



County of Sonoma Agenda Item Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

Agenda Item Number: 41
(This Section for use by Clerk of the Board Only.)

To: Board of Supervisors

Board Agenda Date: December 6, 2016

Vote Requirement: Majority

Department or Agency Name(s): County Administrator's Office, Permit and Resource Management Department, Department of Agriculture/Weights and Measures, Department of Health Services

Staff Name and Phone Number:

Rebecca Wachsberg 565-3782
Tennis Wick 565-1900
Tony Linegar 565-2371
Karen Milman 565-4700

Supervisorial District(s):

Title: Medical Cannabis Program Ordinances and Policies

Recommended Actions:

Conduct a public hearing and consider whether to:

- A. Adopt the Negative Declaration and approve the Medical Cannabis Land Use Ordinance amending the zoning code to permit and regulate medical cannabis businesses; (Majority)
- B. Adopt a resolution amending the Uniform Rules for Agricultural Preservation and Farmland Security Zones to list medical cannabis cultivation as a compatible use within Agricultural Preserves, subject to review by the Department of Conservation; (Majority)
- C. Adopt a resolution introducing, reading the title, and waiving further reading of a proposed ordinance amending Chapter 14 of the Sonoma County Code to regulate medical cannabis dispensaries and edible cannabis product manufacturing sites; (Majority) (First Reading)
- D. Adopt the Cannabis Business Tax Ordinance establishing a general business tax on cannabis operators and placing the Cannabis Business Tax Ordinance on the ballot for a March 7, 2017 election, which will become effective if it is approved by a majority of the voters voting on the measure; and Adopt a Resolution introducing, reading the title of, and waiving further reading of the proposed Cannabis Business Tax Ordinance; (Majority) (First Reading) and
- E. Adopt a Resolution declaring an emergency and calling a special election to submit to the voters of Sonoma County the proposed Cannabis Business Tax Ordinance, and ordering that the election be consolidated with the special election to be conducted on March 7, 2017.
(Unanimous vote required)

Executive Summary:

This item sets forth a proposed comprehensive regulatory framework for the local medical cannabis industry and personal cultivation consistent with the Medical Cannabis Regulation and Safety Act (MCRSA) (2015) and Proposition 64 (the California Control, Regulate and Tax Adult Use of Marijuana Initiative, 2016) to permit and regulate medical cannabis cultivators, nurseries, manufacturers, transporters, distributors, testing laboratories and dispensaries. Commercial permits enabled by the proposed ordinances are limited to medical cannabis operations. Expanding permitting of cannabis operations for adult use may be considered in the next phase of policy development.

The proposed ordinances herein include:

- 1) A Medical Cannabis Land Use Ordinance setting forth permit requirements and where and how each cannabis business type may operate;
- 2) A Medical Cannabis Health Ordinance establishing regulations and permitting for medical cannabis dispensaries and manufacturing to address product safety, labeling and advertising; and
- 3) A Cannabis Business Tax Ordinance imposing a tax on both medical and nonmedical commercial cannabis businesses to ensure the General Fund can continue to fund general governmental purposes, such as the implementation of a robust local cannabis program that includes protection of the public health and safety.

Discussion:

The cannabis industry already has a significant presence in Sonoma County, and regulating the industry has been a designated work priority of the Board of Supervisors for a number of years. In 2015, an Ad Hoc Committee, comprised of Supervisors Susan Gorin and David Rabbitt, worked with a North Coast County Collaborative to advocate for comprehensive cannabis legislation that supported the efforts of local governments, contributing to the passage of a statewide framework for medical cannabis in late 2015. As a result, the Board created the Medical Cannabis Ad Hoc Committee (Ad Hoc Committee) of Supervisors Efren Carrillo and Susan Gorin, and directed staff to explore and propose regulations for all cannabis operators. To ensure the recommended regulations were comprehensive and reflected the expertise of over a dozen County departments, staff created the Marijuana Technical Advisory Committee (MTAC). Based on direction from the Ad Hoc and consultation from the MTAC, staff have developed the following proposed regulations and policies as the first phase in regulating the local cannabis industry. It is anticipated that future phases of policy development would include regulation of nonmedical cannabis businesses, as well as more streamlined regulations as staff gather data and learn from the implementation of the initial phase.

State Law

Proposition 215 (1996), entitled the Compassionate Use Act, allowed for the use of cannabis for medical purposes by qualified patients and for caregivers to provide medical cannabis and receive reimbursement for their costs. In 2004, SB 420 established a County Health ID card program, collective and cooperative cultivation, and “safe harbor” amounts for cultivation and possession.

