



# County of Monterey

## Item No.3

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

**Legistar File Number: 24-140**

**March 06, 2024**

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**Current Status:** Agenda Ready

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**Matter Type:** General Agenda Item

- a. Receive a status update on commercial cannabis consumption lounges and the critical collaboration needed between County departments and local agencies to analyze the elements needed for an amendment to the Monterey County Code to include this new business type; and
- b. Recommend the Cannabis Committee identify the prioritization of continued work for a commercial consumption lounge; and
- c. Recommend the Cannabis Committee make a recommendation to the Board of Supervisors on how to proceed.

#### RECOMMENDATIONS:

It is recommended that the Board of Supervisors Cannabis Committee:

- a. Receive a status update on commercial cannabis consumption lounges and the critical collaboration needed between County departments and local agencies to analyze the elements needed for an amendment to the Monterey County Code to include this new business type; and
- b. Recommend the Cannabis Committee identify the prioritization of continued work for a commercial consumption lounge including further research and, if the Board of Supervisors approves, amendments to the Monterey County Code; and
- c. Provide further direction as appropriate.

#### SUMMARY:

As stated during various public comment periods, local commercial cannabis operators believe that consumption lounges are the next logical step for the licensed industry and would be a meaningful addition to existing commercial cannabis activities within the unincorporated area of Monterey County. Specifically, the industry believes this business model would make Monterey County more competitive with other jurisdictions, provide a safe and controlled environment to consume cannabis in a social setting, reduce stigma, result in higher gross receipts and associated tax revenue, and increase the sales of adjacent businesses.

Following the July 7, 2022, Board of Supervisors Cannabis Committee (Committee) meeting, Program staff met twice with the eight fully licensed and permitted cannabis retailers and their Authorized Agents located within the unincorporated area of Monterey County to discuss the consumption lounge concept. Staff also met with internal County department representatives for a preliminary review of the consumption lounge business model and anticipated requirements.

These initial findings were first presented to the Committee in December 2022. The Committee directed staff to proceed to the full Board of Supervisors (Board) with these findings and request direction. Staff proceeded to the full Board in February 2023 and three of the five Board members expressed support for the consumption lounge concept, however there were concerns

regarding staff capacity. Ultimately, staff were directed to prioritize permitting existing cultivation operations that were facing statutory timelines, continue with work on the commercial cannabis tax payment plans, and other priority program work items and return to the Board with an update on consumption lounges at a later date.

A local retailer requested an update on the consumption lounge concept during the public comment period of a Committee meeting in January 2024. Staff were directed to provide a status update to the Committee and request direction. Staff have compiled previous findings and prepared additional information for the Committee's consideration.

#### DISCUSSION:

##### Overview from the last presentation to the full Board.

Staff conducted initial research into existing cannabis consumption lounges across the State of California. Nineteen (19) jurisdictions throughout California explicitly permit consumption lounges (Attachment A). Staff have also prepared a map to illustrate the distribution of consumption lounges throughout California (Attachment B).

While there are no explicit Department of Cannabis Control (DCC) regulations on cannabis consumption lounges, staff identified the following restrictions and requirements based upon DCC regulations for commercial cannabis retailers:

- Operator must hold a Type 10 storefront retailer or Type 12 Microbusiness license inclusive of retail activities.
  - Monterey County Code (MCC) does not allow Type 12 Microbusiness licenses.
- Operator must restrict access to customers who are 21 and older.
- Area(s) where consumption occurs cannot be publicly visible.
- Operator cannot sell alcohol, tobacco, or non-cannabis infused food or beverage.
  - Operator may allow food items to be delivered by a 3rd party.
  - No food preparation or selling of non-cannabis foods or non-drinks allowed on site.
- Customer may not bring their own cannabis goods and must purchase cannabis goods on-site.
  - Product sold to a customer must be an amount reasonably consumed during the customer visit.
  - Unconsumed goods must leave the premises in appropriate exit packaging.
- The consumption lounge must be attached or adjacent to retail operation and under the direct supervision of the licensed retailer.
- Operating hours must be limited, for example between 6:00 am and 10:00 pm.

To better understand potential issues with consumption lounges, Program staff held multiple meetings with the staff of other departments and local Fire agencies. Program staff also interviewed a staff person from the California Highway Patrol (CHP). Staff have captured the concerns and possible solutions from each of these stakeholders in the summary below. Also included in the summary below are requirements to consider implementing locally. These were discovered during an expanded review of consumption lounge regulations that include the State of Nevada.

What needs to be completed.

