

## **Thoughts on Cannabis in Mendocino County**

### **Nov. 2018**

The voters legalized cannabis for recreational use, and the Counties and Cities were given the responsibility of coming up with the regulations for their jurisdictions. Behind the idea of legalization was the thought it would de-criminalize cannabis and remove the black market issues. Governmental bodies looked at the potential of increased tax revenue.

Unfortunately, the attempted regulation in Mendocino County has been an utter failure, due to the lack of clarity and follow through.

I write this anonymously because County personnel have warned a number of us living near 'permitted' cannabis grows that some growers can be dangerous due to their past, and present, connections with criminal activity. And the County gave them permits?

**Non Citizens/Undocumented Workers/Illegal Aliens.** There is no vetting of growers prior to granting them a permit to grow, if they have grown on the property before Jan. 2016. Their citizenship is not considered in the granting of a Cannabis permit to grow in Mendocino County. Mendocino County may fall back on the confusion caused by the California "Sanctuary State" Law, the California Values Act as a defense. But employers are still required by federal law to verify a prospective employee's authorization to work in the United States with the use of a Form I-9. As the County's cannabis permit is basically allowing people to start a business (work) within the County, shouldn't the grower's legal status, and background, be checked?

**Criminal Backgrounds.** Some growers are issued permits to grow, even though they have criminal backgrounds. While discussing the problems with the grows with County department personnel, numerous people have been warned by the personnel, to be careful, implying that our lives and property could be endangered by the growers. In one case, a grower with a county permit, has been deported multiple times, has a criminal record, and is being sought by ICE. Yet, the County granted him a permit to grow cannabis in an area where other properties are affected, putting those homes in jeopardy.

**Historic Grows.** The County is granting permits to grow cannabis if the person can show they grew cannabis prior to Jan. 2016. But the "proof" requirements are minimal. Further, the grower may have been growing a small amount prior to that date, but the permit is issued for 10,000 square feet of canopy area - essentially 350 plants on average. The permit is issued without consideration of how an increase in plant count will affect the environment and the neighboring properties.

**One year to come into compliance.** When the one year growing permit is granted, the grower has one year to come into compliance with governmental regulations. However, if the grower returns the next year, they are granted another permit, even if they did not come into compliance within the previous year. Growers see the County as

nothing more than a nuisance, because the County does not deny permits to those that did not come into compliance within the year. Environmental damage continues, and is expanded, in the next growing season. No erosion control, no control of the run off of contaminated waters, no sanitary facilities for workers on the property, no shade structures, no posted statements of what chemicals were used, etc. All of these things are required of other farmers (grape growers in particular), why the prejudicial treatment for cannabis growers? Should a grower that cannot provide this information to the County at the end of the year be granted a new permit?

**Use Permits/CEQUA/EIR.** Cannabis grows cause impacts on a large area surrounding the grow, reducing the quiet use and enjoyment of a large area. Yet, the neighbors are not asked their opinions, which is normally done when a Use Permit is obtained, about the affect on the neighboring properties. The impact on the neighborhood is substantial, yet, when County agencies are contacted, they say they are frustrated by the poorly written ordinances, and are unable to protect the citizens being affected. What mitigations are being enforced by the County prior to the permit being issued? Prior to writing the ordinances presently in place, was CEQUA considered, or was an EIR completed to insure no damage to the citizens or environment? Are the assumptions made under the decision for CEQUA or the EIR, proving accurate?

**Odor.** Cannabis is a unique agricultural crop, in that it causes an odor, offensive to most, that drifts an extended distance. But there are other agricultural and timber operations that cause odors and dust as well, and they are required to mitigate those issues. Dust from lumber mills, logging trucks, and odors from composting operations (both winery and otherwise), feed lots, dairy's, slaughter houses, all must be considered before allowing a business to locate in any area, regardless of the zoning. Presently, there are law suits working their way through the courts in other states regarding this problem. Numerous Mendocino County wineries have complained to the County in hopes of some resolution, only to be told there is nothing that can be done. Blending of wines, checking for contamination or spoilage isn't possible without using one's nose, and the cannabis odor prevents these essential winery operations. Tourism, and business customers are driven away by the odors. Shouldn't there be setbacks for a grow site sufficient to contain the odor within the property boundaries? Why are the neighbors forced to endure the odors from County permitted grows? Why is the County not protecting all of it's citizens prior to allowing a business to start?

**Building Permits.** A cannabis grow is a commercial operation, yet, the County does not hold the Permittee to the same obligations enforced on other commercial business operations in the County. All commercial structures in or under which, people can work, are required to be engineered and built to code. Yet, cannabis employees are allowed to work in greenhouses, drying sheds, processing buildings, that do not conform to the standards enforced on other commercial businesses. Utter lack of safety requirements. Handling of chemicals (insecticides, herbicides, fertilizers, gas, oil) is done without proper protective clothing, gloves, ear protection and goggles. There's no eye wash stations, spill containment supplies, first aid kits, fire extinguishers, exit signs, smoke detectors, fire sprinklers, ADA parking, and in many cases, no sanitation facilities

(employees are simply forced to poop in the forest). Many roads providing access to the commercial operation do not meet California Code of Regulations for Fire Safe Standards, putting the lives of employees and first responders, at risk. When a grow moves into an area, traffic on the dirt roads can greatly increase, resulting in silt build up in the creeks. Erosion control seems to be missing in cannabis grows.

