



County of Monterey

Item No.

Board Report

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

Legistar File Number: ORD 23-007

March 21, 2023

Introduced: 3/13/2023

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

Adopt an ordinance amending Chapter 7.90 (Commercial Cannabis Permits) of the Monterey County Code to make organizational changes which clarify and simplify permit procedures and requirements for processing and manufacturing activities, be consistent with the regulations of the Department of Cannabis Control, and update requirements for odor control, business owners, and employees.

RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

Adopt an ordinance amending Chapter 7.90 (Commercial Cannabis Permits) of the Monterey County Code to make organizational changes which clarify and simplify permit procedures and requirements for processing and manufacturing activities, be consistent with the regulations of the Department of Cannabis Control, and update requirements for odor control, business owners, and employees.

SUMMARY:

The Cannabis Program (Program) maintains a list of proposed amendments to Monterey County Code (MCC) Chapter 7.90 that is guided by lessons learnt from administering the chapter, feedback received during cannabis industry meetings, and changes resulting from the consolidation of the three state cannabis licensing bureaus. The Program believes that this broad overhaul will improve the legibility of Chapter 7.90, clarify operational and application requirements, eliminate redundancies in oversight, defer to Department of Cannabis Control (DCC) regulations where appropriate, and further streamline the commercial cannabis business permit application process.

It should be noted that these proposed amendments include prior Cannabis Committee (Committee) direction on removing the restriction on signage, which currently prohibits retailers from depicting cannabis in their storefront signage or having transparent public facing windows.

On February 16, 2023, the proposed amendments were presented to the Cannabis Committee. The Committee directed the Program to present to the Board of Supervisors.

Improving legibility of Chapter 7.90.

- Adding “business” to any references to the commercial cannabis permit throughout the chapter will align with the newly adopted Cannabis Business Permit (CBP) acronym for application numbers.
- Adding reference to state annual licenses, which did not exist at the time Chapter 7.90 was

initially adopted.

- MCC 7.90.100 pertaining to cultivation, manufacture, waste, and storage requirements has been appended to 7.90.100 pertaining to commercial cannabis operating requirements.

Clarifying operational and application requirements.

- 7.90.050 Commercial cannabis permit application process
 - Sections 18 and 19 have been revised to require that operators submit and maintain a current copy of the Agent Authorization Form as needed. Until now, this has been enforced procedurally and staff would like to codify this requirement within MCC to ensure that business decisions are being handled by an agent of record.
- 7.90.070 Commercial cannabis permit modification process, renewal process, and grounds for denial.
 - Adding subsection 1 to section B would reinforce the DCC requirement that cultivators must submit a science amendment if amending their cultivation plan.
- 7.90.100 - Commercial cannabis operating requirements
 - To date, the Program has only received one odor complaint. Considering the areas where commercial cannabis is permitted, staff have modified section 8 to be less prescriptive and more reactive to nuisances.
 - The repeal of section 11 aligns with Committee direction that would leave the depiction of cannabis within signage to the discretion of the operator.
 - Adding a timeframe to section 16-which pertains to informing the County of new owners, financial interest holders, managers, or employees-is necessary, as Program staff are currently not receiving timely updates of this information.

Eliminating redundancies in oversight.

- 7.90.050 Commercial cannabis permit application process.
 - While DCC regulations require licensees to provide the social security number for owners and retain the social security numbers of all past and present employees, staff does not have a practical usage for this sensitive information. As such, staff proposes to repeal this portion from section 6.
 - DCC regulations only require owners to submit fingerprints. As such, staff proposes to remove this requirement for managers and persons having a 20% or more financial interest. This will reduce administration for staff from the Program and Sheriff's Office.
- 7.90.110 Cultivation, manufacture, waste, and storage requirements.
 - Section E pertains to pesticides and fertilizers, which is under the oversight of the Agricultural Commissioner. As such, staff believes this section should be repealed.

Deferring to DCC regulations where appropriate.

- 7.90.030 Definitions.
 - Deferring section N-which defines "financial interests"-to DCC regulations would provide more nuance that would be more inclusive of a wide variety of circumstances that may constitute a financial interest than the existing local definition.
 - Deferring section W-which defines "premises"-to DCC regulations would provide more consistency with the premise diagram required in the state license application

than the existing local definition.

- 7.90.100 - Commercial cannabis operating requirements.
 - Deferring section 4 to DCC regulations would allow applicants to provide the same premise diagram required in the state license application to the County.
 - Deferring section 13 to DCC regulations would better align the security requirements that pertain to each commercial cannabis activity and area(s) of the licensed premise. This change would contribute to lower operational costs for some operators who are partially or fully vertically integrated, as the DCC regulations:
 - Require fewer cameras.
 - Reduce the duration for surveillance recordings.
 - Deferring section 26 to DCC regulations would ensure that packaging and labeling requirements remain applicable locally and are kept current.

Amendments to Monterey County Title 20.67 and Title 21.67

Concurrently, staff from Housing and Community Development (HCD) are working on proposed amendments to Chapters 20/21.67 and 20/21.69 of MCC. Like the proposed amendments to MCC 7.90, these proposed changes are guided by administration of the chapters, industry feedback, and consolidation of the state licensing bureaus. Below is a summary of the proposed amendments:

- 20/21.67 (Coastal/Inland): Commercial Cannabis Activities.
 - Change references from Resource Management Agency to HCD
 - Add additional DCC license types:
 - Type 5A: Large Indoor.
 - Type 5B: Large Mixed-Light.
 - Type 13: Distributor-Transport Only.
 - Type N: Manufacturing, Infusion.
 - Type P: Manufacturing, Packaging and Labeling.
 - Modify sections pertaining to security personnel to remove references to Chapter 7.30 of MCC, which is obsolete.
 - Require odor control exclusively for indoor cultivation operations.
 - Expand hours of operation from 8:00 am - 8:00 pm to 6:00 am - 10:00 pm.
- 20/21.69 (Coastal/Inland): Outdoor Commercial Cannabis Cultivation Pilot Program.
 - Extend duration of pilot program to 2030.

Because these proposed amendments pertain to land use regulations, HCD staff will first present to the Planning Commission and seek a recommendation to the Board of Supervisors. It is anticipated that this item will be presented to the Planning Commission in April 2023, followed by the Board of Supervisors in May 2023.

The ordinance amending Chapter 7.90 was introduced for its first reading on March 7, 2023, and is currently before the Board of Supervisors for final adoption. Redlined and clean versions of the Ordinance are attached to this report as Attachments A and B, respectively.

OTHER AGENCY INVOLVEMENT:

Staff from the Office of the County Counsel, Housing and Community Development, District Attorney,

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and Sheriff's Office were involved in the preparation of this report. This report also incorporates input from operators and legal representatives of the local licensed cannabis industry.

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.

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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Approved by: Nicholas E. Chiulos, Assistant CAO

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Nick Chiulos
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Attachments:

- A. Draft ordinance (redline version)
- B. Draft ordinance (signed clean version)