MCRSA was enacted in October 2015 and constructed a comprehensive framework for the regulation of medical cannabis businesses. MCRSA eliminates the cooperative/collective model and replaces it with a commercial licensing scheme under which operators are required to obtain both local and state

approval. The State is currently developing regulations and will begin issuing licenses on January 1, 2018.

On November 8, 2016, Proposition 64, the “California Control, Regulate and Tax Adult Use of Marijuana Initiative,” also known as the “Adult Use of Marijuana Act” (AUMA), passed with 57% voter approval statewide and with 59% voter approval in Sonoma County. The initiative legalized the nonmedical use, possession, and cultivation of cannabis by adults 21 years and older. As with medical cannabis businesses, local jurisdictions may choose whether or not to permit nonmedical cannabis businesses. The initiative also establishes a tax on cultivation and retail sales, and reduces criminal penalties.

Sonoma County Laws

In 2006, the County adopted guidelines under Resolution No. 06-0846, providing a defense to prosecution for possession and cultivation in limited circumstances. The guidelines allowed for a defense to be available to those qualified patients cultivating up to 30 plants in up to 100 sq. ft. per patient with no limit to the number of patients. The County first began permitting medical cannabis dispensaries in 2007 and currently permits dispensaries pursuant to Sonoma County Code Section 26-88-126. The Board amended this code section in 2012 to establish a cap to limit dispensaries in the unincorporated County to nine. There are currently five permitted dispensaries and two in the application process. No other cannabis related businesses are currently permitted in unincorporated Sonoma County.

Community Engagement

The Ad Hoc Committee and staff have conducted extensive community outreach including establishing a website, mail list, and project-dedicated email; conducting an online survey; and holding community town hall meetings in each district of the County, as well as smaller meetings with various stakeholder interest groups. Staff also participated in and attended a number of industry related conferences and events to engage industry stakeholders. The town hall meetings drew an estimated 750 attendees, and over 1,100 people responded to the online survey. Staff have used social media to engage more non-industry residents and to ensure a full range of comments and feedback. Community meetings were also held prior to the first Planning Commission meeting and prior to this Board of Supervisors meeting to present the proposals to the community and answer questions.

MEDICAL CANNABIS LAND USE ORDINANCE

The Medical Cannabis Land Use Ordinance (Attachment A) proposes a permitting scheme for medical cannabis operators including cultivators, nurseries, transporters, distributors, testing laboratories, manufacturers, deliveries, and dispensaries. The proposed regulations incorporate siting criteria, operating standards and best management practices for commercial medical cannabis operations, as well as regulations and standards for personal cultivation of both medical and nonmedical cannabis. A Land Use Table summarizing the permit requirements and allowed cannabis uses is provided in Attachment B.

Environmental Review

Environmental impacts and mitigation have been a major driver of the proposed Land Use Ordinance and associated policy options provided to the Planning Commission. Under the California Environmental

Quality Act, the County must ensure there is sufficient mitigation of potential environmental impacts through its regulatory requirements and permit standards. Given the newness of the industry and currently unpermitted nature of the proposed uses, these initial recommendations have more restrictive standards, leaving potential for a more permissive approach once data is collected and additional mitigation measures and best practices are developed. An Initial Study and Negative Declaration was prepared and circulated for a 30 day public comment period from October 1st through the 31st. The proposed Land Use Ordinance includes siting criteria, operational standards, and best management practices to fully mitigate any potential impacts.

Planning Commission

The Planning Commission considered a diverse array of policy options relating the size, scale, and standards for cannabis operations within specific land use categories. The Planning Commission accepted staff's recommendation in all cases except for a few aspects of three policy issues.

Amended Recommendations

The following issues were the primary focus of the Planning Commission's deliberations, and resulted in amended recommendations:

- 1) Personal Cultivation
- 2) Commercial Cultivation in Rural Residential Zones
- 3) Mixed Light Cultivation in Industrial Zones

Personal Cultivation

The Commission recommended allowing a maximum of 100 square feet of cultivation area per residence for medical and nonmedical cultivation, with the number of plants permitted for nonmedical cultivation capped at 6. Staff had recommended a maximum of 6 plants (medical only) indoors and 3 plants outdoors because plant count would be easier to enforce, while prohibiting personal cultivation within the R2 (Medium Density Residential) and R3 (High Density Residential) zones due to the potential impact on neighbors. The Commission expanded this to 100 square feet for personal medical cultivation with no plant limit to allow diversity of medical cannabis for patients, and because of the passage of Prop 64 expressed a six plant maximum for nonmedical and allowed medical and nonmedical personal cultivation in all zones, though outdoor personal cultivation would be restricted in the R2 and R3. There is a potential that restricting outdoor personal cultivation could impact State funding, an issue that staff was unaware of at the time of the Planning Commission's recommendation. Personal cultivation would be allowed by right and would not require a permit.

