



## Legislation Text

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**File #:** 23-1817, **Version:** 1

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Planning and Building Department, Commercial Cannabis Division, recommending the Board approve and authorize the Chair to sign a Resolution of Intention **161-2023** (Attachment A) to commence the revision process to Sections 130.41.100, 130.41.200, and 3.22 of the Cannabis Ordinances.

**FUNDING:** General Fund.

### **DISCUSSION/BACKGROUND**

In March of 2023, the Board of Supervisors authorized a settlement in the matter of *El Dorado County Growers Advocacy Alliance v. El Dorado County Board of Supervisors, et al.*, Case No. 21CV0161. That litigation involved a challenge to the County's implementation of its commercial cannabis program. As part of the settlement agreement, the Planning Commission held multiple study sessions and forwarded policy discussion areas to the Board of Supervisors. On September 12, 2023, the Board held a study session, and although not required by the settlement, agreed on several cannabis ordinance changes to proceed through the ordinance revisions process, and a list of policy items to return to the Planning Commission for further discussion. During the Board's deliberations, ordinance changes related to operational and administrative aspects of the program were separated from the contemplated revisions with potential environmental impacts. The following administrative items were directed to return in a Resolution of Intention (ROI) to commence the ordinance amendment process:

- Incorporate the State definition of "owner" of a cannabis business.
- Require issuance of the annual cannabis operating permit upon completion of the conditions of the Commercial Cannabis Use Permit.
- Remove the requirement for resubmission of all application materials upon renewal of an annual operating permit.
- Consistent with General Plan Policy 8.1.4.1, the Agricultural Commission will review cannabis projects only involving land zoned for or designated agricultural or lands adjacent to agricultural lands.
- Change the existing cultivation tax structure from square footage to gross receipts.

The Board directed the following items to the Planning Commission for further review and recommendation:

- Re-evaluation of the setbacks of the cannabis ordinance.
- Consideration of expanded cannabis canopy limits.
- Changes to rules to allow for propagation and associated lighting changes.
- Changes to allow for nonvolatile manufacturing on cultivation sites.
- An examination of cannabis tax rates.
- Consideration of a multiyear cannabis license.

On September 19, the Board adopted a supplement to the minutes of September 12 to clarify the

intent to group the two tax related items within the ROI and include the multiyear cannabis license as related to the administrative portion of the ordinance revisions. The attached ROI groups the two tax items together as part of the ordinance revisions process and includes the multiyear license consistent with the discussion of September 19th. It should be noted that the cannabis tax provisions reside in Chapter 3.22 of the County Code, separate from the Zoning Code (Title 130) where all other cannabis regulations are located. The tax provisions are not subject to the statutory review process required for the zoning code.

Following adoption of the ROI, Staff will prepare an Ordinance, conduct a public hearing with the Planning Commission, and forward recommendations to the Board for consideration at the second reading and final adoption hearing.

**ALTERNATIVES:**

The Board could choose to direct staff to amend the ROI to include other topic areas, or could disapprove the Resolution and staff would make no changes to the cannabis ordinances.

**PRIOR BOARD ACTION:**

2/21/23: Item #23-0418; 9/12/23: Item #23-1501; 9/19/23: Item #23-1746.

**OTHER DEPARTMENT / AGENCY INVOLVEMENT:**

County Counsel

**CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

**FINANCIAL IMPACT**

Due to the nature of the proposed revisions, the Cannabis Division will be able to complete the task in-house but there will be costs attributable to staff time in the preparation, review, and approval process for the ordinance revisions authorized by this ROI.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Clerk of the Board will obtain the Chair's signature on one (1) original copy of the ROI.
- 2) Clerk of the Board will forward one electronic copy of the fully-executed ROI to Planning and Building, attn. Kathy Witherow.

**STRATEGIC PLAN COMPONENT**

Economic Development and Good Governance.

**CONTACT:**

Karen Garner, Director, Planning and Building