- Research to identify any required amendments to Titles 20/21.67.
  - Staff believes that Titles 20/21.67 would need to be amended to expand regulations for cannabis retailers and include the consumption lounge business model.
    - Existing cannabis retailers may be able to expand usage through ministerial permitting, however they may also be required to undergo discretionary permitting. For reference, alcohol sales require discretionary permits when they occur near residential areas.
    - Research needs to be conducted on California Environmental Quality Act requirements. Staff believes one of the following outcomes will result from this research: an exemption, an initial study that results in a negative declaration, or an environmental impact report.
- Amend MCC Chapter 7.90.
  - The following operating requirements in MCC 7.90.100(A)(3) would need to be amended:
    - “No cannabis shall be smoked, ingested, or otherwise consumed on the premises.”
  - Permitting workflow may need to be updated to include input from additional departments specifically for cannabis consumption lounges.
- Housing and Community Development (HCD) input.
  - Expanding the usage would require an area separate from the retail area where on-site consumption would occur.
    - This may require permitted construction of partitions, walls, or doors for access.
    - Because the customer base is anticipated to remain similar, this should not trigger an initial study.
    - May require a separate restroom with sufficient capacity for customers as retailers typically have restrooms in secure areas for employees only.
    - Adding tables and seating would require operators to submit a floor plan to HCD, which may affect their occupancy classification and occupancy load.
  - Adding accessory uses, such as entertainment and/or live music, could affect the land use entitlements of existing retailers.
- Fire agency input.
  - The respective fire agency will ensure:
    - Proper fire access.
    - Proper fire protection system in place.
    - Occupancy load is not exceeded.
- Public Health input.
  - Permitting consumption lounges may contribute to an increase in drugged driving, as customers could consume cannabis and then drive themselves home.
    - Should the Committee seek additional information on drugged driving, Program staff have a Public Information Officer contact at the California

- Highway Patrol.
- Public Health expressed the need to create a social and marketing campaign, and materials, for public health cannabis education if an ordinance is passed.
  - Consider requirement to publish quick response codes which customers may scan for information on transportation to and from the consumption lounge.
  - Consider limiting sales for a duration of time prior to closing.
  - Consider requirement to adopt a 24 hour no tow policy.
  - Consider training requirements for cannabis consumption lounge employees to recognize the signs of overconsumption and arrange for the transportation of affected guests.
  - Consider requirement to incorporate mandatory information within their menu or check-in process regarding the dangers of drugged driving.
- Barring a few exceptions, smoking is not allowed in any workplace in California.
  - Consider requirement to install ventilation systems with negative pressure and with high level filtration and exhaust functions that would limit exposure of smoke and odors for employees of the consumption lounge, customers who are not smoking cannabis, and neighbors adjacent to the consumption lounge.
- Concentration levels of cannabis goods have increased steadily over time and new consumers may overestimate their tolerance, which could lead to overconsumption.
  - Consider requirement to offer low dose and low concentration options of cannabis products.
  - Consider requirement to incorporate mandatory information within their menu or check-in process regarding the dangers of overconsumption.
- Research has proven that cannabinoids can cross the blood brain barrier and transfer to a baby during breastfeeding and pregnancy.
  - Consider requirement to incorporate mandatory information within their menu or check-in process regarding the dangers of consuming while pregnant or breastfeeding.
- Environmental Health Bureau input.
  - If the Board approves the consumption of combustible cannabis, retailers will need to provide equipment for rent on-site.
    - Consider requirement to install a three-compartment sink to sanitize equipment.
  - Consumption lounges located on sites connected to onsite utilities, like wells and septic systems, may need to upgrade or expand infrastructure to comply with state and local requirements.
- Sheriff Office input.
  - Although the transition from private to public cannabis consumption was anticipated, effective preventative measures for public safety are still being explored.

