



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: County Executive Office  
Department No.: 012  
For Agenda Of: September 1, 2020  
Placement: Departmental  
Estimated Time: 45 minutes  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

**TO:** Board of Supervisors  
**FROM:** Department Director  
Mona Miyasato, County Executive Officer  
Barney Melekian, Assistant County Executive Officer  
**SUBJECT:** Update on Cannabis Compliance, Enforcement and Taxation – Fourth Quarter FY2019-20

**County Counsel Concurrence**

As to form: Yes

**Risk Management:**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:** That the Board of Supervisors:

- a) Receive an update on the status of cannabis tax collection, land use permitting, business licensing, State licensing, and enforcement;
- b) Find that the proposed actions are administrative activities of the County, which will not result in direct or indirect changes to the environment and therefore are not a “project” as defined for the purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5).

**Summary Text:**

This item provides the Board and public an update on the fourth quarter of fiscal year 2019-2020 (from April 1, 2020 to June 30, 2020.) This report includes data on the implementation of the County’s cannabis regulations, a reporting of fourth quarter tax receipts, land use permitting, business license activity, State licensing activity, enforcement, and objectives for the next quarters.

In summary, during the fourth quarter cannabis program efforts, the County collected \$5.5 million in gross receipts tax paid by 50 operators. To date, one hundred ninety-nine applications have been submitted for land use entitlements and 23 land use entitlements have been issued. State data shows that operators held 999 State Provisional Licenses and 222 State Annual Licenses in Santa Barbara County.

Forty-five operators submitted applications to obtain 75 business licenses of which 16 have been issued to date. The County completed seven enforcement actions against illegal cannabis operators: 5,030 pounds of dried cannabis and 40 pounds of cannabis extract were confiscated totaling an estimated street value of \$4.7 million, in addition to 22 arrests made.

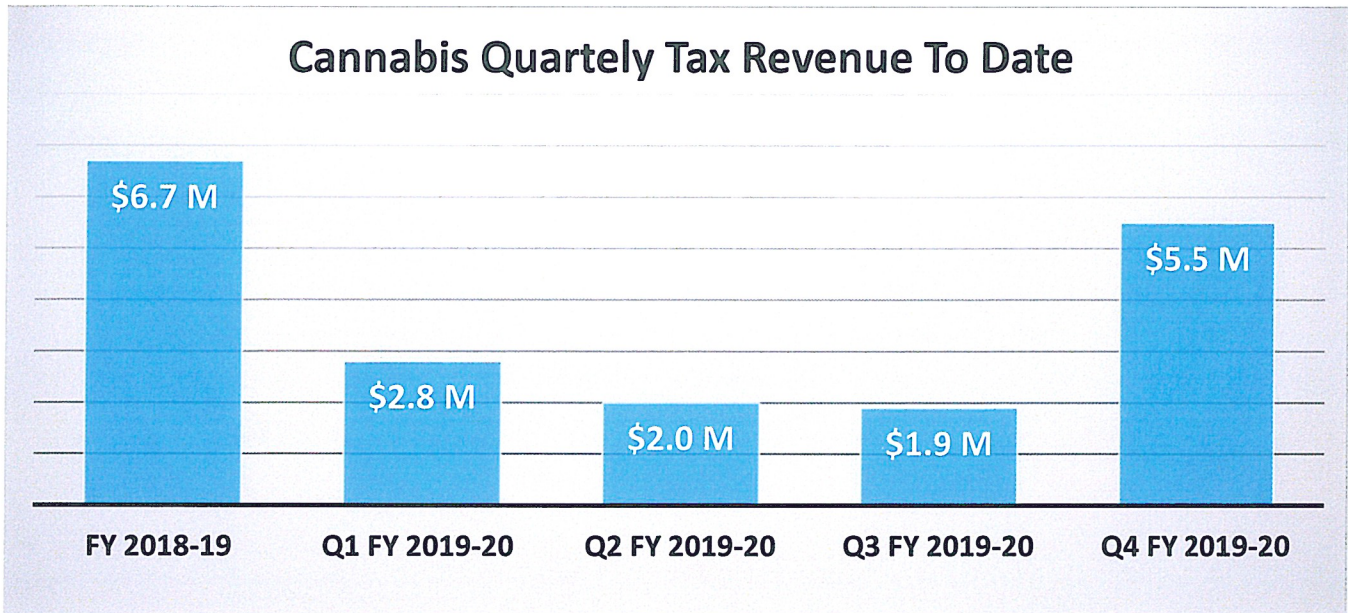
**Background:** In response to voter approval of Proposition 64 (Prop 64), the Adult-use of Marijuana Act (AUMA), which legalized the use of cannabis for adult-use and allowed for local control of related cannabis land uses, the Board established the County’s cannabis regulatory framework. Staff continues to execute the Board’s direction in all cannabis program segments, including tax collection, land use permitting, business licensing, State licensing, and enforcement, all of which is reported on below in greater detail.

