



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

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|---|--|--|----------------------|
| (1) DEPARTMENT Planning and Building | (2) MEETING DATE 10/6/2020 | (3) CONTACT/PHONE Kip Morais, Planner II / (805) 781-5136 Daniela Chavez, Clerk (805) 781- 4848 | |
| (4) SUBJECT Hearing to consider a request by the County of San Luis Obispo for an amendment to the Land Use Ordinance and Coastal Zone Land Use Ordinance, Title 22, and Title 23 of the County Code (LRP2019-00005, LRP2019-00006) as applicable to Cannabis Activities. The proposed amendments consist of cleanup items intended to clarify and refine procedurally related ordinance requirements based on best practices and departmental experience processing cannabis land use permit applications. Exempt from CEQA. All Districts. | | | |
| (5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> 1. Adopt the Notice of Exemption from the California Environmental Quality Act (CEQA); 2. Adopt the ordinance amendments to Title 22 (Land Use Ordinance) of the County Code; 3. Adopt the ordinance amendments to Title 23 (Coastal Zone Land Use Ordinance) of the County Code; and 4. If adopted, waive the reading of the ordinances. | | | |
| (6) FUNDING SOURCE(S) Planning and Building Department Budget | (7) CURRENT YEAR FINANCIAL IMPACT \$0.00 | (8) ANNUAL FINANCIAL IMPACT \$0.00 | (9) BUDGETED? Yes |
| (10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 90) <input type="checkbox"/> Board Business (Time Est. _____) | | | |
| (11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A | | | |
| (12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A | | (13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A | |
| (14) LOCATION MAP N/A | (15) BUSINESS IMPACT STATEMENT? Yes | (16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date <u>11/27/17, 6/19/18, 12/11/2018,</u> <u>3/26/19, 6/4/2019, 8/18/2020</u> | |
| (17) ADMINISTRATIVE OFFICE REVIEW Zachary A. Lute | | | |
| (18) SUPERVISOR DISTRICT(S) All Districts | | | |



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Kip Morais, Planner II

VIA: Rob Fitzroy, Assistant Director
Trevor Keith, Director

DATE: October 6, 2020

SUBJECT: Hearing to consider a request by the County of San Luis Obispo for an amendment to the Land Use Ordinance and Coastal Zone Land Use Ordinance, Title 22, and Title 23 of the County Code (LRP2019-00005. LRP2019-00006) as applicable to Cannabis Activities. The proposed amendments consist of cleanup items intended to clarify and refine procedurally related ordinance requirements based on best practices and departmental experience processing cannabis land use permit applications. Exempt from CEQA. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Adopt the Notice of Exemption from the California Environmental Quality Act (CEQA);
2. Adopt the ordinance amendments to Title 22 (Land Use Ordinance) of the County Code;
3. Adopt the ordinance amendments to Title 23 (Coastal Zone Land Use Ordinance) of the County Code; and
4. If adopted, waive the reading of the ordinances.

DISCUSSION

Background

On November 27, 2017, the Board of Supervisors (Board) adopted countywide cannabis land use regulations. On June 19, 2018 during a cannabis program update, the Board directed staff to prepare amendments to the cannabis ordinance in two phases.

Phase I amendments were adopted by the Board on December 11, 2018 and the Inland Land Use Ordinance (Title 22) amendments took effect January 10, 2019. The amendments to the Local Coastal Program (LCP), which included both amendments to the Land Use Plan (LUP) and Coastal Zone Land Use Ordinance (Title 23) were also approved by the Board and forwarded to the California Coastal Commission for consideration. On April 10, 2019, the California Coastal

Commission approved the amendments with minor modifications.

On June 4, 2019, the Board adopted the Phase II Cannabis Activities Ordinance Amendments. These amendments included further defining cannabis canopy, increasing flexibility for fencing and screening standards and additional clean-up items. Phase II ordinance amendments have not yet been certified by the California Coastal Commission, and a hearing date for Phase II at the California Coastal Commission is unknown at this time.

