



Monterey County Planning Commission

Agenda Item No. 3

Legistar File Number: PC 17-080

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

September 27, 2017

Introduced: 9/20/2017

Version: 1

Current Status: Agenda Ready

Matter Type: Planning Item

REF150048 - CANNABIS ORDINANCES UPDATE WORKSHOP

Public workshop to:

- a. Receive a presentation regarding changes in state law for licensing commercial cannabis activities;
- b. Receive a presentation of draft ordinances amending Monterey County code including: 1) the inland Zoning Ordinance (Title 21); 2) the coastal Zoning Ordinance (Title 20); the Commercial Medical Cannabis Business Licenses regulations (Chapter 7.90); 3) the Business License requirements (Chapter 7.02); and a text amendment to the North County Land Use Plan to update regulations for permitting commercial cannabis activities including both medicinal and adult-use/recreational cannabis activities and other changes based on state law; and
- c. Provide direction to staff.

Location: County-wide

Proposed CEQA action: Workshop is Statutorily Exempt per Section 15262

RECOMMENDATION:

It is recommended that the Planning Commission:

- a. Receive a presentation regarding changes in state law pertaining to cannabis licensing; and
- b. Provide direction to staff on draft land use regulations amending the ordinances governing commercial cannabis activities in the unincorporated areas of Monterey County.

SUMMARY:

Senate Bill (SB) 94 consolidated medical and adult-use cannabis regulatory frameworks established under the Medical Cannabis and Regulatory Safety Act (MCRSA) and Proposition 64, the Adult Use of Marijuana Act (AUMA), into one single regulatory system for commercial cannabis activity - the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (MAUCRSA). 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 the changes resulting from Proposition 64 and subsequently SB 94, 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.

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 cannabis activities as well as recreational cannabis activities and to better align with the current state

law. 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.

On January 1, 2018, a State licensing program for commercial cannabis activities will be in effect. In order to maintain local control over cannabis licensing, the County must adopt affirmative local regulations for adult use and medicinal use cannabis activities before State licensing occurs. Procedurally under MAUCRSA, the County must provide the state with copies of local regulations. Once notified by the state of an application for a state cannabis license, the County will have 60 days to inform the State Bureau of an applicant's compliance or non-compliance with local regulations and if they are currently in "Good Standing". The Resource Management Agency released a set of three memos outlining what is required of applicants through the permit process and what it means to be considered in "Good Standing" with the County (Exhibit H). Without specific local regulations for adult-use cannabis activities, the County's communication with the state in this regard could be problematic. For this reason, staff anticipates bringing ordinances to the Board of Supervisors before the end of the year (2017).

Initially, only technical non policy-related changes are proposed. Other, more complicated policy decisions such as those relating to outdoor cultivation, dispensary/retailer setbacks, zoning district limitations, Type 5 (large) cultivation license types, and Type 12 microbusiness license types are still being discussed and evaluated. Staff anticipates that another round of ordinance revisions will be necessary starting in 2018 once policy matters are vetted and once state licensing regulations are settled.

Highlights of the draft changes to the Inland Zoning Ordinance (Title 21) include:

1. Striking the term 'medical' throughout so that the ordinances are applicable to all commercial cannabis business;
2. Adding a new license Type 1C "specialty cottage" cultivation type which allows for a combination of natural and artificial light of 2,500 square feet or less of canopy area or 500 square feet or less of canopy area for indoor cultivation;
3. Update definitions including making the term "Retailer" interchangeable with "Dispensary", and;
4. Removing the "Transportation" license type (only a licensed distributor can transport cannabis).

The same general changes are proposed for Chapter 7.90 (Commercial Medical Cannabis Business Permits) and Chapter 7.02 (Business Licenses) to make all the regulations internally consistent. In addition, a change is proposed in Chapter 7.90 to create Business license types "M" (for medicinal cannabis activities) and "A" (for adult use cannabis activities) consistent with State law.

Within the coastal areas of the County, changes to the previously considered draft ordinance amending the Coastal Zoning ordinance (Title 20) would be the same as those proposed in the inland areas with the following additional revisions:

1. Edits recommended by the California Coastal Commission staff during their review of the previous draft ordinance providing non-substantive changes; and

2. Inclusion of the Agricultural Conservation (AC) zoning district as a zone where commercial cannabis cultivation and non-volatile manufacturing are uses allowed subject to a Coastal Development Permit in each case (previously allowed only in the Coastal Agricultural Preserve “CAP” zoning or industrial zones).

In coordination with the California Coastal Commission staff, a text amendment is also proposed to the North County Land Use Plan and Coastal Implementation Plan Part 2 (Regulations for Development in the North County Land Use Plan Area) that would authorize appropriate review and permitting of commercial cannabis activities at the former Kaiser National Refractories site despite the “coastal-dependent industrial” land use designation. Staff feels that this is a good location for this type of activity and Coastal staff agreed to this initial simple change. A General Development Plan is required in order to permit uses at this location. In addition, the Moss Landing Community Plan update will address this issue.

Proposed Zoning Code and Land Use Plan (LUP) amendments (Title 20, NCLUP, Title 21) require a recommendation by the Planning Commission to the Board of Supervisors. Amendments to Title 7 do not require Planning Commission action, but staff is presenting them with the land use action in order to present the whole picture to the Planning Commission. Staff will return for a public hearing to consider:

- Resolution of Intent for the Coastal Commission to approve amendments to Title 20 Ordinance and North County Land Use Plan update.
- Resolution(s) recommending Board approval of amendments to Title 21 and Title 20.

DISCUSSION:

Detailed discussion is provided in **Exhibit A**.

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

The Board of Supervisors has appointed an ad hoc committee to consider issues and provide direction to staff on cannabis matters. The Committee consists of Supervisors Adams and Philips.

FINANCING:

Funding for staff time associated with drafting these regulations is included in the FY17-18 Adopted Budget for RMA and County Counsel.

Prepared by: Craig W. Spencer, Senior Planner, x5233
Reviewed by: Brandon Swanson, RMA Planning Services Manager
Approved by: Carl P. Holm, AICP, RMA-Director

Attachments:

Exhibit A - Project Discussion
Exhibit B - Draft Ordinance amending Chapter 21.67, Title 21, Inland (redline)
Exhibit C - Draft Ordinance amending Chapter 20.67, Title 20, Coastal (redline)
Exhibit D - Draft text amendments to the North County Land Use Plan (redline)
Exhibit E - Draft Ordinance amending Chapter 7.90 (redline)
Exhibit F - Draft Ordinance amending Chapter 7.02 (redline)
Exhibit G - RMA Cannabis Memos on Process and Good Standing

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; Brandon Swanson, RMA Services Manager; Craig Spencer, Project Planner; The Open Monterey Project (Molly Erickson); LandWatch; 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 Pharmaceuticals 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.