The proposed Ordinance would supersede the 2006 Resolution 06-0846 providing cultivation guidelines as a defense to prosecution. Many local residents have been guided by the limits expressed in the 2006 Resolution and are currently cultivating using a "collective" model. The proposed Ordinance includes a transition period for cultivation collectives and cooperatives that were in operation prior to January 1, 2016. These collectives and cooperatives would need to come into compliance by January 1, 2018.

Commercial Cultivation in Rural Residential Zones

Staff recommended allowing cottage size commercial cultivation in rural residential zones, which includes a maximum of 25 plants outdoor, 500 square feet indoors, or 2,500 square feet of mixed light (greenhouse). This small scale, similar to currently allowed commercial agriculture permitted in these

zones, coupled with the minimum lot sizes, setbacks, and other required standards, could be considered compatible with residential uses. Additionally, the use permit process would ensure neighbors were notified and that mitigation of impacts could be addressed on a case by case. After much discussion, the Commission voted 4-1 in favor of the staff recommendation while adding a minimum lot size requirement of two acres for indoor cultivation to decrease the density of operations in rural residential zones. The standards were revised to require the operator to live onsite and to only allow one permit per property.

The Commission also included a recommendation that as part of Phase II staff consider allowing cottage sized cultivation with a zoning permit and a 5 acre minimum lot size (in order to phase out smaller parcels over time) within Rural Residential zones.

Mixed Light Cultivation in Industrial Zones

Staff recommended allowing indoor cultivation in industrial zones, with a prohibition on outdoor and mixed light due to security and compatibility issues. Ultimately the Commission recommended including an allowance for mixed light cultivation within industrial zones with a conditional use permit after finding that the use permit process could adequately address security and compatibility concerns. This would allow greenhouse cultivation up to 22,000 square feet within the M1 (Limited Urban Industrial), M2 (Limited Urban Industrial), and M3 (Heavy Industrial) zones. The Commission also revised the required setbacks to better accommodate these uses without a 100 foot setback to property lines or a 300 foot setback to occupied business on surrounding properties. All other setback and minimum lot size requirements apply.

Other Recommendations

The Planning Commission adopted staff recommendations in the areas discussed below. A full range of policy options was considered by the Planning Commission; those options and further discussion can be found in the discussion papers on the cannabis website:

<http://sonomacounty.ca.gov/CAO/Cannabis/Proposed-Cannabis-Ordinance/>. The Land Use Table (Attachment B) summarizes recommendations for each land use and zoning district.

Outdoor Commercial Cultivation

The proposed ordinance would allow outdoor cultivation with a ministerial zoning permit in agricultural zones up to 10,000 square feet of cultivation area subject to minimum lot size requirements, Cultivation Standards, and the Agricultural Commissioner's Best Management Practices. Larger outdoor cultivation operations, up to 43,560 square feet of cultivation area, would be allowed, subject to a use permit, in agricultural and resource zones. Up to 25 plants of outdoor cultivation would be allowed on rural residential lands with a minor use permit. Zoning permits for outdoor cultivation would be issued by the Department of Agriculture/Weights and Measures and all other permits would be issued by the Permit and Resource Management Department (PRMD).

Indoor Commercial Cultivation

Indoor cultivation would be allowed in agricultural and industrial zones with a zoning permit up to 500 square feet. "Specialty indoor" operations from 501-5,000 square feet on agricultural land would be restricted to existing structures to avoid conversion of land. Larger indoor operations would be allowed

with a use permit or minor use permit within industrial zones. Small cottage sized indoor operations of 500 square feet would be allowed in rural residential zones with a minor use permit.

Mixed-light Cultivation

In addition to the industrial zones discussed above, mixed light operations would be allowed in agricultural areas up to 2,500 square feet with a zoning permit, and in the resource and rural residential zones with a minor use permit, subject to standards. Larger operations would be allowed with a use permit in agricultural and resource zones.

Multiple Cultivation Permits and Subleasing

The proposed ordinance would allow a single entity to obtain multiple cultivation permits, but the total cultivation area could not exceed one acre within Sonoma County. The Ordinance would also allow a single property owner to lease to multiple small-scale operators with ministerial zoning permits provided that the minimum lot size is met and the total area does not exceed the maximum allowed.

