



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: May 8, 2018

TO: BOARD OF SUPERVISORS

FROM: MARY LYNN HUNT, CHIEF PLANNER
MATTHEW KIEDROWSKI, DEPUTY COUNTY COUNSEL

SUBJECT: OA_2018-0005- AMENDMENT TO THE MENDOCINO COUNTY CODE
CHAPTER 6.36 CANNABIS FACILITIES BUSINESSES AND CHAPTER 20.243
CANNABIS FACILITIES

The Mendocino County Board of Supervisors has directed staff to amend the Mendocino County Code Chapter 6.36 Cannabis Facilities Businesses and Chapter 20.243. Cannabis Facilities (CFC) Zoning Ordinance (Mendocino County Code, Title 20, Division I), which is administered by the Department of Planning and Building Services. Chapter 6.36 applies to the entirety of Mendocino County. The zoning restrictions of Chapter 20.243 are applicable only to the unincorporated inland areas of Mendocino County.

Planning Staff addressed the Board directives in the Planning Commission staff report for Planning Commission review. The staff report prepared for the Planning Commission is attached to this agenda packet. The Planning Commission held a public hearing on April 5, 2018. At that hearing the Planning Commission solicited public comments and made recommendations to the Mendocino County Board of Supervisors regarding Ordinance Amendment OA_2018-0005 and the related CEQA-General Rule Exemption.

PROPOSED CHANGES: The proposed amendments to Chapter 6.36 - Cannabis Facilities Businesses and Chapter 20.243 - Cannabis Facilities (Ordinance No. 4394) are shown in the ordinance-redline version within this agenda packet. The proposed changes are supported by the Planning Commission. The changes include the following:

1. Medical/Adult Use References. The ordinance currently uses the phrase “medical or adult-use” throughout. Occurrences of this phrase would be eliminated in most cases as the County would not base their permit types on whether it was a medical or adult use facility.
2. 20.243.030 Definitions “Microbusiness.” - Currently, the definition of “Microbusiness” means “the cultivation of adult use cannabis on an area 10,000 square feet or less *and* acting as a licensed distributor, Level 1 manufacturer, and retailer...”. As such, applicants are required to have all four components to qualify for a microbusiness license. State law and regulations only requires an applicant to have three out of the four components to qualify. To align with the state provisions, the definition would be changed to provide, “at least three (3) of the following commercial cannabis activities: cultivation of adult use cannabis on an area 10,000 square feet or less, distribution, Manufacturing Level 1 (Non-Volatile), and acting as a licensed retailer/dispensary under this Chapter...”
3. Section 20.243.040(E) Use Classifications – Distribution. This section now refers to sub-types of Distribution licenses offered by the State, and provides that Distribution Transport Only or Self-Distribution is allowed in any zoning district as an accessory use to other CFBL types on that site, though the licensee would be restricted to distributing cannabis products grown or manufactured

by the CFBL Holder on that site. Related changes have been made following Table 1 in section 20.243.060.

4. Section 20.243.040(F)(8) Use Classifications- Microbusinesses. Microbusinesses that are home occupations or cottage industries would be limited to Distribution Transport-Only or Self-Distribution licenses for the microbusiness' own cannabis and cannabis products and limited to customer levels as allowed by the home occupation or cottage industry ordinances.
5. Section 20.243.040 (F)(9) Use Classifications-Microbusinesses. This addition would require, "All cultivation, manufacturing, distribution, and retail activities performed by a licensee under a permitted microbusiness shall occur on the same licensed premises." This is an existing requirement of the Bureau of Cannabis Control, and would be included to align with State regulations.
6. 20.243.060 Table 1(B) Permit Types and Zoning Districts –Non-Storefront Retail. The addition of this section, Non-Storefront Retail locations would be permitted in any zoning district as an accessory use to a cultivation site under application review or permitted pursuant to Chapters 10A.17 and 20.242.
7. In addition, there was minor rewording throughout the ordinance chapters for clarity and in response to public comment.