- There is no data available to demonstrate whether jurisdictions permitting cannabis consumption lounge are experiencing increased calls for service.
  - Consider a threshold of increased calls for service that would trigger an evaluation of permitting cannabis consumption lounges.
- Because the cannabis industry still retains a high level of cash on hand, there are ongoing concerns regarding theft or robbery.
  - Staff from the Sheriff's Office to source data on outcomes.
- Cannabis consumption lounges may attract a different crowd than traditional cannabis retailers. Bars serving alcohol are known to experience an increased level of altercations due to intoxication.
  - Consider requirement to establish a strict dress code that could deter gang-related violence.
- District Attorney Office input.
  - Did not have an opinion on consumption lounges but stressed the importance of public safety.
- Staff have not explored additional fees or taxes on cannabis consumption lounges.
  - Because consumers cannot bring their own cannabis goods, the gross receipt tax imposed by Chapter 7.100 of MCC would apply to the prerequisite sale of goods for on-site consumption.
- Program findings on California workplace smoking restrictions:
  - The Division of Occupational Safety and Health (Cal/OSHA) has oversight of § 5148 pertaining to the Prohibition of Smoking in the Workplace.
    - The Cal/OSHA advisory committee met in January 2018 to evaluate whether there was a need to develop regulations specific to the cannabis industry.
    - In September 2018, CAL/OSHA advisory committee findings were reported to the Occupational Safety & Health Standards Board and proposed that the Standards Board undertake rulemaking to amend 5148 to “prohibit the smoking of marijuana in enclosed spaces of places of employment”.
    - In July 2020, the Cal/OSHA Research and Standards Health Unit provided an update that stated a future advisory committee meeting would be held to consider a proposal to change 5148, however there are no subsequent advisory committees listed on the Cal/OSHA Marijuana/Cannabis industry page.
    - Staff found draft amendments to 5148 that expand prohibitions to include “cannabis or cannabis products”, but they do not appear to be in conjunction with any rulemaking action.
  - Although Cal/OSHA has not yet prohibited the smoking of cannabis in workplaces, other local jurisdictions have required mitigative measures to limit exposure in the interim.
    - Consider allowing consumption within an outdoor patio area that would not be considered as an enclosed space. Retailers have expressed interest in this concept, but it should be noted that this area must not be publicly visible to comply with state regulations.

For additional context, there are nine licensed cannabis retailers within the unincorporated area of Monterey County: six are in the northern area of Monterey County in District 2 and three are in the Carmel Valley area of District 5 (Attachment C). Only one of the nine licensed retailers is within coastal zoning. Two of the licensed cannabis retailers have temporarily closed operations. It should be noted that not all retailers have expressed interest in expanding to include a consumption lounge within their respective operation.

Other resources and considerations.

- Tim Townsend, Communications Director, California Cannabis Authority, is a resource to assist the Program with work on the proposed ordinance and continues to provide input on a variety of commercial cannabis matters including consumption lounges.
  - Advises local regulators, including the states of Maine, Rhode Island, and New Mexico.
  - Led efforts to curb drug-impaired driving, which resulted in a series of cannabis-impairment driving studies conducted by UC San Diego.
- Industry Input.
  - To contribute to this process, the industry provided their recommendations and a proposed land use ordinance (Attachment D).
- Assemblymember Matt Haney of San Francisco
  - In February 2023, Haney put forward Assembly Bill 374 that would enable local jurisdictions to permit on-site entertainment and the sale of non-cannabis infused food and beverages via cannabis cafes. Although this bill made it through both houses to the Governor's desk, it was vetoed. The Governor echoed the concerns of Public Health representatives related to California smoke-free workplace law and welcomed the author to address this issue in subsequent legislation. Haney reintroduced this item via Assembly Bill 1775 in early 2024.

Proposed timeline to complete.

Staff anticipates that multiple sections of MCC may need to be amended to implement the consumption lounge business model. Staff is seeking the Committee's recommendation to the full Board on how to prioritize this work in relation to all other County priorities.

- HCD will incorporate any required updates to MCC Chapters 20/21.67 within their long-range work program and prioritize the consumption lounge ordinance as directed by the Board.
  - HCD is targeting a report to the Board on General Plan implementation efforts, Housing Element progress, and review of the long-range work program on 3/19/2024.
- The Program will incorporate any required updates to MCC Chapter 7.90 within their workload.
  - The modification of existing cannabis business permits to include consumption lounge activities will be dependent upon any required updates to local land use regulations and amendments to land use entitlements.

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Considering the relationship between these sections of MCC, staff does not have an estimate for when this work may be completed. Establishing a preliminary timeline will rely upon the Board to:

- Provide policy direction to proceed with consumption lounges.
- Identify the priority relative to other projects within HCD’s long-range work program.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, District Attorney, Housing and Community Development, Health Department, Sheriff Office, outside jurisdictions, and consultants were involved in the preparation of the report.

FINANCING:

Monterey County’s Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The proposed recommendations will not incur additional expenses to the Program. Staff will research the additional responsibilities and expenses to any partnering County departments including those identified as having oversight of cannabis consumption lounges before an ordinance is adopted.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

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Attachments:

- A: Jurisdictions Permitting Cannabis Consumption Lounges
- B: Map of Commercial Cannabis Consumption Lounges in the State of California
- C: Map of Commercial Cannabis Retailers in Unincorporated Monterey County
- D: Industry Recommendations and Proposed Land Use Ordinance