Nurseries

Cannabis nurseries produce clones and immature plants and supply those to commercial cultivators or dispensaries for retail sale. The proposed Ordinance would allow wholesale cannabis nurseries with a conditional use permit in agricultural, resource, and industrial zones. Indoor/greenhouse nurseries within the Land Intensive Agriculture (LIA) zoning district would be limited to existing legally established structures to avoid conversion of land. Zoning districts recommended for cannabis nurseries are similar to where non-cannabis nurseries are allowed, except that they are not recommended in rural residential zones but are recommended in industrial zones due to their predominantly indoor nature.

Testing Labs

Third party cannabis laboratories are required to test all cannabis products for cannabinoid concentration, pesticide residuals, mold, fungus, and other contaminants. The proposed Ordinance would limit cannabis laboratories to industrial zones with a conditional use permit, which is consistent with where non-cannabis laboratories are allowed.

Manufacturing

Cannabis manufacturing includes the production or packaging of cannabis products, including oils, tinctures, and edible cannabis products. The proposed ordinance would only allow manufacturing with nonvolatile solvents within industrial areas, consistent with where other manufacturing is allowed, subject to a use permit and would prohibit manufacturing with volatile solvents, which will be further defined and limited by the State once regulations are developed.

Distribution and Transportation

Distributors and transporters are responsible for transporting cannabis from cultivators, sending cannabis to quality assurance and batch testing, distributing to and from manufacturing operations, and then distributing cannabis products to a licensed dispensary. The proposed Ordinance would allow distribution and transportation facilities within industrial areas subject to a use permit, which is consistent with where other similar uses are allowed.

Dispensaries

The Ordinance proposes several changes to the medical cannabis dispensary regulations.

Existing County Code	Proposed Ordinance
Permitted in commercial zoning districts (C1, C2 and LC).	No change.
Distinction between Level 1 and Level 2 dispensaries with patient limits.	Distinction and patient limit eliminated.
1,000 ft. separation criteria from another dispensary or smoke shop.	No change.
1,000 ft. separation criteria from school, park or businesses that cater to children.	600 ft. separation criteria from school, park, child care center, and drug rehabilitation center (removing “businesses that cater to children”).
Number of dispensaries capped at 9.	No change.
Deliveries not allowed.	Deliveries allowed pursuant to use permit.
Sale of consumption devices not allowed.	Vaporizers allowed pursuant to health permit.
Sale of edibles not allowed.	Sale of edibles allowed pursuant to health permit.
Onsite consumption not permitted.	No change.

Enforcement

The proposed Ordinance establishes an enforcement program that is progressive, incentivizes compliance, and is applicable to diverse land uses. The Ordinance also includes heightened monetary penalties in order to be commensurate with the high-valued nature of cannabis industry products and businesses.

Administrative Citations

The County is in the process of developing a countywide administrative citation program. This program is scheduled to go to the Board of Supervisors for consideration and adoption in early 2017. The proposed Ordinance includes the use of administrative citations, allowing the County to issue citations for violations at the time of discovery. Administrative citation amounts would be based on the following factors; 1) whether the cultivation area exceeds the allowed permitted area; 2) if there is noncompliance with a standard or condition of the permit; and/or 3) there are unpermitted cannabis uses (other than cultivation). The citation penalty amounts would also increase depending on the number of past violations within a two year period.

Civil Penalties

The existing County code enforcement process includes applying civil penalties to violations. The proposed Ordinance includes higher civil penalties than applied to typical code enforcement violations. These penalties would apply after an operator receives a notice of violation, as described in Chapter 1-7.3. The proposed Ordinance includes the following penalty options, depending on the number of violations within a two year period:

1. A set range of penalties (ranging from \$10,000 to \$50,000);
2. A daily violation amount of \$1,000 - \$5,000 a day for each violation; and/or
3. A square footage violation of \$20-\$50 per square foot of cannabis cultivation or use area.

The proposed Ordinance also includes a three strikes provision that would revoke the permit upon the issuance of a third administrative citation within a two year period.

Estimated Fees

Based on the requirements of the proposed Land Use Ordinance and similar services within the current fee schedule, it is estimated that zoning permits issued by either the Department of Agriculture or PRMD will range from \$1,800 to \$2,500, \$2,000 to \$6,000 for minor use permits, and \$6,000 to \$12,000 for conditional use permits. The cost ranges are dependent on the level of noticing and CEQA review required, and the staff time required to process the permit.

