



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

April 27, 2021

Re: Commercial Cannabis Activities Ordinance - 4/27/2021

Honorable Supervisors,

We previously emphasized the urgency of crafting the CCAO into a workable pathway for Phase 1 & 2 program participants, and outlined the following recommendations for achieving this goal:

The CCAO should ensure that Phase 1 and 2 permittees and embossed receipt holders transitioning to the CCAO will be able to:

1. Continue operations (under the rules of 10A.17) while they transition and wait for their Land Use Permit under the CCAO to be issued;
2. Have priority review of their CCAO Permit applications, whenever submitted;
3. Have a minimum of 60-days to re-submit their 10A.17 application (after the portal opens) before they are deemed ineligible to transfer to the CCAO due to “non-responsiveness to requests for information from the County” under 10A.17;
4. Per the Planning Commission’s recommendations regarding the Phase 1 and 2 program, participants transitioning to the CCAO:
 - i. Utilize an Administrative Permit;
 - ii. Be given a 60-day early application window;
 - iii. Utilize a streamlined application process incorporating their Phase 1 or 2 application.

Additionally, we have the following recommendations in response to the discussion during the Board meeting on 4/19/21 and the Staff Memo providing options for consideration as directed by the Board on 4/19/21:

#6 on Memorandum Options Regarding Limitations on Hoop House and Greenhouse Structures

We support Staff Option #2 proposed in the Staff Memo. This option limits Mixed Light and Indoor cultivation to the sizes allowed in Phase 1 and 2 for new applications and provides no

opportunity for expansion beyond the currently allowed 10,000 sq ft maximum canopy area for ML or Indoor cultivation.

- We do not support any changes to the Ag-Exempt Building Policy that would further limit the total square footage of ag-exempt hoop houses or greenhouses beyond the current limitations. Leaving the current policy as-is will lead to less confusion and should be easiest to implement.

#7 on Memorandum - Expansion Into Rangeland (All Cultivation on Rangeland)

We support *Staff Recommendation #1*. This recommendation proposes to limit the size and type of cultivation on Rangeland, rather than create yet another hard to manage “proof-of-prior-cultivation” scenario. We support limiting Outdoor Cultivation to 1 acre and limiting Mixed Light Cultivation to 10,000 sq ft on Rangeland.

Comments On Directives from Staff Memo

A. Slope Restrictions

- We continue to recommend alignment with State Water Board Policy.
- Sites over 2,000 sq ft and under 1 Acre are defined as Low Risk if “No portion of the disturbed area is located on a slope greater than 30 percent.” Sites are defined as Medium Risk if “Any portion of the disturbed area is located on a slope greater than 30 percent” but less than 50%.
- [Water Board FAQ](#)

B. Water Issues

- Drought Conditions - We agree that no expansion of cultivation under the CCAO should happen in 2021, and we believe that expansion should not take place until we are no longer in severe drought conditions.
- Hydrological Studies - We believe that a hydrological study requirement should be incorporated into the Standard Conditions, not the ordinance. The requirement should be further defined and some flexibility given to the Planning Department regarding implementation.
- Water Trucking - We recommend that licensed cultivators simply be allowed to use all legal water sources. This includes legal commercial water delivery. The County should accept that licensed cannabis cultivations **MUST** provide evidence to the State that they are using a legal water source. If that legal water source is delivery, then the water provider must have the appropriate rights and license to provide commercial water to cannabis. The County should leave water use regulation to the State.

C. CCAO Application Workflow Management

- We fully support the Staff Recommendation to allow staff discretion in deciding when they will and will not accept CCAO applications. Additionally, we strongly recommend that more planners be hired immediately to work through both Phase 1 and 2 operators transitioning to the new ordinance, and new applicants coming into the program for the first time.

D. Fencing Requirements

- We recommend that limitations or requirements for fencing be left to the Planning Department and the Planning Commission to decide on a site-specific basis. CEQA already requires that aesthetic impact be analyzed and appropriate conditions may already be placed on each project.

E. Enforcement

- We continue to agree with the Sheriff and the Board on the need for enhanced enforcement of egregious environmental and safety violations related to illegal cannabis cultivation. We applaud the Board's commitment to launch the digital submission of applicants' complete applications as an initial step to identify those who are working to maintain compliance in the program and those who are not, prior to engaging in heavy handed enforcement of current Program Participants.
- It is important to note that at the heart of the Humboldt County enforcement program is a desire to bring as many operators into compliance as possible. In order to achieve that goal, when a cultivation site is identified as not being in the program, the property owner is given an application to enter the program. In order to be truly effective, there must be an open program to receive those applications from those who would choose to become compliant.

More Compliance = More Community Protections

MCA believes that the best way to solve the problem of unregulated cannabis cultivation in Mendocino County is to open a reasonable pathway to licensure for parcels in the county that are not in Opt-Out or Sunset Zones.

Cultivation sites in the program are the most heavily regulated agricultural operations in the State. The most effective ways to mitigate potential damages from unregulated cultivation are to allow more operators to become regulated, through the CCAO, and to amend and reopen Phase 1, even if that means programmatic CEQA documents will need to be created and/or amended.

Opening the permitting process to more Mendocino County businesses will enable the County to determine who is willing to participate and be regulated, and who is not. This would benefit the entire community and do much to prevent severe negative socio-economic impacts in our community.

We recommend:

- Parcels of 1 - 5 acres in any non Opt-Out or Sunset Zone should be able to apply for a cottage permit (up to 2,500 sq ft), with an Administrative Permit, or up to 5% of parcel size with a Use Permit
- Parcels of 5 - 10 Acres in any non Opt-Out or Sunset Zone should be able to apply for permit types up to and including 5% of parcel size with a Use Permit
- Phase 1 & 2 Parcels of 10 Acres or more in any non Opt-Out or Sunset Zone should be able to increase their canopy up to 1 acre with a Use Permit.

MCA remains ready to work with the Supervisors, the Mendocino Cannabis Program, and County Staff to ensure that both the new CCAO and the existing 10A.17 ordinance are optimized to create efficiencies for all stakeholders and a clear pathway forward for all those who desire to participate in the licensed cannabis program in Mendocino County.

We implore you to please take these suggestions into deep consideration and incorporate them directly into the ordinance.

We thank you for all the time you have taken with these delicate and complicated issues.

Sincerely,

Mendocino Cannabis Alliance