ITEMS FOR CONSIDERATION: In addition to the above changes, the Planning Commission also recommended that consideration be given to the following items by the Board:

8. Section 6.36.020. Currently, cannabis facilities are prohibited within a one thousand (1000) foot radius of a youth-oriented facility, a school, a park, or any church or residential treatment facility, as defined in Chapter 10A.17.020. In response to Board direction, an administrative permit for a reduced setback was added into section 20.243.050, but not added into Chapter 6.36. Staff has added language to section 6.36, which reflects the ability to obtain an administrative permit for a reduction in a setback pursuant to the inland zoning code.
9. Section 6.36.150(D) Temporary Cannabis Facility Business Licenses (CFBL). Extension of Time: Currently a deadline of February 28, 2018 was established for the Temporary Cannabis Facility Business Licensees temporary applications. It is recommended that consideration be given to extending the deadline for issuance of a temporary CFBL. No date was discussed. Staff needs additional information as to whether there is a need to continue issuing temporary CFBL's, or whether applicants at this point need to simply apply for a regular CFBL.
10. Microbusinesses- Multiple Premises. Support was given for allowing a microbusiness on multiple locations, though State regulations currently limit a microbusiness to a single location.
11. Square Footage of Home Occupations/Cottage Industry Microbusinesses. Under the existing Home Occupation and Cottage Industry regulations, there is reference to maximum square footage that can be utilized for the business. Questions as to what cannabis related activity counts towards the square footage have been raised. Staff recommends that cultivation and the processing of the on-site cultivation material would not be counted as part of the home occupation/cottage industry square footage. The only activities to be included in the square footage would be manufacturing, storage of material to be used for the manufacturing and the final product produced, the square footage of any distribution area, and or retail sales area.

Staff has inserted a new paragraph (F)(10) that reads as follows: "Square footage related to cultivation of cannabis or the processing of the cannabis grown on-site as part of a microbusiness shall not be counted toward the maximum square footage allowed under either a home occupation or cottage industry."

12. Section 20.243.040 (F)(2) Use Classification- Microbusinesses without Cultivation. The Planning Commission asked the Board of Supervisors to consider allowing microbusinesses without a cultivation component in additional zones. As written, Chapter 20.243 would permit any microbusiness in certain zones listed in Table 1, but otherwise would limit microbusinesses in any other zone to one that qualifies as a home occupation or cottage industry. Allowing other use types in other zones would likely require additional review of the change under both CEQA and the Planning and Zoning Law. .

13. Additional Discussion. The Planning Commission discussed additional items that were presented to them by the public such as the potential for the removal of “church” from the list of sensitive receptors. While no particular direction was given to staff to forward on to the Board, it was recommended and supported that the Board discuss and consider this and other items that the public or the Board felt necessary for change without a need to return to the Planning Commission for consideration.

Future Updates. The Board has given staff direction on considering the allowance of manufacturing on sites that no single family residence is located. Without a residence, the County would not be able to rely on its existing Home Occupation and Cottage Industry regulations that allow for certain small businesses on properties where businesses would not otherwise be permitted. Staff is considering the direction of the Board, and believes that additional time is required to research and develop language to permit such use. Such changes likely involve zoning code amendments that require additional CEQA review beyond the exemption being relied upon for the remainder of the amendments being proposed. Such changes will be brought back to the Planning Commission and the Board of Supervisors at a future date.

Staff also acknowledges that the microbusiness category as developed by the State is different than how the Planning Division has typically viewed either home occupation or cottage industry. Staff will continue to consider changes to Chapter 20.243 to make the process as workable as possible.

ENVIRONMENTAL DETERMINATION. Adoption of Ordinance No. 4394, which adopted Chapters 6.36 and 20.243, was determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3), the General Rule Exemption, as the ordinance did not have the potential to cause a significant effect on the environment. The proposed amendments are generally clarifying in nature or otherwise establish a new administrative permit, and can continue to be found exempt under the general rule exemption.

RECOMMENDATION FOR THE BOARD OF SUPERVISORS. Introduce and waive first reading of Ordinance Amendment No. OA_2018-0005, in the form attached to this agenda packet which will modify Chapter 6.36 and the inland zoning ordinance of Chapter 20 of the Mendocino County Code specifically Chapter 20.243, finding that the actions proposed do not have the potential to cause a significant effect on the environment, and is therefore not subject to CEQA pursuant to the General Rule Exemption of Section 15061(b)(3) of the CEQA Guidelines. Please see the agenda summary for a recommended motion.

ATTACHMENTS:

1. OA_2018-0005 Planning Commission Resolution
2. OA_2018-0005 Planning Commission Staff Report
3. OA_2018-0005 Ordinance Redline Version
4. OA_2018-0005 Ordinance Final Version