



## MEMORANDUM

November 2, 2017

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Medical Cannabis Interdepartmental Work Group

MEETING DATE: November 6, 2017

SUBJECT: Medical Cannabis Ordinances Implementation Update

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### **BACKGROUND**

The Medical Cannabis Dispensary and Cultivation Ordinances went into effect on October 12, 2017. Since your Committee last received an update on implementation of the ordinances at your October 2, 2017 meeting, staff has focused on preparing and releasing Requests for Proposals (RFPs) to solicit applications for cultivation and dispensary permits.

### **DISCUSSION/SUMMARY**

#### **Request for Proposals for Dispensaries**

In accord with Section 6.108.050 of the dispensary ordinance, staff released an RFP on October 16<sup>th</sup> to solicit applications for the two East County dispensaries, pursuant to Section 6.108.030.D of the dispensary ordinance. Applications are due on November 13, 2017. The RFP includes a description of the application evaluation and selection process, the selection committee that will review and score the applications, and the criteria and method to be used to score the applications. For the most part, the evaluation criteria are based on requirements in Section 6.108.060 of the dispensary ordinance. Applicants may also receive additional points by proposing a community benefit program to support local community organizations providing services such as job training, cannabis youth education, or substance abuse assistance. Up to ten percent may be added to an applicant's final score for demonstrating an historic and/or a long-term commitment to improving the local agricultural community. A link to the RFP is available on the [county website](#).

Permits will be granted to the applications that rank highest in the competitive selection process and that also conform to the five-mile distance requirement in Section 6.108.030.D.2 of the dispensary ordinance. At two applicant information sessions, one held in East County on October 18<sup>th</sup> and one held in West

County on October 19<sup>th</sup>, County staff presented detailed information about the application and selection processes and applicants asked questions about the requirements. All questions asked at the information sessions were addressed in an RFP Addendum which was posted on the [county website](#) on October 27<sup>th</sup>. With an aggressive schedule in place, the selection process will be completed and the two dispensary permits will be granted before the end of the year. The applicants who receive dispensary permits will then need to apply for Conditional Use Permits (CUP).

### **Cultivation Permit Process**

The staff memo for Item 3 on your Committee’s November 6<sup>th</sup> agenda provides the status of the process underway to grant cultivation permits to the two existing permitted dispensaries in good standing; and also the Request for Proposals (RFP) to solicit applications for the four additional cultivation sites allowed under the cultivation ordinance.

### **Consideration of an Ordinance to Temporarily Ban the Cultivation and Sale of Adult Use Cannabis**

The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) establishes a state licensing scheme for both medicinal and adult use cannabis while preserving local authority to regulate cannabis businesses within the jurisdiction. MAUCRSA “shall not be interpreted to supersede or limit the **authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division**, including, but not limited to, **local zoning** and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or **to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction**” and “shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of **local zoning** requirements or local ordinances, or enforcement of **local license, permit, or other authorization requirements.**” Bus. & Prof. Code 26200(a) (1), (2) (emphasis added).

At this time, the County does not allow or permit adult use cannabis businesses. The County allows medical cannabis dispensaries, deliveries and cultivation sites only, pursuant to specified permit requirements. In particular, the County’s Zoning Ordinance is a “permissive” zoning ordinance, meaning that all uses are prohibited unless specifically permitted by the Zoning Ordinance. Only medical cannabis businesses are permitted at this time, provided they obtain all requisite permits. Because adult use cannabis businesses are not permitted, they are prohibited pursuant to the principles of permissive zoning. Additionally, Chapters 6.106 and 6.108 of the ordinance code and the Board’s findings adopted in conjunction with those ordinances clearly indicate that only medical dispensaries, deliveries and cultivation sites will be permitted at this time and that adult use cannabis businesses not be permitted at this time.

Nevertheless, because the State is expected to begin issuing licenses for adult use cannabis businesses in 2018, staff recommends that the County exercise caution and adopt a temporary ban on adult use businesses to clarify to the public and would-be operators that adult use businesses are not permitted at this time. Staff proposes a regular (not urgency) ordinance stating that adult use cannabis businesses are prohibited. The ordinance can be repealed by a majority vote the Board of Supervisors if and when the Board determines that the ban should be lifted and adult use cannabis businesses should be regulated and permitted by the County. Such an ordinance would not change the status quo, but rather, would provide

certainty to the industry and to County code enforcement and law enforcement personnel. Staff would present the ordinance for adoption before the end of the year.

### **Potential Tax Measure**

At your November 6<sup>th</sup> meeting, staff from the Office of the Treasurer-Tax Collector will present an update on their progress exploring options for a potential measure to be placed on the November 2018 ballot to impose a tax on cannabis operations in the unincorporated area.

### **Fee Study**

SCI Consulting is in the process of preparing a fee study consistent with the provisions of Proposition 26 to determine the appropriate level of fees for application review and approval for medical cannabis dispensaries and cultivation sites, as well as medical cannabis delivery; and for costs associated with on-going maintenance and monitoring of these permits to fully recover the cost of County staff time to perform these functions. Staff is in the process of reviewing an administrative draft of the study. A final document should be completed in the next few weeks.

### **NEXT STEPS**

At the December Transportation/Planning Committee meeting, staff will report on progress made on the RFP selection processes for the medical cannabis dispensary and cultivation ordinances, and also the consideration of new ordinances for cannabis manufacturing operations, distributors, and testing labs.