Agricultural Preserve Uniform Rules

The Sonoma County Uniform Rules for Agricultural Preserves (“Uniform Rules”) set forth the rules and regulations governing the administration of the County’s agricultural preserve program under the California Land Conservation Act, also known as the Williamson Act (“Act”). In exchange for a long-term commitment to devote the use of his or her land to agricultural or open space use, and uses compatible with those agricultural and open space uses, a land owner receives beneficial property tax treatment.

The Uniform Rules list allowable uses for contracted land and are currently silent on cannabis or cannabis related uses. Under the proposed amendments to the Uniform Rules, cannabis cultivation would be allowed as a compatible use on agricultural contracted lands, which can take up no more than 15% of the property size. The cultivation area could not count toward the 50% minimum amount of area needed to qualify for the contract, and the landowner would not be subject to reduced property tax liability on the area dedicated to cannabis cultivation. Cannabis cultivation would not be permitted on lands under an open space contract, though the Board may consider an allowance in order to incentivize open space contracts.

MEDICAL CANNABIS HEALTH ORDINANCE

Commercialization of cannabis cultivation, manufacturing, and sale will increase the amount of cannabis in the community with resultant increased access to cannabis products and decreased perception of product risk. Commercialization in other communities has resulted in clear health impacts. Other communities have seen increased number of poisonings, due to intentional and accidental consumption; increased injuries, particularly due to motor vehicle collisions and driving under the influence; and increased mental health and substance use disorders. In addition, although current law prohibits youth use, data from other communities demonstrate an increased rate of youth cannabis use concurrent with commercialization. Cannabis use has a negative impact on the developing brain and cognitive abilities and has been connected with lower academic achievement and graduation rates. While the health consequence of cannabis commercialization are complex and need a multi-pronged approach to address them, some can be mitigated by policy and regulations. The purpose of the proposed health permit is to ensure product safety, prevent accidental ingestion or overdose, and prevent access and use by youth.

The proposed Cannabis Health Ordinance establishes regulations and health permits for medical cannabis dispensaries and edible medical cannabis product manufacturing sites. Currently, dispensaries are only required to obtain a land use permit from PRMD. With this ordinance dispensaries, as well as certain manufacturers, will be required to obtain permits from the Health Department and be subject to inspections. While some elements of the proposed ordinance will be addressed by State regulations currently under development, including those on manufacturing, labeling and advertising, it is

imperative that the County establish its own regulations in the interim to ensure the safe production and sale of cannabis products. The program established would also be available to cities within Sonoma County and the Department of Health Services has already begun working with the City of Santa Rosa to potentially implement the program within that jurisdiction in conjunction with its permitting of manufacturers and dispensaries.

Edible Cannabis Product Safety

While edible medical cannabis products are defined as “not a food” in Health and Safety code, staff proposes that all edible medical cannabis products sold and manufactured within the County comply with food safety requirements, which establish a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices, and delineate acceptable levels of sanitation.

Labeling and Advertising

The proposed ordinance also regulates the packaging, labeling and advertising of edible medical cannabis products. These regulations include identifying product source, cannabinoid concentration, allergen warning labels, and particularly address protecting young children and youth from accidental ingestion. (See Attachment I, Medical Cannabis Health Ordinance Summary, for more details).

Estimated Fees

The Department of Health Services will be proposing fees for services that will be provided directly to the payer and that do not exceed the reasonable costs to provide service. Fees will include reasonable regulatory costs including enforcement inspections, investigations, and audits. The proposed fee structure will include plan review and construction inspections as well as permits for both dispensaries and edible cannabis product manufacturing. There will be different levels of permits to allow for low and high complexity operations.

Fees will be calculated based on time/task information from other similarly structured programs and are preliminarily estimated to range from \$2,000 - \$3,000 annually for Medical Cannabis Dispensaries and from \$3,500 - \$5,000 annually for Edible Cannabis Manufacturing Sites. In addition, new facilities will be required to submit plans for review and have on-site inspections prior to opening for business. These fees will be calculated based on the hours necessary to complete the services. One time plan check and site review fees are estimated to range from \$600 - \$2,000 dependent on the service time required.

CANNABIS BUSINESS TAX ORDINANCE

Declaration of Emergency

While fees can recover costs associated with issuing permits, inspections, compliance monitoring, etc., they cannot be used to fund other costs not attributable to a permittee, including those related to code enforcement, law enforcement, policy development, health impacts and education, and environmental cleanup. Without an additional funding source, the County will not be able to address the risk and adverse impacts of legalized cannabis in Sonoma County while also maintaining the existing general governmental services that the County funds through its General Fund. Because of this threat to the public health, safety, and welfare, an emergency exists in the County, as the term “emergency” is used in Article XIII C, section 2(b) of the California Constitution.