On March 26, 2019, during a cannabis program update, the Board directed staff to prepare Phase III cannabis ordinance amendments. This included the eight (8) Board directed amendments and cleanup amendments for the Board's consideration. The intent of the cleanup amendments is to clarify and revise ordinance requirements. Many of these cleanup amendments serve to clarify and codify existing practices for applicants. Additionally, some of the cleanup items are necessary for environmental review purposes. Overall, these cleanup items are intended to inform applicants early in the process as to what is required to fully process a cannabis application. This will facilitate a more efficient review process and minimize requests for additional information during the review process.

On August 18, 2020, the Board of Supervisors heard the proposed changes to Title 22 and Title 23 regarding the Phase III Cannabis Ordinance Amendments. The Board voted 2 to 2 to not adopt the Phase III Board directed amendments. However, the Board directed staff to bring back the staff-initiated cleanup amendments for consideration. A summary of the cleanup items can be found in the following table and are discussed in greater detail in this staff report.

| Section | Amendment | Title 22 Section Number | Title 23 Section Number |
|---|---|--------------------------------|--------------------------------|
| Applicability | Cross-Reference Hemp Ordinance | 22.40.020 | 23.08.412 |
| Requirements for All Cannabis Activities | Modifications to Application Requirements | 22.40.040 | 23.08.416 |
| | Modifications to Security, Compliance, Inspection, State License Required, Pesticides, and Monitoring Program | 22.40.040 | 23.08.416 |
| Cannabis Cultivation | Modifications to Ancillary Activities | 22.40.050.A.3 | 23.08.418(iii) |
| | Modifications to Land Use Permit Required | 22.40.050.B | 23.08.418.b |
| | Modifications to Application Requirements | 22.40.050.C | 23.08.418.c |
| | Modifications to Cultivation Standards | 22.40.050.D | 23.08.418.d |

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| | Modifications to Setbacks and Air Quality | 22.40.050.D 3 & 4 | 23.08.418.d. 3 & 4 |
| | Modifications to Water Requirements | 22.40.050.D.5 | 23.08.418.d.5 |
| | Modifications to Screening and Fencing | 22.40.050.D.6 | 23.08.418.d.6 |
| | Modifications to Outdoor and Interior Lighting | 22.40.050.D.10 &11 | 23.08.418.10 & 11 |
| | Modifications to Required Findings | 22.40.050.E | 23.08.418.e |
| Cannabis Nurseries | Modifications to Application Requirements | 22.40.060.D | 23.08.420.d |
| | Modifications to Setbacks | 22.40.060.E.3 | 23.08.420.e.4 |
| | Modifications to Water Requirements | 22.40.060.E.5 | 23.08.420.e.6 |
| | Modifications to Fencing and Screening | 22.40.060.E.6 | 23.08.420.e.7 |
| | Modifications to Outdoor and Interior Lighting | 22.40.060.E.10 & 11 | 23.08.420.e.11 & 12 |
| | Modifications to Required Findings | 22.40.060.F | 23.08.420.f |
| Cannabis Processing Facilities | Modifications to Application Requirements | 22.40.065.C | 23.08.422.c.2 |
| | Modifications to Setbacks | 22.40.065.D.3 | 23.08.422.c.3 |
| Cannabis Manufacturing | Modifications to Application Requirements | 22.40.070.C.3 | 23.08.424.c.3 |
| | Modifications to Setbacks | 22.40.070.D.3 | 23.08.424.d.3 |
| Cannabis Testing Facilities | Modifications to Setbacks | 22.40.080.D.2 | 23.08.426.e |
| Cannabis Dispensaries | Modifications to Application Requirements | 22.40.090.C.1 | 23.08.427.c.1 |
| | Modifications to Setbacks | 22.40.090.D.2 | 23.08.427.d.2 |
| Cannabis Distribution Facilities | Modifications to Setbacks | 22.40.100.D.2 | 23.08.428.e |
| Cannabis Transport Facilities Standards | Modifications to Setbacks | 22.40.105.D.2 | 23.08.429.d.2 |

Proposed Ordinance Amendments

Applicability

Cross-Reference Hemp Ordinance

This section was updated to cross reference the hemp ordinance pertaining to industrial hemp to clarify the different regulations. This cross references the Industrial Hemp Cultivation regulations found in Sections 22.30.244 and 23.08.047.

