



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. This recommendation replaces the previous alternative submitted by Councilmember Hahn in its entirety

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ITEM 35

SUPPLEMENTAL 2

ACTION CALENDAR

July 11, 2017

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

INTRODUCTION

The question before Council is a numerical quota on the number of medical cannabis cultivation sites in Berkeley's M District. This proposal is intended to most closely adhere to Berkeley voters' intent, with the Planning Commission's current analysis, and with staff's recommendation.

Voters enacted a limit of 6 locations, and staff recommends no less than 9. The Planning Commission further encouraged that any quota on the number of sites be based on "additional research" and "to encourage small 'clean and green' businesses". This proposal recommends starting with a total of 11 sites, with research of the positive and negative impacts of 8 of these sites, followed by consideration of expansion.

RECOMMENDATION

1. To initially allow 6 Standard cultivation sites at no more than 22,000 square feet per site, as allowed by State regulations, for a cumulative maximum of 132,000 square feet. The remainder of square footage, up to a cumulative maximum of 182,000 square feet, would be dedicated to a Small Sites program, reserved for local, artisan, cooperative, and green growers, with 5 additional sites allowed, each of no more than 10,000 square feet. The total combined number of Standard and Small Sites allowed would be 11, and total square footage capped at 182,000 square feet;
2. To direct staff to create two application processes; one for Standard Sites and another for Small Sites favoring local, artisan, cooperative, and green growers;
3. To allow only 1 site per operator, and create an overall preference for qualified owners from populations or groups that are or have been disproportionately targeted for enforcement, criminalization, and/or incarceration related to marijuana offenses;

4. One year after a site commences operations, direct staff to undertake an evaluation 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 8 sites, representing a variety of sizes and locations, as a means of identifying benefits and challenges of cultivation operations and improving the City's regulatory framework;
5. Once the first 11 sites have been permitted, direct staff to evaluate the overall and cumulative success and impacts of the cultivation sites program on a neighborhood and city-wide basis, review the preferences and programs for effectiveness, and consider whether the number of sites can 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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