**Cannabis Taxes**

In the fourth quarter reporting period of fiscal year 2019-20 (taxes collected as of July 31, 2020 for the period April 1 to June 30, 2020), the Treasurer-Tax Collector collected \$5.5 million from cannabis operators holding State licenses. This represents a 151% increase in the tax amount collected from the same quarter of the last fiscal year. Since the stay-at-home mandate was imposed, the cannabis industry has experienced a sharp increase in consumer demand at the retail level, which in turn impacts the supply chain, creating an increased demand for product supplied by growers. Additionally, new operators are successfully navigating the County’s and State’s regulatory processes, and are therefore entering the market, thus generating new sales and new tax revenue. The table and chart below provide operator reporting statistics and tax revenue data by reporting period, respectively.

	<b>Tax Revenue Received</b>	<b>Operators Reporting Gross Receipts</b>	<b>Operators Reporting Zero Gross Receipts*</b>	<b>Operators that Did Not Report</b>	<b>Operator Totals</b>
<b>FY18-19 Total</b>	<b>\$6.7M</b>				
FY19-20 Q1 Tax Data	\$2.8M	34	34	22	90
FY19-20 Q2 Tax Data	\$2.0M	43	48	15	106
FY19-20 Q3 Tax Data	\$1.9M	46	44	23	113
FY19-20 Q4 Tax Data	\$5.5M	50	43	25	118
<b>FY19-20 Total</b>	<b>\$12.2M</b>				

\*The reasons that operators report zero gross receipts are varied. Those operators who operate both nurseries and cultivation sites transfer their plants internally within the operation. They are required to report the activity, but it does not constitute a sale. Thus, their nursery operations would report zero gross receipts. With respect to those operators who fail to file the required quarterly reports, the CEO’s office coordinates with the Treasurer/Tax Collector in taking appropriate action against those operators.



**Cannabis Compliance: Land Use Entitlement Permits**

The table below indicates the number of land use entitlement permit applications that have been submitted to the Planning and Development Department for cannabis-related operations. Out of the 199 applications that have been submitted to date, 168 applications are still pending final action and are in various stages of processing. These stages include review of the application material to determine that the proposal meets code requirements; issuance of correction letters to entities with application deficiencies or that are missing information, wait-time for resubmittal of application materials, or review of applications for a final determination by authorized staff.

Land Use Permitting Status	FY19-20 Q1	FY19-20 Q2	FY19-20 Q3	FY19-20 Q4 (New)	Cumulative Totals Since Program Inception
Land Use Permits Issued	4	0	0	1	17
Land Use Permit Applications Pending	11	5	3	7	79
Conditional Use Permit Applications Pending	3	3	3	0	35
Coastal Development Permits Issued	1	0	1	0	4
Coastal Development Permits Pending	1	3	1	2	33
Coastal Development Hearings Pending	0	0	0	0	7

Development Plan Applications Pending	1	0	1	0	24
<b>Totals</b>	<b>21</b>	<b>11</b>	<b>9</b>	<b>10</b>	<b>199</b>

Additionally, in the fourth quarter reporting period, the Board adopted four cannabis-related amendments to the Land Use and Development Code (Chapter 35). The changes include: 1) prohibition of commercial cannabis activities within Existing Developed Rural Neighborhoods (EDRNs); 2) a required Conditional Use Permit for projects that include a proposed cultivation area that exceeds 51% of the subject area on lots zoned Agricultural II (AG-II); 3) a requirement that cannabis cultivation areas be located a minimum of 50-feet from all lot lines and; 4) a requirement that processing activities be located within an enclosed building that utilizes the best available technology to control cannabis odors. These ordinance amendments became operational August 13, 2020.

