



Board Report

File #: ORD 22-020, **Version:** 1

Introduce, waive reading of, and set May 31, 2022 at 10:30 a.m. as the date and time to consider adoption of a standalone ordinance to establish the Provisional Cannabis Business Permit.

Proposed CEQA action: Find that the draft Ordinance is not a project subject to CEQA.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Introduce, waive reading of, and set May 31, 2022 at 10:30 a.m. as the date and time to consider adoption of a standalone ordinance to establish the Provisional Cannabis Business Permit.

SUMMARY

On March 8, 2022, Citygate & Associates, LCC (Citygate) presented an overview of its *Organizational Study of the Current Cannabis Program* report to the Board of Supervisors (Board), including 16 numbered recommended changes to the Program. After the presentation, the Board directed staff to seek input on the Citygate recommendations from the Board's Cannabis Committee (Committee). Staff presented their input on Citygate's recommendations to the Committee on April 7, 2022. The Committee directed staff to present their input to the Board without modification. The bulk of this input has been incorporated into a separate report. This report focuses specifically on Citygate Recommendation #5: "Enter agreements with provisional operators in Good Standing to contractually obligate them to complete required site improvements, mitigations, and conditions. Issue cannabis business permits to each provisional operator upon completion of the cannabis business permits applications and execution of the agreement." (Attachment B at p. 58.)

While Citygate's recommendation is appreciated, staff has concluded that it is not workable as proposed for two reasons. First, there are important state and federal regulatory requirements that cannot be deferred. Examples include public water system requirements, permanent flush toilets, and fire suppression requirements. Staff is also concerned that implementing this recommendation could set an unwelcome precedent for other types of entitlements going forward.

Staff has worked diligently with the County Counsel's office to draft a proposed Standalone Ordinance (Attachment A) that would establish a Provisional Cannabis Business Permit (PCBP). Staff believes the PCBP would serve the same goals as stipulated agreements without the attendant drawbacks.

DISCUSSION

For most large operators, state provisional licenses will permanently terminate on January 1, 2024, while the remainder of operators will see their state provisional license terminate on January 1, 2026. The Ordinance was prepared to track these dates as closely as possible since state law requires local permitting and vice-versa. As proposed, the Ordinance would serve two key purposes: 1) allowing current operators to continue operations while pursuing permanent local and state licensing with sufficient staff resources to assist in meeting outstanding permitting requirements; and 2) incentivizing those operators to timely complete outstanding permit requirements by a date certain.

On the Ordinance’s effective date, Staff would automatically issue the PBCP to all Applicants currently operating cannabis businesses in the unincorporated area of the County, at no cost. All PCBPs would have an initial one-year term, subject to potential renewal to a date tied to the sunset of state provisional licenses. Staff has identified critical permitting requirements, similar to the non-deferrable requirements described above - including, but not limited to fire suppression and alarm requirements, hazardous waste management, and obtaining the necessary land use entitlement. Operators would be required to complete all critical permitting requirements by the end of the initial one-year term to be renewed. Staff would meet with each operator individually to discuss all outstanding permitting requirements, highlight the urgency of the critical requirements, and assist Applicants in completing the permitting process. Non-completion of one or more critical requirements by the end of the initial one-year term would mean the underlying application would be automatically denied. Otherwise, the PBCP would be renewed until either January 1, 2024, for most large operators, and January 1, 2026 for the remainder, to track the state timeline.

The proposed Ordinance would not affect code enforcement authority or render Permittees immune to investigatory and law enforcement investigations or prosecutions by state and/or federal governmental bodies. Finally, the proposed Ordinance would not be codified; it would expire by its own terms on December 31, 2025.

ENVIRONMENTAL REVIEW:

Staff requests that the Board find that the draft Ordinance is not a project subject to the California Environmental Quality Act because 1) it will be administered solely on a ministerial basis; whether to issue and/or renew the provisional permit will be a decision based solely on objective criteria, not one subject to staff discretion; and 2) it will not result in a direct or reasonably foreseeable indirect change to the physical environment because it applies only to Applicants already operating cannabis businesses.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel was involved in the preparation of the standalone ordinance and this report and approved the draft standalone ordinance as to form.

FINANCING:

The County’s Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The proposed standalone ordinance 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

Attachments:

A. Draft standalone ordinance (signed version)