



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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DATE: August 19, 2016

TO: Board of Supervisors

FROM: Chuck Morse, Agricultural Commissioner
Andy Gustavson, Chief Planner

CC: Carmel Angelo, Chief Executive Officer
Steve Dunncliff, Director, Planning and Building Services
Matt Kiedrowski, Deputy County Counsel

RE: Board Approved Draft Medical Marijuana Cultivation Ordinance and Zoning Code

Attached please find the updated draft medical marijuana cultivation ordinance and zoning code which incorporates Board direction from the August 2, 2016 meeting. The attached documents are substantially in the form that will be used to prepare the CEQA Project Description and will be released next week with the CEQA Agency Consultation Notice. As previously advised by staff, it is expected that these documents will continue to evolve as they progress through the CEQA and public hearing process.

The purpose of this memo is to note a number of changes to these documents which are based on Board direction to do further research; changes necessary to conform to state law; or staff modifications on matters where Board direction was not definitive.

1. Increasing the C-A permit type (small indoor) from 2,000 square feet to 2,500 square feet was discussed but definitive direction was not given. Staff has incorporated 2,500 square feet into the draft to be consistent with the small mixed light and small outdoor permit types.
2. The Board requested additional research on appropriate wattage requirements for mixed light and indoor usage. At times in the mixed light growing cycle wattage requirements are modest, but when cloud cover or inclement weather persist for several days, mixed light usage can temporarily equal that of indoor. At such times the storage capacity of home solar systems is not sufficient to meet normal household and cultivation power demands. Staff implemented previous Board direction that generators not be utilized as the primary source of power for cultivation and established reasonable upper limits, as previously recommended by staff, for wattage per square foot.
3. The Board directed that current cultivators be allowed to transfer to a new location provided they comply with increased setbacks and more restrictive zoning requirements. Setbacks will be increased from 100 to 200 feet from a legal dwelling on an adjoining parcel under separate ownership and from 50 to 100 feet from the property line. A two acre minimum parcel size will be required for small outdoor, indoor, and mixed light permit types. Further, transfers will not be allowed to FL or TPZ even if the cultivator is currently located in those zoning districts. Transfers could be allowed to RL, UR, and AG. If warranted by the environmental analysis, removal of RL could be considered as mitigation.
4. The Board considered a requirement that new cultivators be limited to AG zoning or areas with completed watershed assessments that demonstrate availability of water to support additional cultivation. Board direction was not definitive on this point but could be inferred from the overall discussion and general acceptance of the approach suggested in the memo considered by the Board

August 2. The proposed limitation on new cultivation permits, when they become available in 2020, is arguably environmentally protective but could have unforeseen implications for agricultural property.

5. The Board considered the issue of expansion of current cultivation sites in FL and TPZ. The Board previously directed that expansion not be allowed except for current cultivators who received an exemption permit in 2010 or 2011. With implementation of the Urgency Ordinance, staff recommended inclusion of those who received permits this year. On August 2 the Board discussed allowing all current cultivators in FL and TPZ to expand, subject to applying for and obtaining an AP. That approach has been incorporated into the current draft.
6. The issue of an expedited administrative enforcement procedure was discussed on August 2. It was clarified that Planning and Building Services is working on revisions to the Uniform Nuisance Abatement Ordinance that will apply generally, not just to cannabis.
7. The Board previously directed that cultivation for outdoor permit types could be based on plant count or square footage. When a cannabis business tax based on square footage was being considered, staff recommended deleting the option for plant count. The issue has not been discussed by the Board in the context of the cultivation ordinance, but staff continues to recommend alignment with state law which relies only on square footage except for the cottage type permit. Square footage is used in this draft.
8. The Board previously directed that the interior dimensions of any structure or room that contained growing plants (including aisles, sidewall setbacks, etc.) be utilized in determining square footage. Common practice is to incorporate side wall setbacks and some aisles are obviously required. Staff recommends utilizing the total square footage of cultivation area for indoor and mixed light permitted growing, which would exclude walkways and other non-growing areas in any structure from the total square footage measurement.
9. Board direction on the name of the ordinance was not definitive, but the current draft utilizes Medical Cannabis Cultivation Ordinance.

ATTACHEMENTS

Draft Medical Cannabis Cultivation Ordinance, Chapter 10A.17

Draft Medical Cannabis Cultivation Site Zoning Code, Chapter 20.242