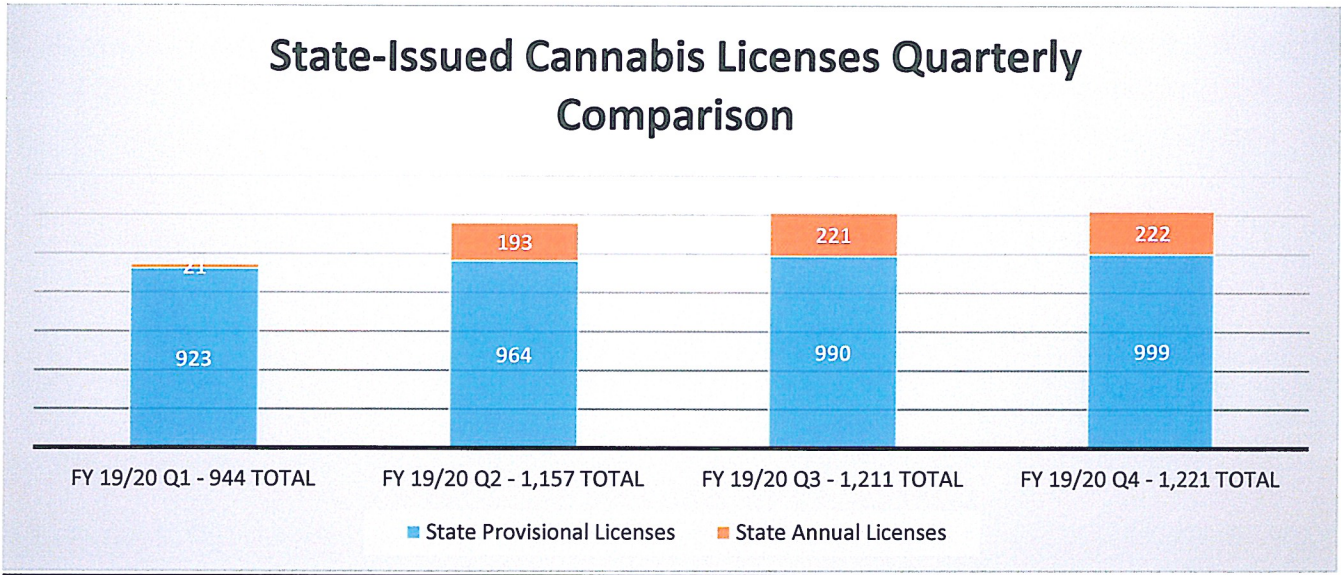
**Acreage Caps**

Two cultivation acreage caps were adopted by the Board: 1) in the Carpinteria Agricultural Overlay District (capped at 186 acres), and 2) the remaining unincorporated area (capped at 1,575 acres.) The table below shows the amount of proposed and permitted acreage compared to the caps.

	<b>Proposed Permit Acreage</b>	<b>Acreage Cap</b>	<b>Issued Permit Acreage</b>
Carpinteria Ag Overlay	215	<b>186</b>	22
Remaining Unincorporated Area (excludes Carp Overlay)	2,614	<b>1,575</b>	260

**State Provisional and Annual Licenses**

Operators have obtained State-issued licenses, either Provisional or Annual, from the California Department of Food & Agriculture (CDFA) and the Bureau of Cannabis Control (BCC)\*. State-issued license data is provided below. As operators complete the County’s permitting and licensing processes, they become eligible to apply for State Annual licenses, which is the ultimate goal for all operators. All State cannabis licenses, Provisional or Annual, are required to be sent to the County Executive Office for review before State approval and license issuance. Once issued, licenses are automatically renewed, unless the County formally objects.



\* The BCC has issued one Retail Non-Storefront license and multiple Distribution Transport-Only licenses to operators within the County (Distribution Transport-Only licenses allow operators to move product between licensed premises and are considered an ancillary activity to cultivation and nursery operations). However, the BCC has not yet made available a cumulative report of all issued licenses. Staff anticipates reporting on the status of these licenses in the FY 2020-21 first quarter update report.

