



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 22-527

Board Meeting Date: 7/12/2022

Special Notice / Hearing: 10-day public notification
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: Ordinance amending Chapter 5.148 of the San Mateo County Ordinance Code regarding commercial cannabis cultivation in the unincorporated area of San Mateo County.
County File Number: PLN2022-00066

RECOMMENDATION:

Recommendation to:

- A) Adopt a resolution adopting the attached negative declaration for amendments to Chapter 5.148 of the San Mateo County Ordinance Code regarding commercial cannabis cultivation in the unincorporated area of San Mateo County; and
- B) Introduce an ordinance amending Chapter 5.148 of the County Ordinance Code regarding commercial cannabis cultivation in the unincorporated area of San Mateo County and waive the reading of the ordinance in its entirety.

BACKGROUND:

Chapter 5.148 of the San Mateo County Ordinance Code provides regulations for commercial cannabis activities and imposes a license requirement for the cultivation of commercial cannabis in the unincorporated area of San Mateo County. Planning and Building Department staff, in consultation with the ad hoc cannabis committee comprised of Supervisor Horsley and Supervisor Groom, drafted the proposed amendments based on a comprehensive review of the regulatory effectiveness of the program over the past 5 years and consideration of concerns raised by existing license holders operating in the unincorporated County.

Location: Cannabis licenses may only be issued on (1) lands designated as "Agriculture" on the San Mateo County General Plan Land Use Map, and (2) other lands where commercial agricultural use has been conducted for the three years preceding the effective date of the ordinance. These lands are distributed throughout the Coastal Zone of unincorporated San Mateo County.

Existing Zoning: Primarily PAD (Planned Agriculture District). However, there are a few parcels with the “Agriculture” land use designation that also are zoned RM-CZ (Resource Management - Coastal Zone). Commercial cultivation operations could also occur on other rurally zoned lands that allow agriculture by right, if the applicant can document that there have been three consecutive years of commercial agricultural operations on the parcel prior to 2017.

General Plan Designation: Agriculture (and Open Space - Rural and Timber Production - Rural where three consecutive years of commercial agricultural operations prior to 2017 can be documented).

Existing Land Use: Existing greenhouse complexes on agriculturally designated land, or on land where commercial agricultural use has been conducted for the three years preceding the effective date of the existing ordinance. Construction of new greenhouses on eligible parcels would requires discretionary approval.

Chronology:

<u>Date</u>	<u>Action</u>
November 13, 2017	- Initial Commercial Cannabis Cultivation Ordinance considered by the Agricultural Advisory Committee (AAC).
December 12, 2017	- Initial Commercial Cannabis Cultivation Ordinance adopted by the Board of Supervisors.
March 13, 2018	- Repeal of the initial Commercial Cannabis Cultivation Ordinance and adoption of the current Commercial Cannabis Cultivation Ordinance by the Board of Supervisors.
November 13, 2018	- Amendment of the current Commercial Cannabis Cultivation Ordinance by the Board of Supervisors. Amendments included elimination of December 31, 2018 sunset, modification of setbacks, and modifications to nursery operator requirements.
March 16 - April 4, 2022	- Public comment period for the Initial Study and Negative Declaration evaluating the proposed ordinance amendments.
April 11, 2022	- Presentation of ordinance amendments to the Agricultural Advisory Committee.
April 12, 2022	- Presentation of ordinance amendments to Pescadero Municipal Advisory Council.
July 12, 2022	- Board of Supervisors hearing.

Environmental Evaluation: Staff prepared an Initial Study and Negative Declaration pursuant to the California Environmental Quality Act (CEQA), with a public review period of March 16, 2022 to April 4, 2022. After this comment period minor changes were made for clarity and to correct minor errors, no recirculation was required pursuant to CEQA Guidelines. The updated document is included as Attachment C.

DISCUSSION:

In consultation with the ad hoc cannabis committee, comprised of Supervisor Groom and Supervisor Horsley, Planning and Building staff drafted amendments to the existing commercial cannabis cultivation ordinance based on a comprehensive review of the regulatory effectiveness of the ordinance over the past 5 years, and consideration of concerns raised by existing license holders operating in the unincorporated County. While some proposed amendments have the potential to make commercial cannabis more accessible to property owners and cannabis operators, such as eliminating the square footage cap on canopy and the agriculture replacement requirement, the types of parcels eligible for a license will not change as a result of the proposed amendments (cannabis cultivation remains limited to agricultural parcels, within greenhouses, and with the same property setbacks from sensitive uses).

The proposed ordinance amendments will not alter any existing County Zoning Regulations, Local Coastal Program provisions, or exempt operations from complying with the California Building Code. The potential construction of any new greenhouse structures for cannabis cultivation continues to be subject to future discretionary review and the permitting procedures of the existing Zoning Regulations. Commercial cannabis cultivation operations will continue to be permitted in existing greenhouses under the proposed amended ordinance, subject to the appropriate environmental review and issuance of a staff-level cannabis license. The proposed ordinance amendments do not change these requirements of the existing ordinance.

The proposed ordinance amendments will streamline application requirements to focus on information necessary for County staff's review for conformance with the applicable regulations. Each of the proposed changes are summarized in Attachment D, and set forth in detail in Attachment E. A summary of the key changes is listed below:

1. Modification to allowed commercial cannabis activities to allow cultivation licensees to distribute cannabis to other State cannabis license holders. Physical locations for stand-alone distribution remain prohibited in the unincorporated County.
2. Elimination of requirement to provide replacement agriculture if the operator proposes to displace traditional agriculture existing as of June 1, 2017.
3. Extension of the license term from one year to five years.
4. Elimination of 66,000 square foot cap on canopy per license owner.
5. Addition of a procedure to transfer ownership in an existing cannabis license.
6. Streamlining of the application requirements.

The proposed amendments were reviewed by the Agricultural Advisory Committee (AAC) on April 11, 2022. The AAC voted (5-4-2) to support the proposed amendments with 5 members voting to support: Jonathan Winslow (public member), Fred Crowder (conservationist member), William Cook (farmer member), James Oku (farmer member), Lauren Silberman (agricultural business representative member); 4 members abstaining: Judith Humburg (public member), Peter Marchi (farmer member), John Vars (farmer member), Ryan Casey (farmer member); and 2 members not present: Louie Figone (farmer member), Natalie Sare (farmer member).

The County Attorney's Office has reviewed and approved the ordinance as to form.

FISCAL IMPACT:

Implementation of the licensing program, as amended, is not expected to require any more staff time or resources than implementation of the existing ordinance, which is intended to be cost-neutral.

ATTACHMENTS:

- A. Resolution
- B. Ordinance
- C. Draft Initial Study and Negative Declaration
- D. Short Ordinance Changes Summary
- E. Detailed Ordinance Changes Summary