



FOR IMMEDIATE RELEASE

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Mendocino Cannabis Alliance Strongly Opposes Referendums

Ukiah, CA - Wednesday July 7, 2021 - There is a very active public conversation happening around two different referendums related to the Commercial Cannabis Activities Ordinance (Chapter 22.18) adopted by the Mendocino County Board of Supervisors (BOS) on June 22, 2021. One referendum seeks to nullify Chapter 22.18 completely, while the other seeks to remove the provision allowing large-scale expansion. MCA appreciates and shares the concern around large-scale expansion up to 10% on AG and qualifying Rangeland parcels, but believes that both referendums endanger the existing licensed businesses in Phase 1 and 2 by threatening to revoke or suspend the recently adopted discretionary land-use permit program. **Therefore, in order to protect the interests of our members, and all existing legal cannabis cultivation businesses, MCA is strongly opposed to both referendums.**

The Current Situation

Under the existing ordinance (Chapter 10A.17) the County cannot condition a permit with mitigations to bring environmental impacts to 'less than significant levels.' Without the ability to condition a permit, a business operating in compliance with Chapter 10A.17 may be denied an Annual State License and be removed from the legal cannabis market. Under Chapter 22.18, these existing businesses can be conditioned to reduce the environmental impact of their project, which would allow them the possibility to receive an Annual County Permit & State License.

Receiving an Annual County Permit is a time-sensitive issue. It is a prerequisite to receiving the State Annual License necessary to participate in the licensed cannabis market long term. The Provisional State Licensing program has an expiration date and all Provisional Licensees must have an Annual State License before the termination of that program. The County is about to open an application resubmission process for hundreds of local existing businesses currently in Chapter 10A.17. The Mendocino Cannabis Program must again review and process most applications in detail before it will be determined whether the permit can be issued under Chapter 10A.17 or whether it must be processed under Chapter 22.18. If there is an additional delay due to the suspension of Chapter 22.18, those applicants who have already been waiting more than 4 years will likely not be processed by the County and CDFA before the Provisional State Licensing system expires.

Our Opposition to the Referendums

If the referendum to nullify Chapter 22.18 receives enough votes, per State Referendum Law¹, the BOS would have to either ‘entirely repeal the ordinance,’ or ‘submit the ordinance to the voters’ for a vote. While the BOS could decide to hold a Special Election on the ordinance, due to the cost and complexity involved Chapter 22.18 would likely be suspended until the next scheduled election (June 2022) when it would go to a vote. While awaiting the vote, existing legal cultivation businesses which need to transition to Chapter 22.18 may have to discontinue their operations. They could be left out of the legal market for years until such time as a new ordinance could be developed and adopted, or be forced to shut down permanently.

Similarly, the more focused referendum to remove the 10% expansion component of Chapter 22.18 would likely jeopardize existing legal cultivation businesses as well. In a recent memo,² Mendocino County legal counsel opined that if the referendum against 10% expansion were to succeed, in order for the remainder of the ordinance to be effective, it may need to be re-adopted by the BOS. However, the ordinance was originally adopted in advance of a June 30, 2021 State statutory deadline exempting it from CEQA. Having to re-adopt the ordinance after this deadline would likely mean full CEQA analysis would be required, delaying the launch of Chapter 22.18 for an unknown amount of time. To date, there has been no defensible legal argument presented ensuring that if the referendum is successful, Chapter 22.18 would be able to open for existing businesses to transition into. In the absence of legal certainty that this referendum will not harm our Members and other existing local cannabis businesses, we must oppose it.

Acceptance of Chapter 22.18

While this ordinance, as adopted, may not be fully representative of the desires of the community, we strongly recommend that it be launched for the sake of existing businesses that will need to transition from Chapter 10A.17 to a discretionary land-use permit under Chapter 22.18. Additionally, it is critical that a strong public voice urges the County to refine Chapter 10A.17 in accordance with MCA’s [Line-by-Line Memo](#) originally submitted January 20, 2020 (including enacting the specific changes the BOS already directed to be changed). Alongside a practical and efficient Chapter 10A.17, the recently adopted Chapter 22.18 is essential for existing businesses to receive an Annual County Permit, State License, and compliance with the California Environmental Quality Act.

We cannot abandon our community members, these tax paying businesses who have suffered through four years of shifting program requirements, inefficient processing, and unreasonable delays. Only recently have they been given information that they might not “make it through” the current system — not for reasons related to “bad” behavior — but due to the misalignment of Chapter 10A.17 with State law.

¹ https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=ELEC&division=9.&title=&part=&chapter=2.&article=2.

² https://drive.google.com/file/d/1v_MbwAP06mqkx8WPi0txX9N0yWbLzwQN/view?usp=sharing

While the Board adopted Chapter 22.18 with the 10% expansion included, they acknowledged the substantial amount of public concern, and directed Staff to come back this summer with another ordinance for instituting a cultivation cap upon the launch of Chapter 22.18. The cap would start at 2 acres until 2026, at which time the cap may increase to 5 acres following public meetings to assess the impacts of the initial expansion. Then, in 2029, expansion up to a maximum of 10 acres would be considered. The direction provided was that these phased expansions are not guaranteed, but will be based on a number of as yet to be determined benchmarks. The BOS has also committed to not allow any expanded cultivation until after the State of Emergency due to the drought has passed.

Advocating for an Environmental Impact Report (EIR) for Expansion Above 2 Acres

MCA appreciates the Board's commitments to launch expansion under Chapter 22.18 with a cap once the drought emergency has ended, and we continue to advocate that a full and sufficiently detailed programmatic EIR be conducted prior to allowing any expansion over the 2 acre cap. With the 2 acre cap in place until at least 2026, there is ample time to conduct an EIR without delaying the program as envisioned. The County has received confirmation that funding is available as part of the \$18 million in jurisdictional grant money from the State as long as the EIR advances the CEQA compliance for the existing State license holders.

An EIR would provide the data-informed baseline that the community is demanding, and give all applicants, including those in Chapter 10A.17 who will have to transition to Chapter 22.18, significant legal footing in the discretionary land-use permit process. Alternatively, without an EIR, the financial burdens and time required to apply will substantially increase for all applicants to meet the level of environmental review that is necessary on a site-by-site basis. The costs and time associated with this process will potentially exclude many small local businesses from participating.

In conclusion, we ask the public not to sign any referendum, and to continue urging the Board of Supervisors to conduct an EIR prior to any expansion beyond the initial 2 acre cultivation cap to which they have already committed.

About MCA: The Mendocino Cannabis Alliance serves and promotes Mendocino County's world-renowned cannabis cultivators and businesses through sustainable economic development, education and public policy initiatives. Learn more at MendoCannabis.com.