



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: 8/20/2019
Placement: Departmental on
8/20/2019
Administrative on
8/27/2019
Estimated Time: 3 hours on 8/20/2019
Continued Item: No
If Yes, date from: NA
Vote Required: Majority

TO: Board of Supervisors

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

SUBJECT: Chapter 50 - Licensing of Commercial Cannabis Operations Ordinance
Amendments & Cannabis Business Licensing Fee Ordinance Amendments

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board on the Departmental Agenda of August 20, 2019:

- 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 Commercial Cannabis Operations (Attachment 1 and 2);
- b) Read title: "An Ordinance Amending Chapter 50, Licensing of Commercial Cannabis Operations, of The Santa Barbara County Code," and waive reading of the Ordinance in full;
- c) Set a hearing on the Administrative Agenda for August 27, 2019 to consider the adoption (Second Reading) of an Ordinance Amending Chapter 50 of the Santa Barbara County Code, Licensing of Commercial Cannabis Operations; and
- d) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending the Ordinance 5041, "An Ordinance Establishing the Cannabis Business License Fee" (Attachments 3);
- e) Read title: "An Ordinance Amending Ordinance 5041, "An Ordinance Establishing the Cannabis Business License Fee" and waive reading of the Ordinance in full;

- f) Set a hearing on the Administrative Agenda for August 27, 2019 to consider the adoption (Second Reading) of “An Ordinance Amending Ordinance 5041, An Ordinance Establishing the Cannabis Business License Fee”;
- g) Provide direction to staff on revisions to cannabis storefront retail requirements, if desired; and
- h) 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 April 2018, the Board adopted Chapter 50 of the Santa Barbara County Code, Licensing of Commercial 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. Staff returned to the Board with additional potential amendments to Chapter 50 on July 9 and 16, 2019.

On July 9 and 16, 2019, the Board reviewed and considered potential amendments to Chapter 50 of the County Code establishing business licensing for cannabis operations in the unincorporated area of Santa Barbara County. The Board provided conceptual direction to staff on potential amendments to Chapter 50. Staff was directed to return with amendments to Chapter 50 of the Santa Barbara County Code.

The purpose of this agenda item is for Board consideration of an ordinance amending Chapter 50, Licensing of Commercial Cannabis Operations and the Cannabis Business Licensing Fee Ordinance (Ordinance 5041).

Background:

Possible Amendments to Cannabis Licensing Ordinance

On July 9 and 16, 2019, the Board was provided the following possible amendments to the business license ordinance (Chapter 50.) Staff received general direction on these possible amendments.

Issue Area	Direction on Possible Amendments	County Code section
Cap	1. Limit cannabis cultivation operations countywide to the acreage for accepted land use entitlement applications as of July 9, 2019 while maintaining the Carpinteria Agricultural Overlay	County Code § 50-7
Earlier Odor Control	2. Add to Chapter 50-8 that cultivators currently cultivating must demonstrate the effectiveness of odor control systems during the Business License application review process as soon as the land use entitlement is issued	County Code § 50-8(b)(8)
Earlier Odor Control	3. Require the submission of land use entitlement or evidence of land use application acceptance for processing to allow for concurrent processing of Business License Application	County Code § 50-6, 50-8
Eligible List	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)
Appeals	5. Expand who may be used as Hearing Officer to match County Code Chapter 24A	County Code § 50-2(h)

In addition to the amendments listed above some general clean up and clarification language for Chapter 50 is included in this ordinance amendment package. The specific amended Chapter 50 sections for Possible Amendments 1-5 (above) are provided in Attachment 1 (Non-redlined) and Attachment 2 (Redlined).

Calculating the Cap

On July 16, 2019, the Board conceptually approved limiting cannabis cultivation by capping the number of acres countywide while maintaining the established Carpinteria Agricultural Overlay District-based cap of 186 acres. The Board provided direction that the countywide cultivation cap should be calculated by the same method used in calculating the Carpinteria cap, that is, the area used for the total cannabis operation proposed in applications submitted to the Planning & Development Department by July 9, 2019. Planning and Development reconfirmed the total acreage of all pending cannabis cultivation operations as of July 9th to be approximately 1,264 acres countywide outside of the Carpinteria cap area, of which 32 acres have been added as a buffer to address applications in which acreage was potentially misreported (equates to approximately 2% of the total cap outside of Carpinteria cap area). Additionally, 311 acres (countywide outside of the Carpinteria cap area) had already been approved for permits or been issued permits prior to July 9, 2019. Added together, that would cap all cannabis cultivation operations countywide outside of the Carpinteria cap area at 1,575 acres. Adding that to the Carpinteria cap, the total countywide cap would be 1,761 acres.

Amendments to Ordinance 5041, An Ordinance Establishing the Cannabis Business Licensing Fee

On May 15, 2018, the Board adopted Ordinance 5041 establishing fees for the Cannabis Business License application, renewal and compliance programs. Two small changes are presented in this proposed amendment:

- Adding Community Services Department staff to those identified in Attachment B of Ordinance 5041 as a result of an ordinance amendment approved in March 2019 to shift Energy Conservation Plan review to the Community Services Department Energy Division; and
- Establishing a Cannabis Retail Storefront Pre-Qualification Application Fee.

