the activities that count in the area used to determine the acreage limits on cannabis business licenses</li> <li>2. Establishes a June 30, 2022 sunset date for all legal non-conforming operators in the unincorporated inland area that have an approved land use entitlement to obtain their business licenses or cease operations</li> </ol>	County Code § 50-7

	3. Includes an additional six-month period for legal non-conforming operators that have an approved land use entitlement to remain on the Eligible Business License Applicants List (reserved spot in the acreage cap) while they complete the permitting and licensing processes through 2022	
Cannabis Business Licenses Limit - Nontransferable	4. Clarifies that pending business licenses are subject to the limitations in section 50-23 "Change in Ownership"	County Code § 50-22
Change in Ownership	5. Ensures that all changes in ownership and business entity are properly noticed and vetted before changes go into effect 6. Allows for change in ownership and license transferability to another operator on the same permitted parcel, after being properly vetted, while maintaining spot on the Eligibility List	County Code § 50-23

The specific amended Chapter 50 sections are provided in Attachment A (Non-redlined) and Attachment B (Redlined).

### **Sunset for Legal, Non-Conforming Operations**

The County allowed cannabis cultivators to continue operations under a legal, non-conforming status with submittal of an affidavit to the County that stated they were cultivating medicinal cannabis prior to January 19, 2016. These operators had to submit a land use entitlement application by June 2019 to continue to cultivate in the inland areas. Staff identified six legal, non-conforming operations that started the land use entitlement process by that deadline but do not yet have an approved permit and were therefore ineligible to apply for a business license and be placed on the Eligible Business License Applicants List: Unincorporated County. In November the Board approved an amendment that established a June 30, 2022 sunset date for these operators that were unable to secure a place on the Eligible Business License Applicants List. The operators were notified by letter in January that they have until June 30, 2022 to cease all cannabis cultivation activities.

Staff also received direction from the Board to establish a business license sunset date for all existing, legal non-conforming uses that have an approved land use entitlement and secured a place on the Eligible Business License Applicants List: Unincorporated County. Final permit and license issuance are imperative to the County's compliance efforts, and setting a sunset date provides incentive for operators to proceed with due diligence through these processes after securing a spot in the acreage cap. Staff also recommends a sunset date of June 30, 2022 for these operators. Once the June 30th date is reached these applicants could continue through permitting and license processes, but must cease operation until a business license is approved and issued. Additionally, the proposed language establishes a six-month period that will allow applicants that are making progress through the permitting and licensing process to resolve outstanding issues and continue through the process to obtain their business license before being removed from the Eligibility List on December 31, 2022. These dates would apply to the Unincorporated inland area only since the acreage cap has not yet been committed in the Carpinteria Agricultural Overlay area. Staff will return with a recommendation for the Carpinteria area when the acreage limit is close to or fully committed.

### **Cannabis Processing and the Acreage Cap**

In November, the Board also directed staff to return with an amendment that would remove cannabis processing from the cap. The crux of the issue is that the acreage cap established in the Ordinance applies to cultivation activities (planting, growing, and harvesting) and processing (drying, curing, and trimming) activities. Due to acreage cap constraints, operators largely opted to forego on-site processing activities in order to complete the land use entitlement process more quickly. Consequently, there are very few existing or proposed processing facilities in the County, resulting in cannabis product being transported out of the County for processing activities and the loss of a substantial amount of tax revenue from the drying and processing cannabis business segments.

The proposed amendment will exclude processing activities from the calculation of the acreage cap. This will allow new land use entitlement and business license applications for processing facilities regardless of the amount of acreage in the cap. This provides a path forward for operations to pursue in-county processing activities. Upon effective date of this ordinance, the County Executive Office will evaluate existing licenses and acreage already within the cap to determine how much acreage is freed up from this change. Preliminary review indicates that less than three acres are approved for processing in the Unincorporated Inland area and just over six acres in the Carpinteria Agricultural Overlay. This acreage will initially be offered to the operator where it was generated, i.e. those that have existing processing; then made available to licensees on the Wait List. The existing projects would have to expand their permitted operations and obtain an amendment to their land use entitlement to accommodate this additional area for cultivation.

A processing-only operation may be allowed through a permit for ‘cultivation’ that would only include the cultivation activities of ‘drying, curing, or trimming’ of cannabis. The Planning and Development Department reviewed the Land Use Development Code (LUDC) and Article II and determined that as defined in the LUDC and Article II, cannabis cultivation activities include the “drying, curing, or trimming” of cannabis product and does not require the growing of cannabis on-site to qualify for cultivation. In addition, LUDC Section 35.42.075.D.1.H and Article II Section 35-144U.C.1.i allow for post-processing and packaging of cannabis products to be “considered accessory uses to the cultivation operation(s) when processed on the same lot”.