Application Requirements for All Cannabis Activities

The purpose of these amendments is to require these items at the beginning of the process, prior to application acceptance, rather than later in the process. This will reduce overall processing times and ensure that applicants are fully aware of all application requirements prior to submission. This information is normally requested during the review process, and the modifications are intended to ensure this information is consistently obtained up front.

Modifications to Application Requirements

Sections 22.40.020 and 23.08.416 contain modifications to application requirements, security, compliance, inspection, state license requirements, pesticide, and monitoring program sections. New application requirements require indoor nursery and/or cultivation applicants to submit an inventory of energy demands and information upfront regarding what steps will be taken to minimize energy demand consistent with information currently requested during the environmental review process. All cannabis related applications will now be required to include specific details regarding shift operations, number of employees, and estimated deliveries as part of their operations plan. Applicants will also be required to submit evidence that a business license has been submitted to the County Tax Collector and a background check approval has been obtained from the Sheriff's Office.

Modifications to Security, Compliance, Inspection, State License Required, Pesticides, and Monitoring Program

Modifications to the inspection section (22.40.040.H, 23.08.416.h) clarifies sites with both proposed or permitted cannabis activities are subject to review and inspection from law enforcement. Modifications to the state license required, pesticide, and monitoring program section clarify existing requirements and practices.

Cannabis Cultivation

Modifications to Ancillary Activities

The ancillary activities section (22.40.050.A.3, 23.08.418(iii)) has been modified to clarify that the separate ancillary nursery area includes walkways and is better defined as nursery area rather than nursery canopy. This is consistent with current practice and ensures that the size of the ancillary nursery is consistently assessed and does not exceed the maximum allowable to support onsite cultivation operations. This section also contains an addition to clarify that ancillary nursery areas are subject to the same setback standards as cannabis nurseries.

Modifications to Land Use Permit Required

Revisions to the land use permit section (22.40.050.B, 23.08.418.b) remove irrelevant language pertaining to applications prior to January 1, 2019, and adds language to the land use permit expiration section clarifying that if a request for renewal is not granted prior to the land use permit's expiration date, the permit shall be deemed expired effective five years from the date of previous approval.

Modifications to Application Requirements

The application requirements section includes modifications to 22.40.050.C and 23.08.418.c requiring the applicant provide a site plan and general description of the proposed cannabis operations. This section would now also require the applicant to provide a minimum four-hour pump test on all wells used for cannabis cultivation and information regarding existing stormwater control features on site to satisfy the information needed for the environmental review process.

Modifications to Cultivation Standards

The setbacks sections 22.40.050.D.3. and 23.08.418.d.3 have been modified to include setbacks from all watercourses consistent with the Regional Water Board's setbacks for cannabis cultivation. This is an effort to make applicants aware that in addition to the 50 and 100-foot setbacks from watercourses and wetlands, other setback requirements from the Regional Water Board may also apply.

Modifications to Setbacks and Air Quality

Sections 22.40.050.D.4 and 23.08.418.d.4, air quality, has been modified to include clarifying language regarding roads as defined in Title 20 in an effort to address questions about what constituted unpaved roads.

Modifications to Water Requirements

Sections 22.40.050.D.5 and 23.08.418.d., water, has been modified to clarify cannabis water offset requirements. These modifications clarify existing practices. The amendments provide two distinct routes through which a cannabis cultivation or nursery operation may offset their water use. The first is through an approved project-specific offset, such as removing an existing crop to obtain "water credit" to plant cannabis. This is how all cannabis projects are currently being handled. These offsets are conditioned on a case by case basis through the discretionary permitting process. The second option allows for cannabis projects to offset through a County-approved water conservation program that expressly provides water offsets for cannabis activities, and results in a verifiable reduction of water demand equal to, or exceeding, the required water demand offset for the life of the project. However, such a program does not currently exist. The Board may direct staff to research options and costs for development and implementation of a program and return at a later date for further discussion and consideration of a cannabis-specific water offset program.

