



## County of Sonoma Agenda Item Summary Report

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

**Agenda Item Number: 3**  
(This Section for use by Clerk of the Board Only.)

**To:** Board of Supervisors

**Board Agenda Date:** December 20, 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  
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**Supervisorial District(s):**

**Title:** Medical Cannabis Program Ordinances and Policies

### Recommended Actions:

- A. Adopt the Negative Declaration and approve the Medical Cannabis Land Use Ordinance amending the zoning code to permit and regulate medical cannabis businesses; and
- 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.

### Executive Summary:

This item is to approve land use regulations, a component of the comprehensive Medical Cannabis Program, to permit and regulate medical cannabis businesses and personal cultivation throughout the unincorporated County. The Medical Cannabis Land Use Ordinance (Ordinance) establishes a permitting framework for commercial medical cannabis businesses engaged in cultivation, nurseries, transportation, distribution, testing, manufacturing and dispensaries. The Ordinance establishes allowable zoning districts for each land use, operator qualifications, siting criteria, operating standards and best management practices. The Ordinance also includes regulations for personal cultivation of both medical and nonmedical cannabis. Amendments to the Uniform Rules for Agricultural Preserves are also presented, which would allow operators to cultivation on lands with an agricultural Land Conservation Act Contract, but would not provide beneficial tax treatment for the cultivation area.

### Discussion:

The Medical Cannabis Program includes the following ordinances and policies:

1. Medical Cannabis Land Use Ordinance to permit and regulate medical cannabis cultivation, nurseries, transporters, distributors, testing labs, manufacturers and dispensaries;

2. Amendments to the Uniform Rules for Agricultural Preserves to address cultivation on lands under a Land Conservation Act Contract;
3. Medical Cannabis Health Ordinance to establish regulations and health permits for medical cannabis dispensaries and edible medical cannabis product manufacturing sites; and,
4. Cannabis Business Tax Ordinance to impose taxes on local cannabis operators.

The Planning Commission held public hearings on the Medical Cannabis Land Use Ordinance on October 13, October 27 and November 3, 2016, and provided recommendations to the Board of Supervisors. On December 6, 2016, the Board conducted a public hearing and considered the comprehensive regulatory framework for the local medical cannabis industry and personal cultivation. The Board closed the public hearing and approved resolutions introducing, reading the title, and waiving further reading of the proposed Medical Cannabis Health Ordinance and the Cannabis Business Tax Ordinance, and adopted a resolution declaring an emergency and calling a special election for the tax ordinance on March 7, 2017.

The Board then continued the item to December 13, 2016, to deliberate on the Medical Cannabis Land Use Ordinance and amendments to the Uniform Rules. At that meeting the Board adopted the Medical Cannabis Health Ordinance and the Cannabis Business Tax Ordinance and authorized the use of up to \$400,000 of Contingency Funds to cover the cost of placing the tax ordinance on the ballot. The Board then took a straw voted and provided direction to staff to amend the Medical Cannabis Land Use Ordinance and return for final adoption. The amendments to the Planning Commission's recommendations include:

- Removing the allowance for commercial cultivation in the rural residential zoning districts;
- Maintaining the 1,000 ft. separation criteria between dispensaries and sensitive uses; and,
- Adding a provision to consult with a city regarding proposed dispensaries within its sphere of influence.

The Medical Cannabis Land Use Ordinance and amendments to the Uniform Rules are summarized below.

#### **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*

Under the California Environmental Quality Act (CEQA), the County must ensure there is sufficient mitigation of potential environmental impacts through its regulatory requirements and permit standards. The proposed Land Use Ordinance includes siting criteria, operational standards, and best management practices to fully mitigate any potential impacts. An Initial Study and Negative Declaration evidencing this was prepared and circulated for a 30 day public comment period from October 1<sup>st</sup> through the 31<sup>st</sup>.

### *Personal Cultivation*

The Board gave direction to follow the Planning Commission's recommendation to allow a maximum of 100 square feet of cultivation area per residence for medical and nonmedical cultivation, with no plant limit for medical cultivation and a plant limit of six for nonmedical cultivation to comply with Proposition 64. Outdoor cultivation would be restricted in the R2 medium density and R3 high density residential zones and in multiunit housing. Personal cultivation would be allowed by right and would not require a permit.

The proposed Ordinance would supersede the 2006 Resolution 06-0846 that provides cultivation guidelines as a defense to prosecution. Instead, the proposed Ordinance includes a transition period for cultivation collectives and cooperatives that were operating in line with these guidelines 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*

The Board gave direction to disallow any commercial cultivation in the rural residential (RR) and agriculture and residential (AR) zones, as is reflected in the amended proposed Ordinance. The Planning Commission had recommended permitting cottage scale cultivation with the minimum lot sizes, setbacks, and other required standards.

### *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. 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.

### *Mixed-light Cultivation*

Mixed light operations would be allowed in agricultural zones up to 2,500 square feet with a zoning permit, and in the resource and rural residential zone with a minor use permit, subject to standards. Conditional use permits would be available to larger operations in agricultural and resource zones and all sizes of mixed light operations in most of the industrial zones, including M1, M2 and M3, but excluding MP.

### *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 revised Ordinance proposes the following 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, and 500 ft. from a smoke shop.	No change.
1,000 ft. separation criteria from school, park or businesses that cater to children.	No change to separation distance. For sensitive uses, “businesses that cater to children” changed to “childcare centers” and “drug or alcohol treatment centers”.

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.

*Inclusion and Exclusion Combining Zones*

The Board gave direction to staff to develop inclusion and exclusion combining zones for future consideration. These combining zones would allow the Board to carve out specific areas or properties to include or exclude certain cannabis land uses separately from what is allowed pursuant to the base zoning district.

*Enforcement*

The proposed Ordinance establishes an enforcement program that is progressive, incentivizes compliance, and is applicable to diverse land uses. The proposed Ordinance includes the use of administrative citations, allowing the County to issue citations for violations at the time of discovery. 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 to incentivize compliance despite the high-valued nature of cannabis industry products and businesses.

*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.

**UNIFORM RULES AMENDMENTS**

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. Under the proposed amendments, cannabis cultivation would not be permitted on lands under an open space contract.

**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:**

12/13/2016: Adoption of the Medical Cannabis Health Ordinance and the Cannabis Business Tax Ordinance, and authorization of the use of up to \$400,000 to place the tax ordinance on the ballot.  
12/6/2016: Adoption of a resolution introducing, reading the title, and waiving further reading of the Medical Cannabis Health Ordinance; adoption of the Cannabis Business Tax Ordinance and a resolution introducing, reading the title of, and waiving further reading of the Cannabis Business Tax Ordinance; and, adoption of a resolution declaring an emergency and calling a special election for the Cannabis Business Tax on March 7, 2017.  
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.

<b>Fiscal Summary</b>			
<b>Expenditures</b>	<b>FY 16-17 Adopted</b>	<b>FY 17-18 Projected</b>	<b>FY 18-19 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>			
<b>Narrative Explanation of Fiscal Impacts:</b>			
<b>Staffing Impacts</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A – I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>
<b>Narrative Explanation of Staffing Impacts (If Required):</b>			
<b>Attachments:</b>			
Attachment A: Medical Cannabis Land Use Ordinance Exhibit A-1 Definitions Exhibit A-2 Standards Exhibit A-3 Dispensary Exhibit A-4 Personal Standards 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)

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