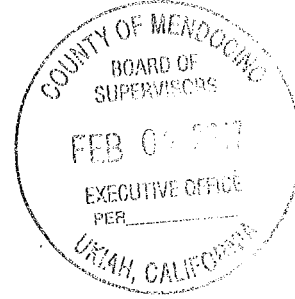


CORINNE POWELL
Ukiah, CA

February 6, 2017

Board of Supervisors
Mendocino County, CA

Re: MCCO/MCCR Ordinance



Honorable Supervisors:

Firstly, I support the comments and requests presented by Hannah Larson. Hannah is far better informed and researched than anyone on County staff and I sincerely hope you incorporate her recommendations.

Please consider my following comments and requests regarding the proposed cultivation ordinance for inland Mendocino County. At this draft, the document has made strides toward an ordinance but is not there yet.

1. County Council Recommendations:

Much time and effort has been devoted by staff to ordinances pertaining to taxation of cannabis businesses and abatement and penalties for cultivation violations, all alleged under nuisance law. But there are no clear definitions as to what constitutes a nuisance. And there is no language that addresses the threshold that will distinguish a frivolous nuisance complaint from a valid one. **Language that prevents frivolous complaints that bring to bear extremely serious consequences for cultivators is imperative. With the various disclaimers to hold County employees and agents harmless and the potential costs of a hearing defense, the cultivators deserve protective language and intent by what we are to believe is a fair minded Board.**

When I read County Council's bullet point on page 2, "Changes to 10A.17.160, "- Clarifies and limits the basis on which public nuisances may be declared", I was hopeful. The language County Council wishes to add, however, only addressed how a nuisance claim can be "prosecuted". **The MCCO/MCCR must provide**

language that protects cultivators from malicious and frivolous accusations.

Proposed language for Section 10A.17.150:

Great effort has been made to sanction a permittee and condense the time for permits to be challenged and terminated. There is no time frame, however, whereby a permittee can mitigate or resolve the complaint. Elsewhere in the draft a reasonable time frame for resolution is given to the discretion of the Ag. Commissioner. **I request that time frames for a permittee to rectify any complaints (or respond to proposed language in “Hearing Officer (2)” where Council suggests, “any failure to make a timely objection”, be realistically determined, specific and included consistently throughout the ordinance.**

Proposed language for Section 10A.17.160 (B):

County Council was wise to provide a caveat that no permits will be required for those cultivating, “otherwise in compliance with State Proposition 64...” Other elements of Chapter 20 conflict with AUMA and should be changed to protect the County from lawsuits. See Section 20.242.040 Exceptions (5).

2. Chapter 10A.17 –MCCO:

Exhibit A, Page 2, paragraph 3 (Page 140): As stated in Ag. Department forms required in June, 2016, permit holders and those filing an Ag. Dept. intent to cultivate in 2017 form, would receive preferential allocation of permits in 2017. Many cultivators filed the required form. **Please add language at the end of paragraph 3 that indicates permits will be available first to permit holders in 2016 as we were lead to believe.**

Paragraph 4: (2) **Delete (2) as it conflicts with AUMA.**
(3) Covers all concerns.

Paragraph 5: One instance where “public nuisance” needs definition, or referral to a definition.

Page 4 (142): “Legal parcel”: Remains confusing. **An assigned APN should also be part of the definition as taxes are levied per parcel number.**

“Permittee”: Other significant permit components can be inserted here. There is no mechanism to transfer a permit on a parcel, whether a permit lapsed due to death, or any temporary choice. A permit needs to run with the land if developed for the purpose of cannabis cultivation and continuously compliant and the permit holder, for any reason, no longer seeks a permit. A cultivation permit lapse for any reason not a compliance issue, should not require a retirement of that parcel’s ability to apply for a permit in the future.

Page 5, (143) paragraph 8: **“Seed Producer” Add a sentence to clarify that cultivators can produce their own seeds to perpetuate and refine strains they grow.**

Page 6, (144) paragraph 2, **“Wildlife Exclusionary fence”, This paragraph should be deleted as it is ambiguous and not proven to deter persistent pigs or gophers—neither of which deserve protection from plants. Deer do not require electric fencing (unrealistic off the grid) nor do they need burrowing protection. Barbed wire should be eliminated from consideration. Rats can be trapped and poisons can be prohibited. Otherwise, Page 8, (146) (H) is sufficient to ensure wildlife exclusionary fencing.**

As argued previously, burying fencing on established farms will cause more environmental damage than the supposed benefit any deterred rodent deserves. If the Board feels compelled to create significant soil disturbance to bury fencing, exempt Phase I permitting.

Chapter 10A.17.040

Page 7 (145) (B) **Define “normal sensitivity to objectionable odors”.**

Chapter 10A.17.050

Page 9, (147) (A) regarding patients and caregivers buying zip ties to, **“avoid unnecessary confiscation and destruction of medical cannabis plants...” How can there be any unnecessary confiscation or destruction when Prop 64 provides for personal cultivation and this ordinance provides for up to 200 square feet of cultivation area?**

Surely, any enforcement team will be trained to know the law.

(B) How are the zip tie fees justified?

Chapter 10A.17.070

Page 17, (155) (G) (4) Remove a legal dwelling unit requirement on UR parcels applying for Type 2 permits.

Chapter 10A.17.090

Page 21: Add time frames for processing and referring between County Departments.

Page 22 (H): the only reason to retire a parcel from cultivation is IF a donor parcel was unsuitable for cultivation and the permittee chose (was able) to relocate to a more agriculturally compatible parcel. **Please rewrite this section and all sections pertaining to retirement of permitability of parcels.**

Page 23: Due to the plethora of conditions required, **Please issue conditional provisional permits to cultivators who were enrolled in the Urgency Ordinance program in 2016.** The requirements, particularly interdepartmental coordination is new and untested. Cultivators who complied last year and apply to comply in 2017 need the assurance they can proceed with seasonal necessities.

Page 25, (163) **What makes clearance from CalFire inspection “applicable” and what are “implementing regulations”. When is CalFire inserted in the chain of application review by the various departments?**

Page 25 (AA): This paragraph talks about 1 acres of grading triggering a grading permit. Elsewhere, the threshold for a grading permit is 5,000 cubic yards. **Please clarify. Phase 1 permits should be exempt from grading permits as those farms are established and will be forced to comply with Water Board BMPs**

Chapter 10A.17.100

Establish time frames for County department application processing.

Chapter 10A.17.110 (M)

What are T&T and unique identifier fees? As Hannah Larson explained batch and lot identifiers may be more functional and appropriate.

Section 10A.17.170

“Attorney’s fees” are not the same for the County with a staff of attorneys on payroll and a private party’s attorney’s fees. Limiting attorney’s fees a defendant could collect should not be restricted to what the County incurred but should apply equally to the winner to collect costs of action.

3. Chapter 20.242.040, 4, 5

Page 1, (172): Conflicts with AUMA . Revise language to comply with Prop 64.

4. Planning Commission Resolution Number PC 2017-001

Page 2, line 1: Delete “and fully shielded” at end of sentence. Security lighting cannot be fully shielded by definition. Other sections of regulation address keeping light within the parcel, etc.

C.: Bio-1: Referral to CDFW review should not apply to Phase 1 as sites are already developed and disturbance of original species may no longer be relevant. Inspectors can be trained to recognize common sensitive species in various area of the County and report them if identified.

Page 3, E: Exempt Phase 1, established, previously permitted gardens from grading permits.

Page 4, G: Reduce departments’ comment period to 10 working days.

I look forward to discussion and improving our ordinance further. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Carinne Burr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.