



Monterey County

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Board Report

Legistar File Number: ORD 17-014

November 14, 2017

Introduced: 11/3/2017

Version: 1

Current Status: Consent Agenda

Matter Type: Ordinance

REF150048 - Inland & REF160042 - Coastal
Commercial Cannabis (Marijuana) Regulations

Introduce, waive reading, and set December 5, 2017 at 10:30 AM. as the date and time to consider adoption of:

- a. An ordinance amending Chapter 7.90 of the Monterey County Code to add commercial adult-use cannabis activities to the County's current commercial medical cannabis permit regulatory structure and to regulate the operation of commercial adult-use cannabis activities in a manner that is consistent with state law; and
- b. An ordinance amending Section 7.02.060 of the Monterey County Code to add commercial adult-use cannabis activities as a type of business that must obtain a business license within the unincorporated area of Monterey County.

Location: County-wide

Proposed CEQA action: Introduction of the ordinances is statutorily exempt pursuant to section 15268 of the CEQA Guidelines (ministerial).

RECOMMENDATION:

The Board cannabis ad hoc committee recommends that the Board of Supervisors introduce, waive reading, and set December 5, 2017 at 10:30 A.M. as the date and time to consider adoption of:

- a. An ordinance amending Chapter 7.90 of the Monterey County Code to add commercial adult-use cannabis activities to the County's current commercial medical cannabis permit regulatory structure and to regulate the operation of commercial adult-use cannabis activities in a manner that is consistent with state law; and
- b. An ordinance amending Section 7.02.060 of the Monterey County Code to add commercial adult-use cannabis activities as a type of business that must obtain a business license within the unincorporated area of Monterey County.

SUMMARY:

Currently, the County's cannabis regulations apply only to commercial 'medical' cannabis uses and activities. These regulations were adopted based on state law enacted in 2016, the Medical Cannabis and Regulatory Safety Act (MCRSA). Since that time, the voters in California have approved the Adult Use of Marijuana Act (AUMA), and the state has consolidated MCRSA (medical) and AUMA (adult-use) into the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act or "MAUCRSA" (Senate Bill 94).

The attached non-zoning ordinances amend Chapter 7.90, Commercial Medical Cannabis Permits (**Attachment A**), and Chapter 7.02, Business Licenses (**Attachment B**) to establish regulations for adult-use commercial cannabis activities in addition to those already in place for medicinal use

commercial cannabis activities, and to update the regulations based on recent changes in state law. The ordinances have been developed in coordination with the Board ad hoc cannabis committee with input from affected County Departments and Agencies.

On January 1, 2018, the State will begin to accept license applications for commercial cannabis activities (both medical and adult-use). One major change within MAUCRSA is that the state must receive local verification before it can issue a license. Because the County currently does not regulate commercial adult use cannabis activities, it will not be able to effectively communicate with the state as to whether the activities are permitted in the unincorporated areas of the County. As such, County regulations for adult-use commercial cannabis activities need to be in place before the state begins issuing its licenses.

Land use and zoning regulations amending Title 21 (inland zoning), Title 20 (coastal zoning), and a proposed North County Land Use Plan text amendment will be provided following Planning Commission consideration and recommendation. The separation of ordinances is necessary because the legal requirements for consideration of zoning ordinances are different than the requirements for non-zoning ordinances. Non-zoning ordinances require two readings by the Board of Supervisors and zoning ordinances require a written recommendation from the Planning Commission before Board consideration (no introduction required). The Board is asked to introduce the non-zoning regulations contained in Title 7 of the Monterey County Code and set December 5, 2017 at 10:30 A.M. as the date and time for a public hearing to consider adoption of the ordinances. Additional details including the Planning Commission recommendation on the land use and zoning-related ordinances will be provided at that time.

DISCUSSION:

Changes in State Law

On June 27, 2017, Governor Brown signed into law California's budget bill, which appropriated \$94.6 million to implement the State's cannabis laws and included SB 94 (MAUCRSA).

MAUCRSA consolidates the Medical Cannabis and Regulatory Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) into one single regulatory system for commercial cannabis activity. The consolidation of the two laws presented several challenges as MCRSA was passed legislatively and AUMA was a ballot measure, which includes a more complicated and limited amendment process. As such, in large part most of MCRSA was repealed and AUMA was amended.

The County's current cannabis regulations were created and adopted based on MCRSA, which was the State law in place at the time. MCRSA, and consequently the County's ordinances, were limited to medical cannabis activities and do not address adult use/recreational cannabis activities. With these recent changes, the County's cannabis regulations no longer align with the State law including, most notably, the permitting/licensing of adult-use cannabis activities, and new or redefined state cannabis license types.

Proposed Local Amendments

As a result of changes in the state law, staff, working with the Board ad hoc committee on Cannabis, drafted ordinances that would amend the County's cannabis regulations to regulate both medicinal and adult-use cannabis activities. Specific regulations recommended for updating include: The Inland

Zoning Ordinance (Title 21); the Coastal Zoning Ordinance (Title 20); Chapter 7.90 (Commercial Medical Cannabis Permits); Chapter 7.02 (Business Licenses); and the North County Land Use Plan. The proposed action is limited to introduction of non-zoning ordinances contained in Title 7 of the Monterey County Code (Chapters 7.90 and 7.02).

