



December 7th, 2020

Re: Board of Supervisor Meeting 12/8/2020 Agenda Item 5h & 5i

Dear Honorable Board of Supervisors,

CCAG appreciates the opportunity to provide comment on the following agenda items:

1. Agenda Item 5h

Discussion and Possible Action Including Introducing and Waiving an Ordinance Amending Mendocino County Code Chapters 1.04, 1.08 and 16.30 Relating to Code Enforcement Procedures and Regulations, Including Administrative Penalty Increases Relating to Stormwater, Cannabis and Building Violations.

(Sponsors: Planning and Building Services and County Counsel)

CCAG is in support of the proposed amendments, with caveats and a few specific areas of concern. Please refer to our concerns and question per each item:

a) Compliance plans for cultivators

How will the proposed language impact the Compliance Plans of current cultivators?
What are the administrative and/or fiscal impacts on current cultivators?

b) Definition of “Responsible Party” in Sec. 1.08.030

How would the County address a situation where a landowner engaged in illegal activities (ex: grading, cultivation, tree removal) defaults on a mortgage and the land/property goes back to the previous landowner? We advocate for the County to put a mechanism in place to protect landowners who have damaged property reverted back to them due to defaulted loans from a previous buyer, without incurring any citation fees or administrative penalties.

c) Fines should only be part of the consequence for violations

How do Code Enforcement and the County create incentives to repair damaged land? Solely charging fines doesn't solve the environmental consequences and problems caused by violations. We advocate for the County and for Code Enforcement to require cleanup, replanting of trees, and other actions specific to ameliorate environmental violations, etc. incorporated into violation letters. For violators that rack up large fines that exceed cost recovery, we recommend those funds go towards remediation costs so that land/property can be repaired. For example, if someone is caught cultivating in a greenhouse on

illegally graded land and had trees removed, that would cost the violator \$400 per plant onsite based on the proposed fee changes. For someone growing 1,000 plants that would equal \$400,000! It would be a lost opportunity to not see this money spent on remediation.

d) Proving a financial burden

It seems disingenuous for the County to increase penalty fees and yet create a clause that allows someone to appeal if they can prove a financial burden. What proof does the County require to demonstrate a financial burden in this scenario?

e) Monetary fines can be rescinded

We appreciate the proposed language which would allow for a citation with monetary fines to be rescinded as a strategy to meet code compliance; however, we recommend that the County just issue a warning letter first in order to be more efficient and cost-effect. If the requirements of the letter are not adhered to, *then* a fine should be imposed and the clock begins ticking. The rules need to be structured in a way that violators take fines seriously, otherwise regulation will have the opposite effect.

f) Failure to pay fines

What are the consequences for a violator who is unable to pay the fines/fees imposed on them? What action will the County take to collect fees and achieve cost recovery on the case?

CCAG hopes this Board will take the time to consider these questions and recommendations before adopting the ordinance changes.

2. Agenda Item 5i

Discussion and Possible Direction to Staff Regarding the Cannabis Cultivation Permitting Program Priorities from September 22, 2020 and Direction to Staff to Review Additional Options for the Program Including Potential Consideration of Cannabis Cultivation as an Agricultural Activity (Sponsor: Planning & Building Services)

We would like to first thank P&BS for bringing this agenda item forward to review redesignating cannabis activity as an Agricultural activity, which could have the potential to be the answer to CEQA issues. We believe strongly that cannabis should be treated like agriculture but do have concerns for what things would change by making this new designation. Would there be unlimited allowance of cultivation in our County? Would hoop houses/greenhouses be capped in any way? Would taxes go away? Would there still be zoning restrictions? How would this impact our current County cannabis ordinance? Will a reclassification at the County level exempt cultivators from needing to do a site specific review? These are just some of the questions we hope Staff would be able to answer by exploring this new designation. If it does not help solve CEQA, will the County still consider reclassifying cannabis activity as agricultural?

Additionally, Staff should continue to work on the CDFW Interagency Agreement without pause since it's a requirement in our current cannabis ordinance for applicants

to have SSHR's complete in order to receive a County permit. Some applicants have been waiting patiently on this action to take place so they can receive a permit and the County should not delay this process, especially given all of the work that has been done between the Ad Hoc and CDFW. CCAG also believes it's important to continue cost recovery work analysis. This work will help inform the Board and community of what it will cost applicants if the County sub-contracts outside help.

Finally, we strongly believe that the most important action of all at this time is to seek outside counsel to get the most effective perspective on the issues the cultivation program faces with respect to CEQA compliance. Until we have a solid answer by a CEQA expert, it seems the County is not prioritizing the time we have left to figure out these complex issues.

Thank you for the opportunity to provide comment on these agenda items.

Sincerely,

Monique Ramirez
for the Covelo Cannabis Advocacy Group