Accordingly, staff recommends that the Board unanimously find and declare the existence of a fiscal emergency within the County. This finding will allow the County to bring a proposed Cannabis Business Tax Ordinance to the voters at the March 7, 2017 election. Without such a unanimous declaration of emergency, the County must wait until the next County General Election in November 2018 to submit the Cannabis Business Tax Ordinance to the voters – foregoing the ability to raise approximately \$10 million in tax revenue.

State Taxes

Proposition 64 (2016) imposed the first and currently only statewide cannabis businesses taxes. A 15% excise tax is imposed on dispensary (medical) and retail (nonmedical) sales, though medical sales are exempted from the standard sales and use tax (7.5% - 10%). The initiative also imposes a cultivation tax on all cannabis at a rate of \$9.25 per ounce for flowers and \$2.75 per ounce for leaves. The cumulative tax rate on the supply chain is already fairly substantial. Tax rates should be set with the understanding that tax rates that are too high can keep or drive operators underground. Based on experience in Washington and Colorado, it is recommended that the cumulative tax rate (including state and local taxes throughout the supply chain) be less than 30%.

Proposed Tax Ordinance

The proposed Cannabis Business Tax Ordinance includes authority to tax cultivation and all other support businesses including nurseries, transporters, distributors, testing labs, manufacturers and dispensaries. The key components of the proposed tax structure for cultivation and all other cannabis businesses are outlined below, with further information and analysis provided in the attached Cannabis Taxation Memo (Attachment M). The Board will have the authority at any time to adopt an ordinance adjusting the tax rate for any cannabis operator type up to the maximum amount authorized under this ordinance. All taxes will be due quarterly, and nonpayment may be a basis for permit revocation or nonrenewal.

Cultivation Tax

- Per square foot tax. The tax due would be based on the maximum cultivation area allowed under the operator's permit. This method is the easiest to assess and administer. Prior to a robust track and trace program at the State or local level, it would be difficult to obtain data on and verify how much product was being sold from cultivation sites. At this stage of the industry, a large amount of product is being diverted to the black market and this method of taxation ensures taxes on that product are not avoided.
 - Exceptions for proof of smaller cultivation area or crop loss. License types based on plant count (outdoor cottage and specialty) will be assessed based on an assumed 25 square feet per plant allowed under the permit.
- Adjusted for cultivation type. Different square footage rates for outdoor, indoor, and mixed-light cultivation are proposed to tax an equivalent percentage of estimated revenue. Annual yields vary substantially between outdoor and indoor cultivation; different rates provide tax equity between the operator types.
- Progressive tax rate. Starting rates tax smaller operators at a lower square footage rate than larger operators within each cultivation type. This provides support to the many small scale

cultivators already operating in Sonoma County and adds equity given the economies of scale gained by larger cultivators.

- **Amount.** The proposed maximum square footage rates were calculated to be roughly equivalent to a percentage tax rate of 10% of gross revenue for each cultivation type:
 - Outdoor cultivation: \$10 per square foot
 - Indoor cultivation: \$38 per square foot
 - Mixed-light cultivation: \$22 per square foot
- **Initial Rates.** The proposed starting rates are substantially lower to incentivize compliance and offset the startup costs cannabis businesses will incur in coming into compliance with local and State permitting and operating requirements. Starting rates range depending on the size of operation and as a percentage of projected revenues are intended to roughly equate to 0.5% for cottage, 2% for specialty, 3% for small and 5% for medium-sized operations. Proposed initial rates are as follows:
 - Outdoor cultivation: \$0.50 to \$5.00 per square foot
 - Indoor cultivation: \$1.88 to \$18.75 per square foot
 - Mixed-light cultivation: \$1.08 to \$10.80 per square foot
- **Authority to tax on gross receipts basis.** The ordinance also authorizes the Board to change the method of taxation on cultivation from a square foot basis to a gross receipts basis, with a maximum authorized tax rate of 10% of gross receipts.

Support Businesses Tax

- **Gross receipts basis.** Operators will report gross receipts and be taxed a percentage of that reported revenue.
- **Amount.** The maximum authorized tax rate would be set at 10%. Initial taxes for all operators would be set at 0%, except for manufacturing, which would be taxed at 5%. Lower tax rates will incentivize compliance and taxation at different points in the supply chain increases administrative difficulty and costly.

