



Board Report

File #: ORD 22-038, **Version:** 1

Adopt an ordinance amending Chapter 7.100 of the Monterey County Code to reduce the commercial cannabis business tax rates for mixed-light and indoor cultivation retroactive to October 1, 2022, authorize the Board to, by resolution, waive and/or stay interest and penalties for cannabis operators with delinquent cannabis business taxes, extend the Board's conditional waiver of penalties and interest for FY 21-22 Quarters 2, and 3, from July 31, 2022 to January 31, 2023, and add FY 21-22 Quarter 4 to that conditional waiver.

RECOMMENDATION:

Staff recommends that the Board of Supervisors:

Adopt an ordinance amending Chapter 7.100 of the Monterey County Code to reduce the commercial cannabis business tax rates for mixed-light and indoor cultivation retroactive to October 1, 2022, authorize the Board to, by resolution, waive and/or stay interest and penalties for cannabis operators with delinquent cannabis business taxes, extend the Board's conditional waiver of penalties and interest for FY 21-22 Quarters 2, and 3, from July 31, 2022 to January 31, 2023, and add FY 21-22 Quarter 4 to that conditional waiver.

SUMMARY/DISCUSSION

The County imposes an annual business tax on cannabis businesses under Monterey County Code (MCC) Chapter 7.100. That tax is collected by the Treasurer-Tax Collector. On June 1, 2022, the Cannabis Program (Program) reported to the Board of Supervisors on the implications of the decline in wholesale price points for commercial cultivation and the impacts of that decline on the cannabis industry. The Program provided the Board with six options to consider to assist the industry.

The Board approved the following:

1. Effective July 1, 2022, reduce the nursery, mixed-light, and indoor cultivation tax rates to \$1 per square foot, \$2 per square foot, and \$3 per square foot, respectively.
 - a. This option would not have budgetary impacts from the perspective of how the Recommended Budget is built.
 - b. This option does not present operational challenges to the Treasurer-Tax Collector's office, as the proposed effective date coincides with the start of the fiscal year and aligns with established quarterly reporting due dates.

After adjusting for these reductions, the estimated FY 22-23 commercial cannabis business tax revenue at the time of writing is \$7.5 million dollars. This estimate should not be considered a static figure, as it is subject to changes resulting from cultivation canopy modifications and business closures throughout the fiscal year.

On July 26, 2022, the Board was set for a second reading to adopt an Ordinance to make these changes. The Ordinance also would have given the Board the ability to waive penalties and interest for delinquent cannabis cultivation taxes by resolution instead of by ordinance. The Board approved the item on consent. However, staff mistakenly used an incorrect version of the Ordinance, requiring staff to recommence the process with a first reading of the Ordinance.

Additionally, on July 26, 2022, the Board approved the same cannabis cultivation tax rates retroactive to the beginning of the second quarter of FY 21-22 - \$1/square foot for nursery, \$2/square foot for mixed-light, and \$3/square foot for indoor cultivation.

Given these facts, staff elected to combine these matters into a single Ordinance that would 1) reduce cannabis cultivation tax rates retroactive to the beginning of the second quarter of FY 21-22 - \$1/square foot for nursery, \$2/square foot for mixed-light, and \$3/square foot for indoor cultivation; 2) authorize the Board to act as to penalties and interest by resolution instead of ordinance; and 3) extend the Board's previous conditional waiver of penalties and interest for cannabis taxes delinquent for FY 21-22 quarters 2 and 3, accomplished in Ordinance No. 5371, from July 31, 2022, to January 31, 2023, adding FY 21-22 quarter 4 to that conditional waiver.

The ordinance was introduced for its first reading on August 23, 2022 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:

The Office of the County Counsel and Treasurer-Tax Collector's Office were involved in the preparation of the Ordinance and report. The Office of the County Counsel approved the draft Ordinance as to form.

FINANCING:

The proposed amendments to Chapter 7.100 will result in commercial cannabis business tax revenue estimates of \$10.5m in FY 21-22 and \$7.5 in FY 22-23.

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