

AGENDA
SPECIAL MEETING OF THE CITY COUNCIL
CITY OF BANNING
BANNING, CALIFORNIA

April 10, 2018
1:30 p.m.

Banning Civic Center
Council Chamber
99 E. Ramsey Street

I. CALL TO ORDER

Roll Call – Council Members Andrade, Franklin, Peterson, Welch, Mayor Moyer

II. WORKSHOP

1. Overview of Municipal Options for Allowing Commercial Cannabis Cultivation, and Other Commercial Cannabis Activity, and Options for Local Ballot Measure and Related Ordinances and Regulations 1
(Presentation by Community Development Department and City Attorney's Office, Richards, Watson and Gershon)

III. PUBLIC COMMENTS – Opportunity for the public to address items on the Agenda

IV. ADJOURNMENT

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

NOTICE: Pursuant to Government Code § 54954.3(a), the only public comment that will be permitted during this Special Meeting is that pertaining to items appearing on this special meeting agenda. Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.

Cannabis Workshop

City Council Workshop

City of Banning
99 E. Ramsey Street
Banning, CA 92220

April 10, 2018
1:30 P.M.



Overview

- Ad hoc committee meetings
- State licensing categories
- Banning vote on Proposition 64
- Ad hoc committee recommendations and restrictions that can be imposed on cannabis businesses
- Taxes

Cannabis Ad Hoc Committee

- At the June 27, 2017 City Council meeting, Council established a Marijuana Ad Hoc Committee, including Councilmembers Peterson and Welch, to work with staff on exploring the possibility of allowing cannabis uses within the City
- At the January 9, 2018 City Council meeting, staff presented the Ad Hoc Committee's recommendation to have staff prepare an ordinance allowing indoor cannabis cultivation uses in industrial zones
- The City Council concurred with the Ad Hoc Committee's recommendation and directed staff to move forward with Municipal Code Amendments to regulate indoor commercial cannabis cultivation and to prepare a ballot measure to impose a municipal tax on such activity



State Licensing Categories

There are currently 25 State licensing categories including:

- Retailer (2)
- Distributor (2)
- Testing (1)
- Manufacturer (2)
- Microbusiness (1)
- Cultivation (17)

Retailer and Distributor Licenses

- Retailer: Sells cannabis goods to customers at its premises or by delivery
- Retailer (nonstorefront): Sells and delivers cannabis goods to customers
- Distributor: Transports cannabis goods, arranges for testing of cannabis goods, and conducts quality assurance review of cannabis goods to ensure they comply with all packaging and labeling requirements
- Distributor transport: Allows a licensee to transport cannabis goods between licensed cultivators, manufacturers, and distributors

Testing, Manufacturing and Microbusiness

- Testing laboratory: A laboratory that offers or performs tests of cannabis goods
- Microbusiness: Allows a licensee to engage in cultivation (on an area less than 10,000 square feet), manufacturing (Level 1 manufacturing), distribution, and retail sale, or any combination of the four activities
- Manufacturing Level 1: For sites that manufacture cannabis products using nonvolatile solvents, or no solvents
- Manufacturing Level 2: For sites that manufacture cannabis products using volatile solvents. Volatile solvent is a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures

Cultivation

- Specialty Cottage Outdoor: An outdoor cultivation site with up to 25 mature plants
- Specialty Cottage Indoor: An indoor cultivation site with up to 500 square feet or less of total canopy
- Specialty Cottage Mixed-Light: A mixed-light cultivation site with 2,500 square feet or less of total canopy
- Specialty Outdoor: An outdoor cultivation site with 5,000 square feet or less of total canopy—or up to 50 mature plants on noncontiguous plots
- Specialty Indoor: An indoor cultivation site of between 501 and 5,000 square feet of total canopy

Cultivation

- Specialty Mixed-Light: A mixed-light cultivation site of between 2,501 and 5,000 square feet of total canopy
- Small Outdoor: An outdoor cultivation site of between 5,001 and 10,000 square feet of total canopy
- Small Indoor: An indoor cultivation site of between 5,001 and 10,000 square feet of total canopy
- Small Mixed-Light: A mixed-light cultivation site of between 5,001 and 10,000 square feet of total canopy