Estimated Revenue

Based on a survey by the California Department of Food and Agriculture on permit interest in Sonoma County and estimated compliance (25% for cottage and specialty cultivators and 10% for small and medium cultivators), staff estimates that revenue in FY 2017-18 at the proposed starting rates will total approximately \$5 million annually from the cultivation tax. The manufacturing tax is estimated to bring in another \$1.3 million, for a combined annual revenue of approximately \$6.3 million. Revenues are difficult to estimate due to the many unknowns about the industry and how it will transition, as well as the substantial effort required to bring the industry onboard and normalize paying taxes.

Estimated Costs and Staffing

The cannabis industry has and will continue to have numerous direct and indirect fiscal impacts on the County and the overall implementation of a comprehensive regulatory scheme requires investment in diverse areas. The following is a non-exhaustive list of costs that staff has identified as necessary to begin to ensure a successful and robust program: code enforcement, health and human services, public safety, administration, policy development, environmental cleanup, and tax collection and administration. If the tax is enacted, or other funding is identified by the Board so the land use ordinance becomes effective, staff will return with a specific proposal to fund these County services.

More information on positions estimated to fulfill this work is included in the staffing impacts narrative section below.

ECONOMIC IMPACT TASK FORCE RECOMMENDATION

To better understand the impact of the industry and inform local policy, the Economic Development Board (EDB) convened a Task Force comprised of 16 business representatives from key industry clusters. Over a period of five weeks, the Task Force members met with cannabis industry leaders to learn about the industry and then worked together to identify potential economic opportunities and threats, and formulate a series of policy recommendations. The key recommendations of the Task Force are outlined below and the full report is available online: <http://sonomaedb.org/Data-Center/Special-Reports/>.

- Ease transition: a) Establish a minimum of a one-year transition period to achieve compliance with local and state regulations; and b) Convene a cannabis stakeholder advisory group for 2017.
- Promote cannabis market: a) Ensure permits are available for all license types outlined in MCRSA; b) Promote workshops and job fairs that include both cannabis and traditional businesses; and c) Provide access to existing workforce development programs.
- Protect real estate assets: a) Fast track permitting processes to increase the supply of workforce housing and commercial building inventory; b) Encourage a cooperative farming model by allowing multiple permits on one parcel, and allowing cottage growers to cultivate collectively in a legally-designated area; and c) Limit the cultivation area to one acre per permit.

COMMUNITY CANNABIS ADVISORY GROUP

Staff recommends that the Board direct staff to convene an advisory group of stakeholders and subject matter experts to evaluate the implementation of the new cannabis ordinance, including data on trends and impacts, and provide recommendations for the next phases of implementation. The task force would consist of representatives from each operator category (i.e. nursery, cultivator, distributor, etc.), other industries in Sonoma County, city government representatives, education, health care, non-industry residents, and other stakeholders. If directed, staff would develop a proposal and present it to the Ad Hoc Committee.

Prior Board Actions:

9/20/2016: Receipt of a status report from the Medical Cannabis Ad Hoc Committee and staff.

5/24/2016: Approval of the Medical Cannabis Ad Hoc Committee Charter.

2/2/2016: Adoption of the Resolution of Intention to develop a comprehensive regulatory framework for the cannabis industry.

1/5/2016: Creation of the Medical Cannabis Ad Hoc Committee.

Strategic Plan Alignment Goal 1: Safe, Healthy, and Caring Community

The proposed cannabis ordinances and policies are necessary to protecting the health and safety of our communities, preserving our environmental resources and ensuring the industry contributes positively to the economic vitality of our County.

Fiscal Summary			
Expenditures	FY 16-17 Adopted	FY 17-18 Projected	FY 18-19 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			
Narrative Explanation of Fiscal Impacts:			
<p>It is estimated that staffing needed to implement the proposed cannabis regulations would cost \$2,180,000 - \$3,010,000 in fee-based staffing and \$1,670,000 - \$2,640,000 in non-fee-based staffing as well as additional non-fee-based funding needed for programmatic and operational needs. Additionally, increased staffing of this scale will lead to other necessary and related costs such as office space. Anticipated revenue under the proposed Cannabis Business Tax is estimated at \$6.3 million annually. Staff will return to the Board with a specific funding plan for staffing and other expenses in the third quarter of this fiscal year.</p>			
Staffing Impacts			
Position Title (Payroll Classification)	Monthly Salary Range (A – I Step)	Additions (Number)	Deletions (Number)
Narrative Explanation of Staffing Impacts (If Required):			
<p>Implementing and enforcing the ordinances and policies laid out above will require substantial additional capacity within the departments. Once the ordinances are adopted and a funding source is secured, staff will return with a specific request to add position allocations. Staff will work with Human Resources to evaluate the appropriate job classifications to perform the additional/new required duties and will develop new classifications if needed. Positions related to permitting, monitoring, and inspections will be covered by applicant fees, whereas those related to enforcement, tax collection, public safety, and health and human services would be funded primarily by tax revenue or another funding source.</p>			

