



**COUNTY OF MENDOCINO**  
DEPARTMENT OF AGRICULTURE  
890 N Bush St.  
Ukiah CA 95482

**MEMORANDUM**

**DATE:** June 12, 2018

**TO:** Board of Supervisors

**FROM:** Kelly Overton, Cannabis Manager  
Matthew Kiedrowski, Deputy County Counsel

**SUBJECT:** ORDINANCE AMENDMENT TO MENDOCINO COUNTY CODE  
SECTION 10A.17.090 TO ALLOW FOR A STAY OF DENIAL OF  
CANNABIS CULTIVATION PERMIT APPLICATIONS DURING A  
ONE-YEAR NON-CULTIVATION PERIOD

**BACKGROUND**

On May 22, 2018, the Board of Supervisors directed that staff prepare an amendment to Chapter 10A.17 that would allow applicants for cultivation permits to have up to a one-year period during which action on the application would be paused, similar to the one-year non-cultivation period created for permitted cultivators earlier this year. Staff is proposing placing this allowance in section 10A.17.090 as a new paragraph in the discussion of cultivation permit applications.

The new paragraph allows applicants to file a Notice of Application Stay with the Agricultural Commissioner's Office/Department of Agriculture ("Department"). The effect of the request is that the Department will not take action to deny a permit on the basis of inactivity by the applicant to complete any required elements of the permit application. However, this section does not prohibit the County from continuing to process the application – it only prevents denial of the application based on inactivity by the applicant.

Just as a permittee may not cultivate during their selected year off, an applicant choosing a stay of denial must also refrain from cultivating beyond the amounts stated in paragraphs (B) or (C) of section 10A.17.030 during the stay. This is appropriate given the provisions of section 10A.17.160. Pursuant to section 10A.17.160(B), cultivation of cannabis by an applicant for a permit is not considered a public nuisance where the applicant has submitted an affidavit affirming that they have met the requirements to obtain a permit or are actively in the processing of fulfilling the requirements. Therefore, any cannabis cultivation during a time that an applicant is not actively in the process of fulfilling the permit requirements would be contrary to the County Code. Accordingly, administrative penalties are appropriate for violation of this

prohibition, which also shall be cause for immediate denial of the permit application followed by nuisance abatement procedures.

Following the filing of a Notice of Application Stay, the Department would conduct an inspection of the cultivation site to confirm that it is not being cultivated beyond the personal use/caregiver limits, which would be charged at the fee set in the Master Fee Schedule.

**ENVIRONMENTAL DETERMINATION:** In order to comply with the California Environmental Quality Act (CEQA) for the initial adoption of Chapters 10A.17 and 20.242, the County of Mendocino adopted a Mitigated Negative Declaration (State Clearinghouse Number 2016112028), pursuant to the provisions of CEQA. An addendum to the existing Mitigated Negative Declaration has been prepared to satisfy the requirements of CEQA. A resolution adopting the proposed addendum is part of the agenda packet for this item, with the addendum attached to the resolution as Exhibit A. The addendum makes findings on the level of significance the change to the application deadline entails with regards to environmental review.

**RECOMMENDED MOTION:** That the Board of Supervisors (1) Adopt Resolution Approving and Adopting an Addendum to the Previously Adopted Mitigated Negative Declaration, in Compliance with California Environmental Quality Act Requirements, for Amendments to Section 10A.17.090 of the Mendocino County Code, and authorize Chair to sign same; and (2) Introduce and Waive First Reading of an Ordinance Amending Section 10A.17.090 of the Mendocino County Code to Allow for a Stay in Denial of Cannabis Cultivation Permit Applications During a One-Year Non-Cultivation Period.

**ATTACHMENTS:**

1. Resolution Adopting CEQA Addendum, with Addendum attached as Exhibit A
2. Ordinance – Redline Version
3. Ordinance – Clean Version
4. Ordinance Summary