



# Mendocino County Farm Bureau

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Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

December 8, 2020

Via Email: [bos@mendocinocounty.org](mailto:bos@mendocinocounty.org)

Mendocino County Board of Supervisors  
501 Low Gap Road, Room 1010  
Ukiah, CA 95482

**RE:**

***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.***

***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***

Dear Chair Haschak and Supervisors,

The Mendocino County Farm Bureau (MCFB) is a non-governmental, non-profit, voluntary membership, advocacy group whose purpose is to protect and promote agricultural interests throughout the county and to find solutions to the problems facing agricultural businesses and the rural community. MCFB would like to submit comments on agenda items 5h and 5i for the December 8, 2020 Board of Supervisors meeting.

## ***Comments on 5h***

### General Comments

- It has been requested on several occasions that more regular reports be provided from code enforcement or other county staff on what cannabis related enforcement actions have been taken. Additional reporting should come back to the Board of Supervisors in 2021 especially if expanded code enforcement procedures and penalties are being considered.

- The county needs to continue to address how to provide resources to the Sheriff's department and code enforcement for the purpose of contending with non-permitted cannabis cultivation. Clarification on the processes for how code enforcement interacts with the Sheriff's department related to illegal cultivation would be appreciated.

Sec. 1.08.060 (H)

2a. For the purpose of this subsection, 1.08.060(H)(2), a cannabis plant includes each mature or immature plant of *Cannabis sativa L.*, *Cannabis indica*, or *Cannabis ruderalis*, which has breached the surface of the soil or other media in which it is growing.

It should be specified that this section for cannabis related violations does not cover industrial hemp which is defined in Section 297A of the Agricultural Marketing Act of 1946 (AMA, 7 U.S.C. 1621 et seq.) as: *the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.*

***Comments on 5i***

Cannabis as an Agriculture Activity:

There was no background information for this agenda item to provide insight into the reasoning for wanting to redefine cannabis as an agricultural activity. It is assumed that this is in relation to the ongoing CEQA conversations for Phase 1 permits that is in process with the current ad hoc committee made up of Supervisors Haschak and Williams.

Due to the lack of background, it is unknown as to what cannabis cultivation permit types this proposed redefinition would apply to and how this proposal would influence the CEQA process for local permittees. It is also not known if state agencies, such as the CA Department of Food and Agriculture (CDFA) were consulted in how a local redefinition of cannabis could create conflicts with existing state cannabis definitions.

For these reasons, and the ones listed below, MCFB does not agree that Mendocino County should move forward with redefining cannabis as an agricultural activity.

- Cannabis is defined as an agricultural product under the Business and Professions Code (BPC Div. 10. Section 26069 (a)) rather than Food and Agricultural Code. That distinction was purposeful and intentional by the enabling State legislation.
- CDFA administers sections of division 10 related to the cultivation of cannabis, but cannabis is not regulated under the Food and Agricultural code like traditional agricultural commodities. Cannabis is not eligible as a qualifying use in the Williamson Act Program, is not privy to the California Marketing Act, the California Seed Law, or nursery licensing, among other things, because it is not a bona fide agricultural commodity.

- Cannabis remains federally illegal, which brings numerous complications into the conversation of comparing cannabis to traditional agriculture. CDFA must be considerate of this federal designation or there could be implications for federal funding provided to the department for various programs.
- Santa Cruz County’s recent determination (June 2020) of re-defining cannabis as an agricultural activity warrants additional documentation of the claims being stated (see excerpt below) that CDFA has clarified cannabis cultivation as an agricultural activity. MCFB was not able to substantiate this information and would request that Mendocino County seek additional documentation from CDFA regarding this statement.

*“ The fact that the State defines cannabis as an agricultural product (i.e., a finished good) rather than an agricultural commodity (i.e., a raw material) further muddies the waters. This view point is widespread throughout California, but that view is changing as the State, specifically the California Department of Food and Agriculture (CDFA), has clarified the term “commercial cannabis cultivation” is only meant to define cannabis cultivated for commercial purposes. The CDFA also clarified that cannabis cultivation is an agricultural activity, not a commercial activity.”<sup>1</sup>*

- The U.S. Department of Agriculture (USDA) does not recognize cannabis as an agricultural commodity which is why the county department of agriculture crop reports can include cannabis as an addendum, but not as part of the crop statistics reported to CDFA and then in turn to USDA. The same can be said for organic designation, federal incentive programs like EQIP and others, and pesticide use under Federal law.
- Once the discussion moves forward at the federal level to legalize cannabis, then there could be opportunities to see more parity between cannabis and other agricultural crops. However, until this occurs, it is premature to have the county define cannabis as an agricultural activity.

MCFB requests that the Board of Supervisors consider all the points above in the process of discussing agenda item 5h and 5i. If there are any questions on any of the above points, please do not hesitate to contact the MCFB office.

Sincerely,



George Hollister  
President

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