Permitting, Monitoring, Inspection Staff

Funding Source: fees

Total Estimated Cost = \$2,180,000 - \$3,010,000

Total Estimated Staff = 13 - 21 Full Time Equivalents (FTE)

Department of Agriculture/Weights & Measures

Estimated cost = \$700,000 - \$1,000,000 annually, plus initial one-time costs.

Estimated staffing need: 3 to 6 Biologists and Environmental Specialists and 1 support staff.

Permit and Resource Management Department

Estimated cost = \$750,000 - \$950,000 annually, plus initial one-time costs.

Estimated staffing need: 4 to 6 FTE Planners, Permit Technician and Environmental Health Specialist and 1 to 2 support staff.

Department of Health Services

Estimated cost = \$410,000 - \$575,000 annually, plus initial one-time costs.

Estimated staffing need: 2 to 3 FTE Environmental Health Specialists and Program Manager.

Fire and Emergency Services Department

Estimated cost = \$300,000 - \$400,000 annually, plus initial one-time costs.

Estimated staffing need: 1.5 to 2 FTE Fire Inspectors and 1 support staff.

County Counsel's Office

Estimated cost = \$300,000 - \$400,000 annually, plus initial one-time costs.

Estimated staffing need: 1.5 to 2 FTE Deputy County Counsel.

Code Enforcement

Funding Source: Cannabis Business Tax, fines, penalties or other

Total Estimated Cost = \$1,220,000 - \$2,040,000

Total Estimated Staff = 8 - 14 FTE

Permit and Resource Management Department

Estimated cost = \$700,000 - \$1,200,000 annually, plus initial one-time costs.

Estimated staffing need: 4 to 8 FTE Code Enforcement Officers, Supervisor and/or Manager and 1 FTE support staff.

County Counsel's Office

Estimated cost = \$520,000 - \$840,000 annually, plus initial one-time costs.

Estimated staffing need: 2 to 3 FTE Deputy County Counsel and 1 to 2 FTE support staff.

Tax Collection and Auditing

Funding Source: Cannabis Business Tax and fees

Auditor Control Treasurer Tax Collector

Estimated cost = \$450,000 - \$600,000 annually, plus initial one-time costs.

Estimated staffing need: 3 to 4 FTE tax collection and audit services

Other Services

Funding Source: Cannabis Business Tax or other

Once the tax is enacted or another funding source is secured, staff will return with a specific proposal to address impacts related to public safety, health and human services, administration and environmental cleanup.

Attachments:

Medical Cannabis Land Use Ordinance and Rules

Attachment A: Medical Cannabis Land Use Ordinance

Exhibit A-1 Definitions

Exhibit A-2 Standards

Exhibit A-3 Dispensary

Exhibit A-4 Personal Standards

Exhibit A-5 Exclusion Zone

Exhibit A-6 Inclusion Zone

Attachment B: Land Use Ordinance Summary Table

Attachment C: Agricultural Commissioner’s Cultivation Best Management Practices

Attachment D: Resolution Amending the Uniform Rules for Agricultural Preserves

Attachment E: Amended Uniform Rules for Agricultural Preserves (Redline)

Medical Cannabis Health Ordinance

Attachment F: Medical Cannabis Health Ordinance (Clean)

Attachment G: Medical Cannabis Health Ordinance (Redline)

Attachment H: Resolution Introducing, Reading Title of, and Waiving Reading of Medical Cannabis Health Ordinance

Attachment I: Medical Cannabis Health Ordinance Summary

Cannabis Business Tax Ordinance

Attachment J: Proposed Cannabis Business Tax Ordinance

Attachment K: Resolution Introducing, Reading Title of, and Waiving Reading of Cannabis Business Tax Ordinance

Attachment L: Resolution Declaring Emergency and Calling a Special Election

Attachment M: Cannabis Taxation Memo

Related Items “On File” with the Clerk of the Board:

Task Force Economic Impact Report