

CHUCK MORSE
Agricultural Commissioner
Sealer of Weights & Measures

morsec@co.mendocino.ca.us



COUNTY OF MENDOCINO
DEPARTMENT OF AGRICULTURE
890 N BUSH STREET
UKIAH, CALIFORNIA 95482
Tel: (707) 234-6830
FAX: (707) 463-0240

DIANE CURRY
Assistant Agricultural Commissioner
Assistant Sealer of Weights & Measures
curryd@co.mendocino.ca.us

ARIF KEVER
Assistant Agricultural Commissioner
Assistant Sealer of Weights & Measures
Cannabis Division Supervisor
kevera@co.mendocino.ca.us

MEMORANDUM

Date: January 24, 2017

To: Board of Supervisors

From: Chuck Morse, Ag Commissioner

Subject: Proposed Revisions Originating from the Agricultural Commissioner to the Draft Medical Cannabis Compliance Ordinance (MCCO), also known as Chapter 10A.17.

BACKGROUND: Since November of 2015, the County Board of Supervisors (Board) and county staff have been working on developing local regulations governing the cultivation of medical cannabis which would align county policy with the then recently passed State legislation, known today as the Medical Cannabis Regulation and Safety Act (MCRSA). Two proposed ordinances have been developed and are currently under review to capture the desired policies of the Board. These two ordinances combined represent the proposed local regulation and are collectively referred to as the Medical Cannabis Cultivation Regulation (MCCR) to govern the commercial cultivation of medical cannabis in unincorporated Mendocino County, outside the coastal zone (as defined by the County's Local Coastal Program), consistent with MCRSA. The two individual proposed ordinances that make up the MCCR are (1) Chapter 10A.17- Medical Cannabis Cultivation Ordinance of the Mendocino County Code, administered by the Agricultural Commissioner's Office (ACO); and (2) Chapter 20.242 - Medical Cannabis Cultivation Site Regulation of the Mendocino County Inland Zoning Ordinance, administered by the Department of Planning and Building Services. The most recent changes that occurred to both of these documents were in response to direction received from the Board at their October 18, 2016 public meeting. Staff was directed at that time to implement the desired policy expressed that day and then move the documents forward for environmental analysis. This was subsequently done.

DISCUSSION: The development of the two proposed ordinances has been a process of continuous editing and improvement, as Board direction, identified functional necessity and clarifying language have necessitated such edits. In the time since the documents were last before the Board where any substantive changes were made (Oct. 18, 2016), there have been a number of items that I have identified which I feel are needed and are important to include in the proposed Chapter 10A.17. After review of the document and consideration of additional information and program functionality, I am submitting the following edits and additions to the DRAFT county Ordinance 10A.17 for the Board's consideration. This memo will detail, in summary fashion, the proposed changes individually by page number and a red-line version of draft Ordinance 10A.17 is attached which reflects these same changes. These proposed edits are, for the most part, administrative or clarifying in nature and do not affect the current environmental analysis that has been performed for the MCCR.

PROPOSED CHANGES: Briefly summarized below are the various proposed changes to the current DRAFT version of the Chapter 10A.17 document under consideration. Again, a red-line version of that document, entitled “*10A.17_Version 11 (updates added from 10-18-16 BOS mtg. and redline of proposed Ag Commissioner edits/additions)*”, is attached reflecting the summarized proposed changes below.

- A. (pg. 3) Add language to the definition of “Cultivation site” to clarify misunderstandings that have arisen over the number of cultivation areas that may be allowed on a given parcel under a single permit. NOTE: This element is also part of the Staff Report for today as well, so this item can be brought forward by the Commission as a recommendation to the Board as well.
- B. (pg. 4) Add a definition of the term “Park” to the Definitions section, as it is used in establishing setback requirements, and include in that definition State Parks.
- C. (pg. 8) Add language clarifying the time frame that a cultivator has to convert from a generator power source to an alternative power source.
- D. (pg. 9) Add language to establish that the monthly costs associated for a cultivator to participate in the county’s Track and Trace program are the responsibility of the cultivator. Additional minor clarifying language will also be on page 9.
- E. (pg. 12) Add language to establish the annual permit fee, it’s method of payment and related processes.
- F. (pgs. 13, 14, 15) Add an annual on-site compliance inspection requirement for all three of the Cottage permit types.
- G. (pgs. 16 & 17) Minor re-wording to achieve consistency. (Items #6)
- H. (pg. 20) Re-word (for clarity) language between vegetative start (clone) producer and a seed producer.
- I. (pg. 20) Add a new item (#5) to establish the maximum power allowance for nursery clone production when multiple racks vertically occupy the same square footage of floor space.
- J. (pgs. 20, 21) Correct mis-spelling and minor re-wording for clarity.
- K. (pg. 22) Add language addressing the application for a permit, how it will be processed, establish the fee requirement, detail method of fee payment.
- L. (pg. 23) Clarify how examples of “additional evidential documents” will be provided to the applicant.
- M. (pg. 25) Rewording to remove patient and caregiver requirement, as they are exempt from permitting under the proposed program and the cultivation of medical cannabis is in support of one or more dispensing collectives or processors of medical cannabis.
- N. (pg. 25) Add language to include other appropriate agency representatives.
- O. (pg. 26) Add language to include application review as a condition of permitting.
- P. (pg. 27) Add language establishing the required permit fee and other associated administrative functions related to it.

- Q. (pg. 29) Add an item that addresses guard dog(s)/animals on site relating to inspector safety.
- R. (pg. 30) Add language that clarifies the intent of the MSF Certifications program.
- S. (pg. 31) Add language establishing the required MSF program fee and other associated administrative functions related to it.
- T. (pg. 31) Add language to require that proof of payment of an application fee accompany any application submitted for potential Third Party inspectors.
- U. (pg. 32) Add language to confirm that the Ag. Commissioner's Office will be notified when a Third Party Inspector identifies any element of non-compliance.
- V. (pg. 33) Add language to clarify the establishment of the hourly inspection rate.
- W. (pg. 33) Provide additional language that: 1) details when a civil penalty action will be initiated, based on new County Codes established for Administrative Civil Penalties and 2) establish a change in permit status if such an action is taken, and detailing how civil penalties may accrue over time..

RECOMMENDATION: That the Board of Supervisors provide direction to the Agricultural Commissioner on the elements of proposed edits and additions (summarized above and contained in the red line version attached) as to the adoption of, denial of, or adopt after revision of those elements.