As drafted, the ordinances amending Chapters 7.90 and 7.02 are limited in scope to changes related to revisions in state law. Changes proposed to Chapter 7.90 involve:

1. Allowing for both medical and adult use commercial cannabis activities with a “Cannabis Business Permit”;
2. Creating separate cannabis business permit types “M” (for medicinal cannabis activities) and “A” (for adult use cannabis activities) consistent with state law;
3. Amending definitions so they are consistent with state law (e.g., use of the term “retailer” instead of “dispensary”, and new definitions of “cannabis” and “delivery”);
4. Amendments so that references to state law are correct (since much of MCRSA was repealed); and
5. Amendments so that Chapter 7.02, 7.90, 20.27 and 21.67 are internally consistent.

The changes proposed to Chapter 7.02 also include striking the term ‘medical’ to allow for both medical and adult use commercial cannabis and updating references to definitions to clarify that both types of commercial cannabis activities require a Business License.

Other, more complicated policy decisions such as those relating to outdoor cultivation, dispensary/retailer setbacks, zoning district limitations, Type 5 (large) cultivation state license types, and Type 12 microbusiness state license types are still being discussed and evaluated. Staff anticipates that additional rounds of ordinance revisions will be necessary starting in 2018 once policy matters are vetted and once the state’s licensing regulations have been released.

Timing of Revisions

As stated above, on January 1, 2018, the State will begin to accept license applications for commercial cannabis activities. Before the State starts evaluating an application for a state license it will contact the County to receive local verification that the activity is allowed. Once notified by the state that an application has been received, the County will have 60 days to inform the State that an applicant is in compliance with local regulations, is not in compliance, or is in the process of obtaining local approval. Without specific local regulations for adult-use cannabis activities in place, such activities would fall under current zoning and the County’s communications with the state could be problematic. For this reason, staff is bringing these ordinances to the Board of Supervisors for consideration before the end of this year.

CEQA

Section 15268 statutorily exempts ministerial actions from the California Environmental Quality Act (CEQA). The introduction of the subject ordinances does not involve “discretion” and the introduction is not a commitment to or decision regarding the ordinances. A separate CEQA determination will be provided for the public hearing on December 5, 2017.

OTHER AGENCY INVOLVEMENT:

The following agencies and departments have been involved in preparation of the draft ordinances:

- Resource Management Agency
- CAO's Office
- Health Department/Environmental Health Bureau
- Economic Development Department
- Sheriff's Office
- Treasure/Tax Collector
- Agricultural Commissioner's Office
- District Attorney's Office
- County Counsel's Office

FINANCING:

Funding for staff time associated with drafting these amendments is included in each Departments FY17-18 adopted Budgets.

Adoption and implementation of these amended regulations is not anticipated to significantly impact services beyond those previously considered in adopting the original commercial medical cannabis regulations in 2016. Effectively, the size of the program will not be expanding because these ordinance amendments do not remove the zoning restrictions that limit where and how cannabis activities may occur.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents an effective response to our County customers' needs. Processing these amendments will allow the County to process applications in a timely manner in accordance with new State law.

Check the related Board of Supervisors Strategic Initiatives:

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

Prepared by: Craig W. Spencer, Senior Planner, ext. 5233
Reviewed by: Brandon Swanson, RMA - Planning Services Manager
Approved by: Carl P. Holm, RMA Director

The following attachments are on file with the Clerk of the Board:

- Attachment A - Draft Ordinance amending Chapter 7.90 (clean version)
- Attachment B - Draft Ordinance amending Chapter 7.90 (redline version)
- Attachment C - Draft Ordinance amending Chapter 7.02 (clean version)
- Attachment D - Draft Ordinance amending Chapter 7.02 (redline version)
- Attachment E - MAUCRSA

cc: Front Counter Copy; Planning Commission; RMA-Environmental Services; Environmental Health

Bureau; Water Resources Agency; California Coastal Commission; RMA-Code Enforcement; Health Department; Economic Development; County Counsel; Sheriff; Treasure/Tax Collector; Agricultural Commissioner; District Attorney; CAO's Budget Office; CAO's office; Jacqueline R. Onciano, RMA Services Manager; Craig Spencer, Project Planner; The Open Monterey Project (Molly Erickson); LandWatch (Amy White); John H. Farrow; Janet Brennan; George Brehmer; Betty Wren; Michael Groves; Todd Bessire; Michael Bitar; Aaron Johnson; Sal Palma; Mike Linder; Jason Kallen; Aaron Newsom; Darin Woodfill; Jennifer Carrera; Ryan Booker; Jeff Scott; Isabelle Franz; Nick Curton; Paula Getzelman; Danica Flores; Lizette Valdez; Jessica McElfresh; Wil Wicke; Frank Chimienti; Joey Espinosa; Ryan Munevar; Valentia Piccinini; Jeff Atkinson; Mark Barber; Jen Linney; Melissa Duflock; Courtney Lyng; Melissa; Ken Greer; Heidi Park; Todd Winter; Ellen Komp; Ken Ekelund; Len Merino; Oren Rosenfeld; Stephen Kim; James Benton; Steven Haba; Saphirre Blackwood; Gavin Kogan; Kathleen Hoganson; The Farmaceuticals Company; Kurt Kaufeldt; Ralph Calderon; George Omictin; Caroline Waters; Kristin Nevedal; Juls Bindi; Michael Caragio; Guy Savage; Paul Milladin; Rick Walker; Chris Chmelicek; Grace Hall; Bart Clanton; Steve Craig; Erin McKenna; Cheryl Bryant Bruce; Charles Rowley; Alexis Garcia; Planning File REF150048