



OFFICE OF THE COUNTY COUNSEL

MEMORANDUM

DATE: June 12, 2018
TO: Board of Supervisors
FROM: Matthew Kiedrowski, Deputy County Counsel
SUBJECT: CEQA Exemption for Discretionary Cannabis Permit Programs

The Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), chaptered in 2017, included an exemption from the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*; “CEQA”) for cannabis regulatory programs that require discretionary review of permits. The County Counsel’s Office wanted to bring this exemption to the attention to the Board of Supervisors in connection with today’s presentation by Michael Baker International.

Specifically, subdivision (h) of section 26055 of the Business and Professions Code reads as follows:

Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

To summarize: the adoption of an ordinance regulating commercial cannabis activity (cultivation or facilities) that requires discretionary review for individual projects, such as a use permit, is exempt from review under CEQA. Because environmental review is required for the review of each permit or license, the statute exempts the adoption of the regulatory ordinance from its own environmental review.

The above CEQA exemption could streamline the adoption of additional ordinances regarding commercial cannabis activity, so long as those ordinances required discretionary review of each permit application. Staff requests direction from the Board as to whether staff should investigate additional cannabis ordinance opportunities that might benefit from this CEQA exemption.