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October 10, 2017

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Marin County Board of Supervisors
3501 Civic Center Drive
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SUBJECT: Workshop on Medicinal Cannabis Delivery-Only Retailer Licensing Ordinance

Dear Supervisors,

RECOMMENDATION:

Conduct a workshop to discuss the proposed ordinance, consider public comments, provide direction to staff, and schedule the first reading for October 31, 2017.

SUMMARY:

The proposed Medicinal Cannabis Delivery-Only Retailer (MCDORe) Licensing ordinance would establish a regulatory framework to create local delivery options for patients to access medicinal cannabis within unincorporated Marin consistent with the state's new Medicinal and Adult-Use Cannabis Regulation Act (MAUCRSA), approved June 27, 2017. Cannabis retailers are currently not allowed in the unincorporated areas of Marin County, and they are not permissible in 10 of the 11 cities and towns in Marin. The Town of Fairfax allows up to three retailers, and one is currently permitted and operating. If adopted, this revised ordinance would not regulate any aspect of medicinal or adult use cannabis in cities and towns in Marin.

Over the past several months staff has worked with the cannabis subcommittee of the Board of Supervisors, comprised of Supervisors Arnold and Connolly, to develop the new MCDORe ordinance after the County chose not to approve any storefront medical cannabis dispensaries under the Medical Cannabis Dispensary (MCD) ordinance earlier this year. During the MCD license application review process significant concerns were voiced by the public, with the focus being traffic and neighborhood compatibility. At the May 23rd, 2017 hearing, the Board of Supervisors provided direction to evaluate a delivery-only dispensary ordinance. The MCDORe addresses key public concerns, by requiring the retailer to be closed to the public and to conduct sales exclusively by delivery. If approved, the MCDORe ordinance would replace the MCD ordinance.

Since the release of the draft MCDORe ordinance on September 8th, staff has conducted a technical review meeting with cannabis industry representatives and a public meeting to answer questions and gather comments. Staff has also received

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written responses from both members of the community and the industry, which include a variety of recommended amendments discussed below.

DISCUSSION:

The following is a summary of the proposed ordinance and comments received to date from the public, which are included in attachment two.

Ordinance overview

The proposed MCDORe ordinance would be consistent with the new State law and replace the prior MCD ordinance. As proposed, this ordinance would:

- Establish a competitive process for licensing medicinal cannabis retailers, and bifurcate the selection of the applicant and the site;
- Require a retailer to be closed to the public and conduct sales exclusively by delivery;
- Limit the number of licensed retailers in the unincorporated areas of the county to no more than four;
- Expand the eligible sites to include office and industrially-zoned properties in addition to commercial zoning districts, (C1, CP, AP, OP and IP), where medicinal cannabis retailers would be recognized as a permitted use with respect to applicable zoning and land use plans;
- Require eligible sites to maintain a distance of at least 600 feet from schools (K-12), day care centers, youth centers, as required by state law, in addition to playgrounds, tobacco stores, or another retailer; and
- Require retailers to meet the operation standards set forth by state law (MAUCRSA), plus additional county standards such as restricted hours, signage, and monitoring.

Ordinance scope

Except for licensed Medicinal Cannabis Delivery-Only Retailer businesses, all other commercial cannabis businesses would for the time being be prohibited within unincorporated Marin as proposed. Although, the delivery of medicinal cannabis from licensed retailers located outside of unincorporated Marin into the unincorporated areas would be allowed.

Public comments to date include the following:

1. Add language that gives temporary “safe harbor” to existing medical cannabis collective/cooperatives; and
2. Limit delivery of medicinal cannabis products within the unincorporated county to only retailers licensed to operate in unincorporated Marin.

Limitation on number of licenses

The number of MCDORe licenses would be limited to four. Public opinion has for the most part been divided between support for and opposition to the proposed limit, while some others recommend the elimination of the limit. Several commenters in support of lifting the cap assert that the number of retailers will naturally be limited by the market and eligible sites.

Limitation on location

Eligible locations would be limited to commercial, office and industrial zones. Delivery-only retailers would need to maintain a buffer to specific land uses. To be consistent with state legislation, the MCDORe ordinance includes day care centers and youth centers that were not included in the MCD ordinance as sensitive locations, in addition to schools. The proposed ordinance also establishes a buffer to distance any delivery only retailer from playgrounds, tobacco stores and other cannabis retailers. Since the delivery only retailers must be closed to the public, the buffer distance is proposed to be 600 feet, which is consistent with state law.

Public comments included the following:

1. Remove the buffer limits to other cannabis retailers and tobacco stores since this ordinance requires the premises to be closed to the public;
2. Increase the buffer to schools; and
3. Add a buffer to safe routes to school and senior housing.

Application review

The review of applications would be conducted in several phases. After applicants meet a minimum background screening check in Phase 1, a lottery would be conducted in Phase 2 should there be a larger number of applicants than available licenses. As proposed, only those applicants that are selected through the lottery would be able to move on to Phase 3 for an application pre-submittal review and submit a license application for a specific site in Phase 4. Another notable change in the review process from the prior MCD review is the addition of a point-based scoring system that would be used by the Board of Supervisors in making the final licensing decisions.

Public comments included the following:

1. Removal of the lottery at phase 2, because it may inadvertently allow lower qualified applicants to move forward in the authorization process. Several commenters suggested that a lottery could be implemented after an expanded prescreening review of all applicants be made that takes into account the quality of the applicants, experience, and other discretionary factors through review of a business, operating, and public benefits plan; and;
2. Include community meetings within communities where an application is submitted.

FISCAL/STAFFING IMPACT:

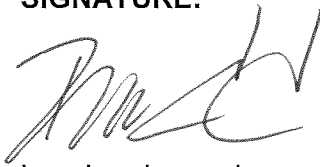
Administration of the ordinance will continue to increase the workload for the Community Development Agency. There will likely be additional costs borne to the County Administrator's Office, the Sheriff's Office, and other departments related to implementation, administration, and enforcement. These direct costs will be mitigated by application review and monitoring fees that have been established separately by the Board of Supervisors. However, the subcommittee also recommends that the prior applicants receive a credit of their previously paid application review fees. Staff will monitor and work with the County Administrator as part of Fiscal Year 2017-18 budget planning.

REVIEWED BY:

Department of Finance
 County Counsel
 Human Resources

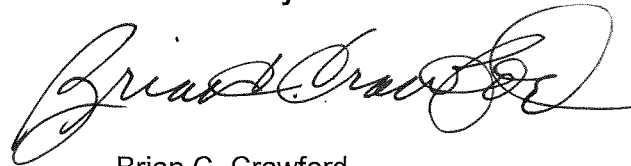
N/A
 N/A
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SIGNATURE:



Inge Lundegaard
Planner

Reviewed By:



Brian C. Crawford
Director

Attachments: (1) Proposed MCDORe Ordinance
(2) Public Comments