The two new fees were developed in consultation with staff from the Auditor-Controller's Office, who were involved from the onset to assist in determining costs and charging methods; that fee study is maintained at the Office of the Auditor-Controller. The resulting proposed fees are directly related to the cost reasonably necessary to provide the related services and do not exceed the estimated reasonable cost of providing the service or regulatory activity for which the fee will be charged. These fee ordinance amendments are necessary in order to align fee collections with the tasks performed by staff as detailed in the cannabis business license ordinance.

The specific amended Ordinance 5041 sections for are provided in Attachment 3 (Non-redlined).

Requirements for Cannabis Storefront Retail

Chapter 50 (b) limits the number of storefront retail licenses to eight countywide with no more than one in each of six community plan areas and two for unincorporated areas outside of a community plan area. Chapter 50-7 (c) through (e) outlines the process of selecting who is eligible for a cannabis storefront retail license by pre-qualification, establishing an eligible list and conducting a random selection and then the selected parties requirements to complete permitting and licensing. The County will only accept one application per person per proposed operating location. Attachment 7 is the latest version of Chapter 50 for your reference.

Other jurisdictions, such as the City of Santa Barbara and the City of Goleta, conducted an open application for cannabis retail operators that included a criteria based scoring system to determine who could operate a cannabis business.

The City of Santa Barbara used a cannabis application review team to rank applicants based on the following submitted documentation:

- Business plan, including:
 - Operations, best practices and financial pro forma;
 - Qualification of principals;
 - Community benefits;
 - Environmental benefits;
 - Local enterprise credits;
- Safety and security plan;
- Neighborhood integration plan;
- Labor & employment plan; and
- Air quality plan.

Following the submittal and ranking of the application packet, applicants that scored 80% or better on their application packets were invited to a public presentation of their proposal and an interview by the Permit Application Evaluator. Site inspections followed the public interview. Applicants for storefront retail with the highest score will receive Cannabis Retail Permits from the City based on permit availability.

The City of Goleta created a Retail Cannabis Business License Priority List in June 2019. The City Council also chose at that time to use the original priority list compiled in 2018 on a first-come, first serve basis. This priority list included three existing legal non-conforming medical cannabis dispensaries. The criteria used to continue on the Priority List is a 600 foot setback from the Community Center, schools and 100 foot setback from residential land uses. Additionally, applicants on the Priority List cannot be within 600 feet of one another. In June 2019, the City of Goleta capped Cannabis storefront retail licenses to six.

Chapter 50-25 (a) through (d) contains an extensive series of requirements for all cannabis operators, including cannabis storefront and non-storefront retail. The list of operating requirements includes:

- Annual licenses must be renewed every year and can be non-renewed, suspended or revoked;
- Cannabis Business Licenses are non-transferable and any ownership changes will require background checks;
- Extensive premises restrictions on what activities are not allowed on a licensed site including consumption;
- Each licensee shall conspicuously display its license on the premises;
- Employee identification cards shall be worn at all times while on the premises and cards shall be color coded to identify levels of access to portions of the operations;
- Odor prevention devices and techniques for cannabis cultivation, in compliance with Chapter 35, Zoning, of the County Code;
- Records need to be retained for seven years;
- All persons having at least a 20% financial receive a live scan criminal background check, that show no felonies in accordance with California Business and Professions Code section 26057, as may be amended;
- Each licensee shall provide adequate security on the premises including the cleanup of graffiti, trash around the premises within 48 hours.
- Each licensee shall maintain such surveillance video recordings for a period of at least forty five (45) days and shall make such video recordings available to the County upon demand;
- All cannabis and cannabis products shall be stored in a secured and locked safe;
- Each licensee shall notify the Sheriff within 12-24 hours after discovering any theft or loss;
- Each licensee shall provide a designated community relations contact who may be contacted 24-hours a day;
- A licensee shall pay all applicable State and County taxes and fees;
- Must have all necessary land use entitlements/permits as required by Chapter 35, Zoning, of the Santa Barbara County Code;
- Must hold all required State Licenses under the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act;
- County officials may enter the licensee's premises during standard operating hours for the purpose of observing compliance of the commercial cannabis operation with this Chapter;

- County officials may inspect the commercial cannabis operation's records, books, accounts, financial data, and any and all data relevant to its licensed activities; and
- It is a misdemeanor for any person to impede, obstruct, or interfere with an inspection, or the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.

Fiscal and Facilities Impacts:

Budgeted: Yes **Fiscal Analysis:**

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

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. Expenses for Cannabis Business Licensing expenses are offset by Business License fee revenue.

Attachments:

- Attachment 1 – Ordinance Amending Chapter 50, Licensing of Commercial Cannabis Operations, To the Santa Barbara County Code (Non-redlined version)
- Attachment 2 – Ordinance Amending Chapter 50, Licensing of Commercial Cannabis Operations, To the Santa Barbara County Code (Redlined version)
- Attachment 3 – Ordinance Amending Ordinance 5041, An Ordinance Establishing Cannabis Business Licensing Fees (Non-redlined version)
- Attachment 4 – CEQA Findings
- Attachment 5 – Chapter 50 – Licensing Commercial Cannabis Operations as amended by the Board of Supervisors on April 9, 2019

Special Instructions:

The Clerk of the Board shall publish a legal notice twice starting 10 days prior to the Hearing on August 20, 2019 for the Chapter 50 amendments. The Clerk of the Board shall also publish a legal notice twice starting 5 days, and then again 10 days prior to the Hearing on August 20, 2019 for the Cannabis Business Licensing Fee Ordinance amendments. The notice shall appear in the Santa Barbara News-Press and the Santa Maria Times.

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