



Sophie Hahn  
Councilmember District 5

## **SUPPLEMENTAL AGENDA MATERIAL**

**Meeting Date:** July 11, 2017

**Item Number:** 35

**Item Description:** Medical Cannabis Cultivation Ordinance Revisions

**Submitted by:** Councilmember Sophie Hahn

Recommends alternative option for council consideration.

## **SOPHIE HAHN**

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## ACTION CALENDAR

July 11, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmember Sophie Hahn  
Subject: Medical Cannabis Cultivation Ordinance Revisions

### RECOMMENDATION

1. To initially allow a maximum of 8 cultivation sites, which is the number of sites that comes closest to the maximum allowable square footage limit of 180,000 square feet, passed by the voters of Berkeley, without exceeding this amount.
2. To allow only 1 site per operator, and direct staff to create an application and preference process that favors local and artisan growers, as well as a preference for owners from populations or groups that are or have been disproportionately targeted for enforcement, criminalization, and/or incarceration related to marijuana offenses;
3. One year after each site commences operations, direct staff to undertake an evaluation process that includes, but is not limited to, contacting neighbors and businesses within 500 feet and evaluating potential positive and negative impacts, recommending any helpful/necessary changes to the enabling code and helping ensure the operator is in compliance with all rules and regulations. This site-by-site review will be limited to the first 8 sites, as a means of identifying benefits and challenges of cultivation operations and improving the City's regulatory framework;
4. Once the first 8 sites have been permitted, direct staff to evaluate the impacts and success of the cultivation sites program on a neighborhood and city-wide basis, review the local/artisanal and other preferences and program for effectiveness, and consider whether the number of sites should be increased.

### FINANCIAL IMPLICATIONS

Staff time to develop application and preference policies for cultivation applications

## BACKGROUND

When voters approved Measure T, Amendments to Berkeley's Medical Marijuana Ordinance, in 2010, they approved a maximum of 180,000 square feet of cannabis cultivation in the M District and a maximum of six locations of up to 30,000 square feet each (180,000 square feet is approximately equivalent to 6 football fields). Subsequent state rules limit each location to 22,000 square feet. The location limit has at least three benefits that are not served by the overall square foot limit:

1. the potential significant impacts to surrounding businesses/neighbors of these high-security facilities is limited to 6 locations, impacting fewer surrounding businesses and residents;
2. The location limit provides an important brake on speculative pricing of scarce manufacturing space in Berkeley as marijuana businesses command higher prices per square foot than other uses. The possibility of achieving higher rents that accompanies an unlimited location scenario has the proven potential to drive up rents and drive out other uses;
3. A phased approach to this newly legalized business allows impacts to be evaluated and regulations to be adjusted before additional sites are permitted. The number of sites can always be increased, but cannot be decreased if impacts on surrounding establishments, on rent rates and/or other impacts are found to be detrimental.

An important consideration is that all cultivation sites are permitted "by-right," with no community input or opportunity for appeal. Once a site is established, there is no recourse for neighbors or for the City, absent a finding of nuisance. Because of the potential impacts and the lack of public input on the siting and permitting of these facilities, a phased, measured approach is advisable, that first implements a program most closely mirroring the expectations of voters before expanding beyond the voters' parameters.

## ENVIRONMENTAL IMPACTS

This recommendation is consistent with Berkeley's environmental sustainability goals.

## CONTACT PERSON

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