

Board of Supervisors

September 28, 2021

Comprehensive Cannabis Program Update

ORD21-0004

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Cannabis Program Update



- Purpose
- Background
- Community Engagement
- Public Input Summary
- Policy Options
- Project Timeline

Cannabis Program Update – Purpose

- Comprehensive review of existing program
- Ordinance update
- Environmental Impact Report (EIR) to comply with the California Environmental Quality Act (CEQA)
- Streamlined permitting

Cannabis Program Update

Legislative Background - State

- November 1996 Compassionate Use Act (Prop 215)
- October 2015 Medical Cannabis Regulation and Safety Act
- November 2016 Adult Use of Marijuana Act
- June 2017 Medicinal and Adult Use Cannabis Regulation and Safety Act
- July 2021 Assembly Bill 141:
 - ▣ Changes to MAUCRSA
 - ▣ Department of Cannabis Control

Cannabis Program Update

Legislative Background - Local

- March 2007 Dispensary Ordinance
 - ▣ February 2012 Amended: cap of 9
- December 2016 Cannabis Ordinance
 - ▣ October 2018 Amended: adult use, 10-acre min
 - ▣ December 2019 BOS direction for new ministerial program under Chapter 38
 - ▣ May 2021 BOS rejected Chapter 38, directed:
 - Comprehensive program update; EIR; Expedite permit backlog
- June 2021 BOS approve outreach, timeline

Cannabis Program Update

Community Engagement Summary

- Virtual Visioning Sessions: August 9-12, 2021
 - ▣ Land Use, Public Safety, Water Use, Visual
 - ▣ 210 participants; 442 across 8 sessions
- Small Group Zooms: August 16-25, 2021
 - ▣ 8 community groups + 2 comments, 4 industry groups
- Visioning Survey: August 31-Sept 6, 2021
 - ▣ >1,000 participants; 700-800 most questions
- Outreach format

Cannabis Program Update

Community Engagement Summary

- Location & Separation, focused on cultivation
 - ▣ Protecting natural resources
 - ▣ Increasing neighborhood compatibility
 - ▣ Inclusion & Exclusion Zones
 - ▣ Setbacks & waivers of established setbacks
 - ▣ Industrial indoor vs. rural outdoor - Appellations
- Odor
 - ▣ Containing odor within the permitted parcel would be acceptable to most

Cannabis Program Update

Community Engagement Summary

- **Water Resources, focused on cultivation**
 - ▣ Separation from surface waters & groundwater wells
 - ▣ Accurate baseline of water resources
 - ▣ Analysis of cannabis operation impacts
 - ▣ Long range drought planning
- **Visual Resources, mostly cultivation**
 - ▣ Protect scenic resources
 - ▣ Security fencing and hoop houses

Cannabis Program Update

Community Engagement Summary

- Public Safety, focused on cultivation
 - Safe use of property
 - Separation from neighbors
 - Wildfire risk, road access, first responder times
 - Incentivize permitting for local residents

Cannabis Program Update

Community Engagement Summary

- Code Compliance and Enforcement
 - ▣ Too restrictive; regulations not clear; defer to State; curb misinformation through education
 - ▣ Inspection frequency, violation abatement & penalties too lax, relies on neighbor complaints
 - ▣ Lack of staffing

Cannabis Program Update

Community Engagement Summary

- Permit processing
 - ▣ Short-term code updates
 - ▣ Ministerial vs. Discretionary – Streamlining
 - ▣ Term limits
 - ▣ Transitional pathway
 - ▣ Penalty Relief Program
 - ▣ Moratorium on cannabis permitting
- Tax reform

Policy Options & Program Direction

Zone Changes/Neighbor Compatibility

Exclusion Zones

- Cannabis excluded on parcels where otherwise allowed by zoning and parcel size, due to specified criteria (inadequate road access, wildfire risk residential character, low water availability, etc.)