**Animal Control.** Some growers use dogs chained 24/7 in the plantation to keep away wildlife. As some of the growers do not live onsite, they are not affected by the dogs barking and howling all night long. To check on the animals welfare, the animal control officer will come out, but it takes multiple visits before they can rescue the abused animal. From observation, the dog is simply replaced within a day, and the neighbors are then, once again, subjected to the barking and howling. In the process the grower is alerted to the fact the neighbors are complaining, and a hostile relationship is formed. Animal control personnel get frustrated, and getting them to respond becomes difficult.

**Noise.** Those living around a grow are subjected to the daily sounds of the grow. Generators and pumps that run for hours on end. Every morning at dawn, the backpack blowers start up to blow the dew or rain off of the plants. This can go on for hours, as multiple gas powered blowers will be used.

**Taxes.** One of the ideas put forward for legalization of cannabis, was the tax revenue that would be generated. Before permit renewal is granted, the County should insure that the growers are complied with the various tax regulations governing businesses in our country.

- Business License.

- County Business Tax.

- Sales Tax and reporting - The County knows the approximate production per plant, the average cost per pound, and the number of plants on a grow. If the grower cannot supply proof of payment of the taxes, should they be granted a new permit?

- Re Sellers Permit - If the grower is selling to a legal business, they can supply the information on that business and show why they did not have to collect and remit the sales tax.

- Income tax - Did the grower properly claim the income, and deductions on both the State and Federal forms?

- Reporting of plant count. Grape growers are required to tell the County how many vines they have - do cannabis growers do the same reporting?

**Employees.** Based on observation, all grows with more than 6 plants, have employees. Although most people do not meet the requirements of a true "independent contractor" records must be kept and a 1099 issued. Businesses are required to insure that employees have the right to work (Form I-9), and by California law, have Work Comp. Then there is unemployment insurance, SDI, Medicare, Tax Withholding, Social Security and the related reportings. All businesses within the County are required to meet these standards, at minimum. These employees are farm laborers and deserve the protections provided to all other farm laborers. Records of the chemicals used, when they were applied, shade, potable water, break periods, overtime, toilets, hand

washing stations - other farmers need to provide proof of these protections, why not cannabis growers? Why doesn't the County check the paperwork prior to issuing a permit? Does the County have an idea of the percentage of permitted cannabis grows that are meeting these requirements? Is the issuance and supervision of the cannabis grow permits costing more than cannabis is contributing to the County coffers?

**Insurance.** Although liability insurance isn't a requirement to do business in the County, it not only protects the grower, but those people and property the grower may injure. Why does the County not require a reasonable policy of liability insurance prior to issuing a cannabis grow permit?

### **Conclusions:**

Clarity should be provided to the different County departments and State agencies, prior granting permits. Numerous governmental personnel, including law enforcement, are totally confused about the Codes, and simply tell those being negatively affected, that there's nothing that can be done.

No change in county code should occur, allowing expanded planting, until the existing issues are resolved.

No permits to grow should be granted until the grow location is observed and approved by governmental agencies. Presently, growers will clear cut property, make road improvements, develop water sources, and then obtain a growing permit. Or, they may make this improvements after the permit is obtained. Either way, you can't put the trees back.

Because of it's affects on the surrounding neighbors, all Cannabis grows should be required to obtain a Use Permit. The neighboring properties should have a say about the impacts they are about to be subjected to.

Neighboring properties will need to disclosure the nuisance that was allowed to move into the neighborhood when selling their property, or potentially suffer legal liability after the sale. This will naturally reduce the number of buyers, and suppress the property value.

Based on observations of how the legalization of cannabis, and the County Ordinance(s), it seems that the intended purposes are not being met. It simply removed the pressures being exerted by law enforcement on the growers and traffickers. They are now free to continue operations as they have historically done (with minor annoyances from the County), and expand their small grows to 350 plants. To suggest that addition plantation size should be allowed before all of the above elements are addressed, is irresponsible.

Any grow that does not come into full compliance within the one year permit period, should not be renewed until complete compliance is obtained from all governing agencies.

The County should supervise the grow to make certain all laws are being followed, and taxes paid. If a grower cannot supply proof of compliance to county, state and federal laws, a permit should not be issued.

The County should verify that an applicant has the right to work. By issuing permits to those without the right to work, the County is facilitating an illegal activity.

**Discrimination:** The prejudicial treatment different categories of people or things; To not enforce the laws equally upon all people; to distinguish, single out, or make a distinction about a particular group for favorable, or unfavorable, treatment.

Why is the County of Mendocino practicing discrimination by favoring cannabis over all other businesses and citizens?