



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: September 25, 2018

Subject: Cannabis Ordinance Clean-Up and Rezoning of Knightsen into Cannabis Exclusion (-CE) Combining District

RECOMMENDATION(S):

1. OPEN the public hearing on Ordinance No. 2018-27 and Ordinance No. 2018-28, ACCEPT public testimony, and CLOSE the hearing;
2. DETERMINE that adoption of Ordinance No. 2018-27 and Ordinance No. 2018-28 is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Business and Professions Code section 26055(h) (commercial cannabis activities) and pursuant to CEQA Guidelines section 15061(b)(3) (personal cannabis cultivation);
3. ADOPT Ordinance No. 2018-27 to regulate vertically integrated cannabis businesses in the unincorporated County and prohibit all commercial cannabis activities in the Knightsen area;
4. ADOPT Ordinance No. 2018-28 to rezone the Knightsen area into the Cannabis Exclusion (-CE) combining district prohibiting the establishment of commercial cannabis uses;

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/25/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Diane Burgis, District III
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 25, 2018

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Ruben Hernandez,
925-674-7785

cc:

RECOMMENDATION(S): (CONT'D)

5. DIRECT the Director of Conservation and Development, or designee, to file the CEQA Notice of Exemption with the County Clerk-Recorder.

FISCAL IMPACT:

There are no direct fiscal impacts associated with this Board recommendation. Overall, the current department cost in staff time and materials for preparation of the County Cannabis Ordinance is approximately \$270,000. The expense for preparation of the ordinance is included in the department budget. According to the County Administrator's Office, if the county cannabis tax measure is approved by County voters in November, potential annual general fund revenues from the cannabis tax could be in the \$1.7-\$4.4 million range.

BACKGROUND:

This is a "clean-up" of the Cannabis Ordinance as approved by the Board on June 26, 2018. The clean-up will amend Chapter 84-86 of the County Cannabis Ordinance Code to include the unincorporated Knightsen area in the Cannabis Exclusion (-CE) Combining District. This ordinance also amends Chapter 88-28 of the Ordinance Code to provide that a land use permit issued for a vertically-integrated business that includes both storefront retail and commercial cultivation will count toward the 4-permit limit for storefront retail but will not count towards the 10-permit limit for commercial cultivation. This ordinance also requires cannabis delivery businesses located outside of unincorporated Contra Costa County to possess a current County health permit. This ordinance will become operative on the effective date of the Contra Costa County Cannabis Business Tax Ordinance only if the tax ordinance is approved by a majority of voters voting on the tax ordinance at the November 6, 2018, general election.

I. KNIGHTSEN REZONING TO CANNABIS EXCLUSION (-CE) COMBINING DISTRICT

At the June 26, 2018 hearing on adoption of the Cannabis Ordinance, Supervisor Burgis expressed concern regarding the potential to establish commercial cannabis uses in the Knightsen area. The Knightsen community expressed their opposition to allowing the establishment of commercial cannabis activities within their community during the public outreach process for the cannabis ordinance.

The purpose of the Cannabis Exclusion (-CE) combining district was to ensure that commercial cannabis businesses/operations (commercial cultivation, sales, manufacturing, testing and distribution) are not established in remote areas where law enforcement, fire protection code enforcement presence is limited and response times are longer. Knightsen is a mostly rural community located in eastern Contra Costa County, south of Oakley and east of the City of Brentwood. The majority of Knightsen is zoned for agricultural use, with the exception being the area of the original Knightsen Townsite located between 2nd Street, Delta Road and Knightsen Avenue, and the Atchison Topeka & Santa Fe railroad property located across Knightsen Avenue. The properties within the

Knightsen Townsite along the western side of Knightsen Avenue are zoned Retail Business (R-B) and the AT&SF RR property is zoned Commercial (C) meaning that those properties may be eligible for certain commercial cannabis uses under the new cannabis ordinance. In order to prevent the potential establishment of commercial cannabis uses on any of the properties in Knightsen within the Retail-Business (R-B) zoning district, or any other compatible zoning districts, the area of Knightsen shown on the attached maps will be rezoned to the Cannabis Exclusion (-CE) Combining District.

II. VERTICALLY INTEGRATED BUSINESSES WITH STOREFRONT

The amended ordinance also provides clarification of Section 88-28.402(c)(4) in Chapter 88-28, which currently counts vertically integrated businesses which include commercial cultivation and retail sales towards the 10-permit commercial cultivation limit. The revision clarifies that vertically integrated businesses which include commercial cultivation and storefront retail will not count towards the commercial cultivation limit of 10 permits but will count towards the storefront retailer limit of 4 permits.

III. CANNABIS DELIVERY HEALTH PERMIT REQUIREMENT

The ordinance will also be amended to include the requirement that a health permit be obtained from the County Health Department for cannabis delivery businesses operating from outside the County. Section 88-28.406(b)(2)(A) of the Cannabis Ordinance will be revised to require that licensed and permitted cannabis delivery businesses located outside the County be required to obtain a County business license and a current County health permit issued under Chapter 413-4 of the County Code. The original section of the ordinance only required a County business license, but subsequent to adoption of the Cannabis Ordinance by the Board in June 2018, a County Cannabis Health Ordinance was adopted by the Board of Supervisors on July 24, 2018 that included a permit requirement for cannabis delivery businesses operating from outside the County.

CONSEQUENCE OF NEGATIVE ACTION:

If the changes to the County Cannabis Ordinance are not approved Knightsen will not be rezoned into the Cannabis Exclusion Combining District, vertically integrated businesses with a storefront and cultivation will be counted toward the commercial cultivation cap and storefront cap, and health permits will not be required for delivery businesses operating outside the County.

ATTACHMENTS

Cannabis Update Ord. No. 2018-27

Knightsen Ordinance Map(Ord. No. 2018-28)

Knightsen Assessor's Map

Knightsen Vicinity Map

Knightsen Zoning Map