Inclusion Zones

- Streamlined permitting on parcels meeting specified criteria (>min parcel size, residential compatibility, high water availability, etc.)
- Permit cannabis on parcels where otherwise not allowed by zoning and parcel size, subject to limitations

Setbacks, odor, noise, traffic, etc. would all be considered

Policy Options & Program Direction

Zone Changes/Expand Opportunities

Allow in AR/RR

- Allow small grows in AR and/or RR on parcels meeting specified criteria (>min parcel size, residential compatibility, high water availability, etc.), subject to limitations on cultivation size and type
- State definition of *Cottage
- County-defined size cap

Inclusion Zones

- Permit cannabis on specific AR or RR parcels meeting specified criteria (>min parcel size, residential compatibility, high water availability, etc.), subject to limitations on cultivation size and type

*Specialty Cottage = 500 SF indoor; 2,500 SF mixed light; 25 plants outdoor

Policy Options & Program Direction

Environmental Baseline Water Resources

GW Zone Mapping

- 6 months -1 yr to complete
- ID areas w/ limited groundwater (Class 3 & 4)
- Guide development, inform policy, drought planning
- Does not ID areas sensitive to overdraft, well interference, or streamflow depletion
- Additional analyses required to determine impacts related to cannabis water use

EIR

- The EIR would determine a baseline through one or more data collection methods

Policy Options & Program Direction

General Plan Amendment

Define as Ag

- Allow cannabis to be permitted similar to traditional agricultural uses
- BOS rejected Ch 38, including the proposed GPA
- PC also did not recommend GPA as cannabis is a Schedule 1 drug, but may be legalized at federal level within next 3 years

EIR

- Current comprehensive update and EIR provide another opportunity to consider a range of program alternatives, including a GPA to include cannabis within the meaning of “agriculture” and “agricultural use”

Policy Options & Program Direction

Streamlined Permit Processing

Ministerial

- Ministerial permits issued if projects meet standards
- No discretionary review; comprehensive standards & straightforward projects
- Not the only pathway for permit streamlining
- May be best suited to supply chain in developed areas

Discretionary

- Discretionary includes public notice and provides CEQA determination at local level
- Program EIR
 - ▣ Frontloads environmental review; permits can require less project-specific review
 - ▣ Allows discretionary process to be streamlined

Ch 38 rejected; one-size-fits-all ministerial program may not be feasible

Policy Options & Program Direction

Moratorium on Cannabis Permitting

New Applications

- New ministerial permit applications (Zoning Permits)
- All new permit applications (Zoning & Use Permits)

Issued/In Process*

- All new permit applications +
 - Applications in permit system
 - 86 ministerial Zoning Permits
 - 60 discretionary Use Permits, of which 28 operating under PRP
 - Renewals of issued permits
 - 222 ministerial Zoning Permits
 - 58 discretionary Use Permits, of which 19 operating under PRP while working towards condition compliance

*If selected, staff would return w/ transitional pathway for affected permittees

Policy Options & Program Direction

Transitional Pathway/Interim Program

- ▣ Develop options for a clear transitional pathway as a component of the new ordinance to allow proactive planning and minimization of impacts to existing businesses
 - Could apply to future updates to increase certainty for industry
- ▣ Update process too long-term to assist w/ expediting permits in system
- ▣ Staff exploring options for resources that could be shared between update effort & permit processing

Policy Options to carry forward to EIR	Staff Recommend	BOS Direction
Cultivation Only		
Full Supply Chain	✓	
Exclusion Zones	✓	
Inclusion Zones	✓	
AR/RR Consideration	✓	
GW Zone Mapping		
GPA Agriculture	✓	
Ministerial Program	✓	
Program EIR	✓	
Moratorium		
Transitional Pathway	✓	

Staff will return w/ resources request to support selected policy options

Cannabis Program Update

Project Timeline

- Draft Ordinance Framework
 - ▣ October – December 2021
 - Oct 26, 2021 resources request
 - Continue public engagement
 - Develop complete framework
- Draft Ordinance Refinement
 - ▣ January – May 2022
 - Jan 2022 RFP for EIR consultant
 - Continue public engagement
 - Develop complete draft ordinance/EIR project description
- Environmental Impact Report
 - ▣ June 2022 – Fall 2023
 - June 2022 EIR contract award
 - June 2022 NOP published
 - July 2022 EIR public scoping
 - Fall 2023 Draft EIR published
- Ordinance & EIR Approval
 - ▣ Fall 2023 – Summer 2024
 - Fall 2023 Draft EIR to PC for public comment
 - Spring 2024 PC hearing
 - Summer 2024 BOS hearing

End of Presentation



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