



Mendocino County

Legislation Text

File #: 21-0168, Version: 1

To: Board of Supervisors

From: Supervisor Williams and Supervisor Haschak

Meeting Date: January 25, 2021

Department Contact: Supervisor Williams

Phone: 4441

Department Contact: Supervisor Haschak

Phone: 4441

Item Type: Regular Agenda

Time Allocated for Item: 90 Min

Agenda Title:

Discussion and Possible Action including Direction to Staff and Requesting the Planning Commission Review and Make Its Report and Recommendation to the Board of Supervisors Within Forty Days on (1) Draft Amendments to Mendocino County Code Regarding Commercial Cannabis Cultivation; and (2) Draft Amendments to Mendocino County Code Regarding Commercial Cannabis Facilities and Cannabis and Other Special Events

(Sponsor: Cannabis Ad Hoc Committee of Supervisors Williams and Haschak)

Recommended Action/Motion:

Direct staff to submit proposed County Code amendments related to commercial cannabis cultivation, facilities and cannabis and other special events to Planning Commission to review and make its report and recommendations on the proposed amendments within forty days.

Previous Board/Board Committee Actions:

Adoption of Ordinance No. 4381, adopting Chapters 10A.17 and 20.242 to the Mendocino County Code. Adoption of Ordinance No. 4392, making certain amendments to Chapter 10A.17. Adoption of Ordinance No. 4394, adopting Chapters 6.36 and 20.243. Adoption of Ordinance No. 4405, making modifications to Chapter 20.242. Adoption of Ordinance No. 4408, making additional amendments to Chapters 10A.17 and 20.242. Adoption of Ordinance No. 4410, amending Chapters 2.36 and 20.243. Adoption of Ordinance No. 4411, making additional amendments to Chapter 10A.17. Adoption of Ordinance No. 4413, making additional amendments to Chapter 10A.17. Adoption of Ordinance No. 4420, making additional amendments to Chapters 10A.17 and 20.242 as well as adding Chapters 20.118 and 20.119 to County Code. Adoption of Ordinance No. 4422, making additional amendments to Chapters 10A.17 and 6.36. Adoption of Ordinance No. 4438, making additional amendments to Chapters 10A.17 and 20.242. Adoption of Ordinance No. 4463, making additional amendments to Chapter 10A.17.

In addition to the Ordinances noted above, the Board has previously given direction to staff on the Cannabis Cultivation Permitting Priorities on September 22, 2020, October 13, 2020, December 8, 2020 and January 7, 2021.

On October 13, 2020, the Board directed staff to develop a Phase Three discretionary use permit program and update zoning table to restrict cultivation activity in residential neighborhoods and locate expanded

agricultural activities in agriculturally appropriate zones, specifically allowing cultivation in Rangeland, and allowing for cultivation area up to 10% of parcel size in UR, RL and AG zones.

Summary of Request:

The Cannabis Ad Hoc Committee has worked with County staff on amendments and additions to the County Code regarding cannabis cultivation and cannabis facilities in response to direction previously given by the Board of Supervisors on both matters. Draft proposed amendment language is attached to this agenda item.

In addition, since amendments are being proposed related to cannabis events, staff has also pre-pared amendments related to events and festivals beyond cannabis events, including the elimination of Chapter 6.16 - Outdoor Festivals and placing all requirements related to festivals and events into the Zoning Code's special event permit section. The Treasurer-Tax Collector was consulted and is in support of this change.

The Ad Hoc Committee also recommends requesting the Planning Commission to make its report and recommendation on the proposed ordinance changes within forty (40) days, in an effort to bring these matters back to the Board on an expedited timeframe.

Supervisor Williams states "the County's existing Cannabis Cultivation Ordinance only allowed permitting of farms with proof of cultivation prior to January 1, 2016. Legitimate land use policy must not favor certain groups for economic benefit. It is beyond time to open the market to new applicants and treat all applicants as equal."

Cultivation in Mendocino County requires both a county permit and a state license. The County's 10A.17 "Phase 1" Cannabis Cultivation was developed prior to State regulations and despite endless board focus, it could never be properly aligned. Recent board action has attempted to open and document paths toward state licensure, but staff expects 85% of Phase 1 applicants to fail on the path to state license. Without a timely land use ordinance, cultivators will not meet the state's sunset of pro-visional licenses scheduled for January 1, 2022, effectively designating nearly all outdoor cultivation as illegal once again.

The lack of clarity on both county permit and state license status has created an unenforceable cultivation paradigm. Unlike "Phase 1", the proposed discretionary cannabis cultivation ordinance will not allow plants in the ground pending approval, but rather require the operator to meet all requirements in advance. This will mitigate the negative public safety and environmental aspects through oversight and enforcement.

The adoption of the proposed ordinance will satisfy dependencies necessary for an updated Cannabis Facilities to enable direct farm sales. Without these changes, onsite farm transactions will remain illicit activity under the cover of the regulated framework. Again, this proposal attempts to strike a balance of responsible community values and elimination of outlaw activity.

Without a timely state compatible regulatory framework, the negative impacts frequently associated with cannabis cultivation are expected to increase, resulting in an unregulated, unstudied and potentially significant negative impact on the environment and upon the public peace, health and safety.

The public has time and time again demanded that the Board of Supervisors fix the broken Cannabis Cultivation framework. The board gave initial direction to staff to begin the "Phase 3" land use ordinance over a year ago. The recommendation action offers follow through on existing board direction, creates alignment between county and state law and provides clarity to law enforcement

Alternative Action/Motion:

No action, or provide alternative direction to staff.

Supervisory District: All

vote requirement: Majority

Supplemental Information Available Online At: N/A

Fiscal Details:

source of funding: N/A

current f/y cost: N/A

annual recurring cost: N/A

budget clarification: N/A

budgeted in current f/y: N/A

if no, please describe:

revenue agreement: N/A

Agreement/Resolution/Ordinance Approved by County Counsel: N/A

CEO Liaison: Executive Office

CEO Review: Yes

CEO Comments:

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Executed By: Atlas Pearson, Deputy Clerk I

Date: January 26, 2021

Final Status: **Direction Given to Staff**