With the application of the above code sections, “processing only” facilities can be allowed through land use entitlements for cultivation that only include drying, curing, or trimming activities. Additionally, if processing areas are excluded from the acreage cap on cultivation, then the county could issue additional business licenses for “processing only” projects within both the Carpinteria Agricultural Overlay Area as well as outside of the overlay area.

### **Changes in Ownership**

Changes in ownership are common in all business sectors, and cannabis is no exception, which has raised issues regarding business license transfers given the acreage cap. The proposed changes allow for applicants and licensees to submit a new business license, as required, when a transfer or sale is greater than twenty percent of its corporate stock, partnership interest or other business interest in a commercial cannabis operation, while maintaining their place on the eligibility list and continuing operations during review of the new business license application. These changes allow for change in ownership and license transferability to another operator on the same permitted parcel, but only after the new owners and entities are properly vetted and reviewed. Applicants must continue to comply with all county codes, land use entitlements, and state law, and continue to make appropriate progress through the licensing process. All

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new business owners, managers, supervisors, employees, or other persons intending to be engaged in the business or operation of the operation must also clear a criminal background check performed by the sheriff prior to the proposed change. The changes establish timelines for submitting notification to the County of the change: thirty days prior to and submittal of the new business license application within fifteen calendar days of the notice. The new individuals must receive background check clearance before the change can go into effect. Allowing these changes will encourage continued transparency and, in some cases, rid existing operations or entities of those individuals that do not comply with regulations.

These changes will not apply to Retail, Storefront Licenses, since their ability to apply for a license is tied to the criteria-based application and selection process.

**CEQA Determination:**

Adoption of the proposed ordinance is 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) (17EIR-00000-00003, State Clearinghouse No. 2017071016). The PEIR analyzed the potential for uncapped cannabis cultivation and processing in unincorporated Santa Barbara County, subject to County-specific regulations to address neighborhood compatibility concerns, adequacy of services and utilities, and protection of natural resources. (See pp. ES-2, 1-1 and 2-1.) The PEIR fully disclosed, analyzed, and mitigated all the potential direct and cumulative impacts of new cannabis processing in the County, including potential impacts related to air quality, odors, and noise. (See pp. 3.3-19, 3.3-22, 3.9-47, and 3.10-11.)

The current acreage limits on business licenses for cannabis cultivation, nurseries, and microbusinesses with cultivation were adopted after consideration and certification of the PEIR, and were determined to be within the scope of the PEIR at the time of adoption. The proposed amendment to remove cannabis processing from those acreage limits is likewise within the scope of the PEIR, and does not alter the PEIR's disclosure, analysis, or mitigation of environmental impacts. In addition, all cannabis processing will continue to require a discretionary land use entitlement subject to CEQA (see Article 35.42 of the County Code), so a project-specific environmental analysis will be conducted before any processing may take place. Depending on the details and location of particular projects, project-specific environmental analysis may rely on the PEIR and a CEQA Checklist, or additional environmental review.

The other proposed ordinance changes do not implicate CEQA and will not result in potential effects on the environment. They are within the scope of the PEIR and will not result in new or a substantial increase in the severity of previously-identified significant effects due to substantial changes in the prior project or its circumstances or new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time that the PEIR was certified.

**Future Amendments**

The business licensing program continues to evolve and mature. Staff anticipates seeking further amendments to address additional stakeholder concerns including timelines for using an operators' reserved acreage in the cap once a business license is issued, and cultivation area measurements and definition.

**Performance Measure:**

NA

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**Contract Renewals and Performance Outcomes:**

NA

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

NA

**Narrative:**

The cost of making and implementing the amendments to Chapter 50 will not increase or decrease the anticipated costs of the cannabis business licensing program.

**Key Contract Risks:**

NA

**Attachments:**

Attachment A – Ordinance Amending Chapter 50, Licensing of Cannabis Operations, To the Santa Barbara County Code (Non-redlined version)

Attachment B – Ordinance Amending Chapter 50, Licensing of Cannabis Operations, To the Santa Barbara County Code (Redlined version)

Attachment C – CEQA Findings

Attachment D – Link to the Program Environmental Impact Report for the Cannabis Land Use Ordinance and Licensing Program, 17EIR-00000-00003:

<https://cosantabarbara.app.box.com/s/o9fp2865sykaqn98s0702plaa96xj7t5/folder/72887579662>

Attachment E – PEIR Statements of Overriding Consideration

**Special Instructions:**

The Clerk of the Board shall publish the ordinance in accordance with Government Code section 25124.

**Authored by:**

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