**Cannabis Compliance: County Business Licensing**

Through the fourth quarter reporting period, 45 unique operators submitted applications to obtain 75 County cannabis business licenses. To date, 16 business licenses have been issued to 11 operators that have been deemed to be compliant with the County Code. Many applicants continue to take advantage of the Board’s ordinance amendment allowing for concurrent processing of a business license application if they have already submitted a permit application that has been accepted for processing by Planning and Development. However, a significant number of business license applications are pending due to: 1) applicants making changes to their permit application project description, which impacts the documentation submitted as part of the business license application, and 2) the applicant has not yet been issued a land use entitlement. The table below provides a detailed update of cannabis business license applications that have been submitted.

	Business Licenses Applied For	Business Licenses Issued	Business Licenses Pending
<b>Cultivator</b>	43	8	35
<b>Nursery</b>	23	7	16
<b>Manufacturer</b>	1	0	1
<b>Retailer Non-Storefront</b>	2	1	1
<b>Distributor</b>	6	0	6
<b>Totals</b>	<b>75</b>	<b>16</b>	<b>59</b>

**Retail Storefront Selection Process**

As discussed at the Board of Supervisors meeting held on August 18, 2020, staff hosted community meetings for each of the six community plan areas where cannabis retail storefront licenses will be allowed. Staff anticipates finalizing the retail storefront application and making it available to prospective applicants in approximately mid-September, with a target application submittal period to occur in mid-October.

**Cannabis Enforcement**

In the fourth quarter reporting period, cannabis enforcement activity continued at a slower pace in comparison to prior quarters, largely due to COVID-19 restrictions and national events such as protests, which temporarily redirected the enforcement team away from their primary duties. The department is currently in the process of hiring one new detective in an effort to fill the one vacant position. Despite being short-staffed, the team managed to conduct six operations in the unincorporated areas of New Cuyama, Santa Barbara, and Santa Maria. Furthermore, the team also took part in stopping a maritime smuggling operation, where thousands of pounds of cannabis were being smuggled into the County from Mexico, for the purposes of saturating the illicit black market.

	<b>FY 2018-19 Totals</b>	<b>FY19-20 Q1</b>	<b>FY19-20 Q2</b>	<b>FY19-20 Q3</b>	<b>FY19-20 Q4</b>	<b>FY 2019-20 Totals</b>
# of Enforcement Actions	46	12	8	5	7	<b>32</b>
# Live Plants Confiscated	984,597	16,684	100	0	3,100	<b>19,884</b>
Live Plant \$\$\$	\$223.7M	\$4.2M	\$20,000	\$0	\$775,000	<b>\$5.0M</b>
Dried Product Confiscated (lbs.)	64,839	1,157	74	1,831	5,430	<b>8,492</b>
Dried Product \$\$\$	\$64.8M	\$1.2M	\$59,200	\$2M	\$4.7M	<b>\$8M</b>

During the fourth quarter, the Planning and Development Department opened four new cannabis enforcement cases and no cases were closed. During this period, the Department responded to 88 complaints. Eighteen of the complaints were generated in the North County pertaining to the expansion of legal nonconforming cultivation and odor. In the South County (Carpinteria), there were 70 complaints for odor, a decrease of approximately 28% from the prior quarter.

Enforcement operations are mostly complaint-driven, however some of the sites have been identified using other sources of information and coordinating with the Sheriff’s Office and Agricultural Commissioner’s Office staff.

**Emerging Issues**

1. Continue to work to better align the land use permitting process and the business license process.
2. Encourage and incentivize operators that have submitted land use entitlement applications to take advantage of concurrent processing.
3. Where appropriate, review those operations who do not comply with County regulations to determine whether they should retain their County letter of authorization given in support of the state provisional license.
4. Encourage operators to submit business license applications through the Accela public facing portal – only six applications have been submitted via Accela to date.

**Objectives for the Upcoming Quarters**

1. Commence the retail storefront license selection process.
2. Present to the Board on 9/22/20, the KPMG findings and implementation plan relating to their assessment of the County’s cannabis permitting and business licensing processes.
3. Phase-out the 12 cultivation operations that are located within EDRNs and that have submitted land use entitlement applications, per the recently adopted LUDC ordinance amendment.
4. Continue the Business Licensing process improvement project to identify bottlenecks, inefficiencies, and redundancies in an effort to streamline the licensing process.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Authored by:**

Fiscal & Policy Analysts Reese Ellestad and Steven Yee, with review and support from the Agricultural Commissioner, Planning & Development, Sheriff, and Treasurer-Tax Collector.