Cultivation

- Medium Outdoor: An outdoor cultivation site of between 10,001 square feet and 1 acre of total canopy
- Medium Indoor: An indoor cultivation site of between 10,001 and 22,000 square feet of total canopy
- Medium Mixed-Light: A mixed-light cultivation site of between 10,001 and 22,000 square feet of total canopy
- Nursery: Cultivation of cannabis solely as a nursery
- Processor: A cultivation site that conducts only trimming, drying, curing, grading, or packaging of cannabis and nonmanufactured cannabis products

How the Banning Electorate Voted on Proposition 64

- Banning voters opposed Proposition 64 (56% opposed versus 44% in favor)
- 5,213 voted against Proposition 64 and 4,215 voted in favor



Industrial Zoning

The Ad Hoc Committee recommended that Cannabis Cultivation and potential Manufacturing Level 1 uses be limited to Industrial zoning districts.



Size Limits for Businesses

Ad Hoc Committee recommendations:

- Allow businesses with an indoor cultivation site of a minimum of 10,000 square feet of total canopy area to operate in the City
- Did not address size limits for manufacturing businesses

Other options for indoor cultivation:

- 501 – 5,000 square feet of canopy area
- 5,001 – 10,000 square feet of canopy area
- 10,001 – 22,000 square feet of canopy area

Limits on Number of Cannabis Businesses

- Cities are authorized to limit the number of cannabis businesses that operate in the City
- Distance requirements from sensitive uses
 - State law sets forth a distance requirement of 600 feet from (K-12) schools, day care centers, youth centers
 - Include parks and/or residences?
- Distance requirement from other cannabis businesses?
- Recommendation for a lottery once businesses have met certain objective criteria

Distancing/Separation

Many areas of industrially zoned land (purple) are adjacent to residentially zoned property (yellow, beige, white, tan).



Distancing/Separation

Additionally, there are existing non-conforming residential uses within Industrial zoning districts.



Security

- Cash carrying/handling
 - at the facility
 - at City offices
- Building security
 - Security guard
 - security cameras
 - secure lobby/vestibule areas
- Waste processing

Additional Regulations To Be Included in Ordinance

- Not open to the general public
- Cannabis cannot be visible from outside the building
- Ventilation regulations: install ventilation and filtration systems to prevent odors generated from the cannabis business from escaping the buildings so odors cannot be detected outside of the building
- Signage: restriction on use of graphics, illumination, numbers, size
- Indemnification of the city
- Insurance requirements

Options for Additional Regulations

- Limit on hours of operation?
- Limit on not sharing wall space with any other use other than another cannabis business?
- Additional set backs?
- Other regulations?

Regulatory Permit

- Amendment to Title 5 of the Municipal Code to allow the issuance of a regulatory permit to cannabis businesses
- The regulatory permit would include background check, operation regulations, and additional regulations

Cannabis Conditional Use Permit

- Amendment to Title 17 of the Municipal Code to allow consideration of a Cannabis Conditional Use Permit to allow certain types of cannabis businesses. The Ad Hoc Committee recommended that Cannabis CUPs be reviewed by Planning Commission for recommendation and final approval by the City Council
- The Conditional Use Permit would address land use issues associated with any Cannabis business

State Taxes



- A State cannabis excise tax of 15% of the gross receipts of any retail sale
- Cultivation tax is set at \$9.25 per ounce for cannabis flowers and \$2.75 per ounce for cannabis leaves

Proposition 218 and 62 Requirements

- General taxes require a 50% + 1 voter approval to pass
- Special taxes require a 2/3 voter approval to pass
- Measure imposing a general tax cannot be placed on the ballot unless it is approved by a two-thirds vote of all members of the City Council (4/5th vote)
- Measure imposing taxes must be considered at an election consolidated with a regularly scheduled general election for members of the City Council, except in cases of an emergency

Tax Fairness, Transparency, and Accountability Act

- Proposed State ballot measure that has not yet qualified for the ballot
- Requires 2/3 voter approval of any tax, whether general or special



Tax Rates for Cannabis Businesses

Cultivation

- Typically based on a price per square foot of canopy space
- Broad range: example from \$5 to \$25 per square foot of canopy space

Manufacturing

- Typically based on a percentage of the gross receipts
- Range from 0% to 15%
- Sometimes distinction based on whether cannabis is for medicinal or adult-use