Modifications to Screening and Fencing

Fencing and screening standards have been modified in sections 22.40.050.D.6 and 23.08.418.d.6 to reflect recommendations of the Sheriff's Department and to allow for waivers to be granted in conjunction with additional or alternative security measures required by the Sheriff's Office.

Modifications to Outdoor and Interior Lighting

Sections 22.40.050.D.10 & 11 and 23.08.418.10 & 11 have been modified to minimize impacts from interior and exterior lighting.

Modifications to Required Findings

Section 22.40.050.E., required findings, has been modified to ensure setbacks can be modified as long as they do not impact compatibility with surrounding land uses and to allow for cultivation of industrial hemp and cannabis on the same site as long as the project will prevent nuisance odor emissions from being detected offsite.

Nursery Standards

Application requirements in section 22.040.60.D. and 23.08.420.d have been modified to require a well pump test and provide examples of information needed regarding stormwater control and wastewater discharge. Modifications to setbacks, water, screening and fencing, outdoor and interior lighting, and required findings sections are reflective of those discussed in the Cannabis Cultivation section.

Cannabis Processing Facilities

Sections 22.40.065.C.2 and 23.08.422.c.2 application requirements, have been modified to include a security plan that is consistent with Sheriff security guidelines, including language requiring 90 business days of surveillance video consistent with current Sheriff's requirements. The setbacks section has also been modified for consistency with the Regional Water Board's setbacks for cannabis cultivation.

Cannabis Manufacturing

The cannabis manufacturing application requirements have been modified to include language regarding the security plan and 90-day video recording consistent with the language modified in the Cannabis Processing Facilities section. The setbacks section has also been modified for consistency with the Regional Water Board's setbacks for cannabis cultivation.

Cannabis Testing Facilities

Cannabis testing facilities setbacks section has been modified for consistency with the Regional Water Board's setbacks for cannabis cultivation.

Cannabis Dispensaries

The cannabis dispensaries application requirements have been modified to include language regarding the security plan and 90-day video recording consistent with current Sheriff requirements. The setbacks section has also been modified for consistency with the Regional Water Board's setbacks for cannabis cultivation.

Cannabis Distribution Facilities and Transport Facilities

Modifications to sections 22.40.100D.2, 22.40.105.D.2, 23.08.428.e, and 23.08.429.d.2 consist of modifications to include language for consistency with the Regional Water Board's setbacks for cannabis cultivation.

BUSINESS IMPACT STATEMENT

Approving this request may result in positive and negative impacts to the Uniquely SLO County Cluster identified in the San Luis Obispo County Clusters of Opportunity Economic Strategy (November 2010). Allowing the continued cultivation of cannabis has the potential to benefit farmers in the County who wish to invest in the cannabis market. However, there is the possibility that cannabis cultivation could negatively impact the Uniquely SLO County Cluster, particularly the wine tourism industry, which could potentially be affected by odors caused by cannabis cultivation.

OTHER AGENCY INVOLVEMENT/IMPACT

Staff sought comments from various departments regarding the amended cannabis ordinance, including County Counsel, Ag Commissioner, the Building Division of County Planning and Building, and the Sheriff's Office. Responses were received from County Counsel, the Ag Commissioner's Office, the Building Division, and the Sheriff's Office. These comments were incorporated into the Public Hearing Draft.

FINANCIAL CONSIDERATIONS

The proposed amendments are funded by the Planning and Building Department's FY 2020-21 adopted budget.

RESULTS

If adopted, the proposed amendments would become effective as soon as November 6, 2020, with the exception of Title 23 (Coastal Zone) amendments, which would become effective after California Coastal Commission (CCC) review and certification. The Department will submit the amendments to the California Coastal Commission after final Board action. If the California Coastal Commission approves and certifies the amendments, they will take effect immediately. If the California Coastal Commission approves the amendments with suggested modifications, the Department will return to the Board for consideration and approval of the California Coastal Commission's suggested modifications.

ATTACHMENTS

- 1 Attachment 1 - Presentation
- 2 Attachment 2 - Redline Version (Amendments to Title 22)
- 3 Attachment 3 - Redline Version (Amendments to Title 23)
- 4 Attachment 4 - Environmental Determination - Notice of Exemption