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August 7, 2018

Board of Supervisors
44 N. San Joaquin Street, Suite 627
Stockton, CA 95202

Dear Board Members:

**Adopt Ordinance Amending the
San Joaquin County Code of Ordinance Title 4, Division 10,
Chapter 1 Commercial Cannabis Activity
(Said Ordinance Introduced and Waived on July 10, 2018)**

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt the proposed amendments to San Joaquin County Code of Ordinance Title 4, Division 10, Chapter 1 Commercial Cannabis Activity, to be amended to be Commercial Cannabis Business, introduced and waived on July 10, 2018, including the following additional amendments ordered this Board:

1. Allow Retailer Licensees to sell medicinal and adult-use cannabis; and
2. Remove the requirement for licensed premises to have public services if they are located within a Cannabis Business Park.

Discussion:

On July 10, 2018, the Board Introduced and Waived reading of the proposed amendments to San Joaquin County Code of Ordinance Title 4, Division 10, Chapter 1 Commercial

Cannabis Activity, to be retitled to “Commercial Cannabis Business”. By motion, the Board made the following amendments to the proposed ordinance:

1. Allow Retailer Licensees to sell medicinal *and* adult-use cannabis, instead of just medicinal cannabis as proposed on July 10, 2018; and
2. Remove the requirement in the proposed ordinance that licensed premises have public services if they are located within a Cannabis Business Park.

The Board’s amendments have been included in the proposed ordinance recommended for adoption.

Public Engagement Summary

Public engagement was critical to develop the ordinance. The public engagement strategy was successful in two respects. First, it was successful in providing several opportunities and means for stakeholders to participate in the development of the proposed ordinance. Second, the proposed ordinance incorporates stakeholder feedback in material ways. There was a lot of thought and consideration that went into the construction of the land use section of the ordinance, but it is important to note the stakeholder feedback and proposed ordinance are similar in most ways. The stakeholder feedback was successful in helping the County “right size” the regulatory framework consistent with feedback it received during the public engagement processes.

Proposed Ordinance

The proposed ordinance entitled “Commercial Cannabis Business” allows commercial cannabis businesses licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to operate in the County pursuant to a robust set of requirements.

The proposed ordinance will only become effective in the County if this Board adopts it *and* the County’s cannabis business tax (Measure B) passes on November 6, 2018.

The proposed ordinance allows certain types of Annual State Licensees to apply for and obtain a County “Commercial Cannabis License,” but not all types. No commercial cannabis business can operate in the unincorporated County without a valid Commercial Cannabis License. Pursuant to Section 4-10006 of the proposed ordinance, the following County Licenses will be issued: Cultivator License, Distributor License, Manufacturing License, Retailer License, and Testing Laboratory License. A person applying to operate a “Microbusiness” under State law can obtain more than one type of County License, but

may only operate those from one location and must comply with all requirements of each County License.

Annual State License types that are not listed in Section 4-10006 are expressly prohibited from operating in the unincorporated County, including but not limited to Outdoor Cultivation License, Event Organizer License, and Temporary Cannabis Event License.

All Commercial Cannabis Licenses must be approved through a discretionary land use process that includes environmental review. A Commercial Cannabis License is only valid under the proposed ordinance if it meets the following requirements:

- (a) The Licensee must have, maintain, and meet all requirements of an authorized and valid Annual State License; and
- (b) The Licensee must obtain, maintain, and meet all conditions and requirements of the following discretionary land use permits:
 - (1) An approved Use Permit following a public hearing and environmental review if they are not in a Cannabis Business Park; or
 - (2) An approved Improvement Plan and applicable Special Purpose Plan adopted pursuant to a public hearing and environmental review if they are within a Cannabis Business Park.
- (c) The Licensee and all of its owners have affirmed under penalty of perjury that they do not have a disqualifying criminal conviction pursuant to Section 4-10011 of the proposed ordinance.
- (d) The Licensee's proposed premises has passed a County pre-licensing inspection, during which County officials will inspect for compliance with at least the following: State and County cannabis license requirements, building, fire, and plumbing code, and applicable proposed security, waste destruction, pesticide use, and fire mitigation plans.
- (e) The Licensee must obtain, maintain, and meet all requirements of an Annual Business License.

All Commercial Cannabis Licensees are also prohibited from having signs, or otherwise, advertising or marketing their business or cannabis in a way that is attractive to individuals under 21 years of age and especially children, that includes a visual representation of the consumption of cannabis, or that encourages risky behavior including the use of cannabis while pregnant or breastfeeding. Further, they are prohibited from allowing on-site consumption of cannabis and must maintain clean and

orderly premises, prevent loitering and criminal behavior on and around their premises, and timely pay all required County fines, penalties, and fees.

In addition to the general license requirements, each type of Commercial Cannabis License has a specific set of requirements. These requirements were included to specifically address concerns by the Board, staff, and stakeholders regarding the proliferation of businesses to the detriment of youth, community character, and health and safety. These include locational criteria for each type of County License that are consistent with General Plan policies and existing Development Title zoning requirements.

Title 9 Development Title

If the proposed ordinance is adopted, staff will revise County Code of Ordinance Title 9 to be consistent with the adopted ordinance. The revision will integrate the locational criteria into the Development Title. Such revisions will first be heard by the Planning Commission and then by this Board.

Violations and Enforcement

Under the proposed ordinance, each violation shall constitute an unlawful violation of the County's Code pursuant to Title 1, Division 2. As proposed, such violations may be addressed criminally, administratively, or civilly in a prompt and efficient manner. Any time, services, or materials spent by the County identifying and abating violations of the ordinance are subject to cost recovery.

Reason for Recommendations:

Based on the work of staff and Freedman & Koski, and the information provided herein, County Counsel recommends adoption of the revised County Code of Ordinance Title 4, Division 10, Chapter 1 Commercial Cannabis Business because it allows for commercial cannabis businesses in the unincorporated areas of the County in a manner that is consistent with the Board's direction, including amendments made on July 10, 2018, existing General Plan policies and Development Title requirements, and Department processes. It reflects stakeholder input by limiting the locations and amount of commercial cannabis activity in such a way that will allow the industry to thrive without threatening the County's community character. It effectively protects the health, safety, and welfare of County residents and businesses. It is formulated to ensure that the costs of implementation, regulation, monitoring, and enforcement are borne solely by Commercial Cannabis Licensees.

Fiscal Impact:

The County will experience unavoidable direct and indirect costs relating to the legalization and proliferation of legal commercial cannabis regardless of the proposed ordinance. These costs will be borne mainly by law enforcement, the Environmental Health Department, and the Agricultural Commissioner.

Little or no additional General Fund or department impact is expected to result directly from the proposed ordinance. Commercial Cannabis Licensees and Cannabis Business Park developers will bear the costs of licensing, permitting, regulating, inspecting, and monitoring by the Environmental Health Department, the Community Development Department, and the Agricultural Commissioner through the payment of fees. Licensees will also bear the costs of time, services, and materials spent in enforcement actions to abate any violations through the payment of fines and penalties and allowed cost recovery.

Action to be Taken Following Approval:

After the date of adoption, staff will prepare revisions to Title 9 Development Title consistent with the adopted ordinance for this Board's consideration. Thirty (30) days after the date of adoption, the ordinance will become effective pursuant to Government Code Section 25123. However, pursuant to ordinance Section 4-10004, the adopted ordinance will only become operative if the County's special cannabis business tax known as Measure B set for the November 6, 2018, ballot passes. Within fifteen (15) days after adoption, the Clerk will cause to be published a summary of the ordinance, shall make available to the public upon request a certified copy of the ordinance, and post the ordinance pursuant to Government Code Section 25124. Thereafter, the adopted ordinance will be published in the San Joaquin County Ordinance Code.

Very truly yours,



J. Mark Myles
County Counsel

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Attachments:

Attachment A: Revised County Code of Ordinance Title 4, Division 10, Chapter 1

- c: Board Clerk for Agenda 08/07/2018
- Board of Supervisors
- Sheriff's Office
- District Attorney
- Public Defender
- Office of the Agricultural Commissioner
- Community Development Department
- Environmental Health Department
- Public Health
- Human Services Agency
- Treasurer-Tax Collector
- County Administrator

Reviewed by County Administrator's Office:

Reviewed by County Counsel's Office:


Chris Rose

7/31/2018


J. Mark Myles, County Counsel

7/30/2018