Mendocino County

Legislation Text

File #: 21-0613, **Version:** 1

To: Board of Supervisors

From: Planning and Building Services

Meeting Date: June 2, 2021

Department Contact: Julia Acker Krog **Phone:** 234-6650
Department Contact: Ignacio Gonzalez **Phone:** 234-6650

Item Type: Noticed Public Hearing **Time Allocated for Item**: 6 Hours

Agenda Title:
Noticed Public Hearing - Discussion and Possible Action to Introduce and Waive First Reading of an Ordinance Adopting Mendocino County Code Chapter 22.18 - Commercial Cannabis Activity Land Use Development Ordinance and Making Corresponding Amendments to Chapter 10A.17 - Mendocino Cannabis Cultivation Ordinance and Chapter 20.242 - Cannabis Cultivation Sites
(Sponsor: Planning & Building Services)

Recommended Action/Motion:
Introduce and waive first reading of an ordinance adopting Mendocino County Code Chapter 22.18 - Commercial Cannabis Activity Land Use Development Ordinance and making corresponding amendments to Chapter 10A.17 - Mendocino Cannabis Cultivation Ordinance and Chapter 20.242 - Cannabis Cultivation Sites.

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. 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. 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, December 8, 2020, January 5, 2021, January 25, 2021 and February 9, 2021.

On March 22, 2021, the Board of Supervisors adopted an urgency ordinance authorizing a temporary moratorium on the commencement of Phase Three cannabis cultivation permitting pending the study and consideration of land use and other regulations pertaining to cannabis cultivation.

On April 19, 2021, the Board of Supervisors held a Noticed Public Hearing on the draft ordinance where the agenda item was continued to the April 27, 2021 agenda with direction to staff to prepare options for Board consideration regarding several topics related to the draft Ordinance.

On April 27, 2021, the Board of Supervisors provided direction to Staff on the draft Ordinance and directed that the draft Ordinance be referred back to the Planning Commission for additional review on several topics.

Summary of Request:
Proposed Chapter 22.18 would regulate the cultivation of cannabis as a land use issue and review it under existing standards within the Zoning Code, it requires a use permit or administrative permit for cannabis cultivation operations, and provides for site specific review of all proposed sites. In addition, the proposed Ordinance seeks to eliminate the duplicative permitting process that is currently required by Chapter 10A.17, where cultivators must obtain a local Permit and also a State License that are largely reviewing the exact same criteria. The proposed Ordinance would require a cannabis cultivator to obtain the appropriate discretionary permit locally to authorize the proposed use, as required by proposed Appendix A Chapter 22.18, and as such would be subject to stringent review related to compliance with requirements of the Zoning Code and the California Environmental Quality Act. All setback criteria from sensitive receptors and residential structures on adjacent lots, method of cultivation, background check, and other limitations would be handled through the State License process and all cultivation operations would be subject to compliance with the State regulations in regards to how the cannabis is cultivated. Since each cannabis cultivation operation will be reviewed under a discretionary permit, each site will be reviewed individually for compliance with the California Environmental Quality Act (CEQA). This will allow for appropriate site specific conditions and/or mitigations to be applied to these operations to reduce potential impacts to less than significant levels. Neighborhood concerns would be addressed through the discretionary permit process and required findings would need to be made by the approving authority of discretionary permit in order to assure that the activity would not "constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county." Corresponding changes to Chapters 10A.17 and 20.242 are proposed as well to avoid conflicting and/or overlapping regulations. In particular, Phase Two of Chapter 10A.17 has been given an end date and Phase Three has been eliminated.

The Planning Commission, at their March 19, 2021 special meeting, adopted a resolution making a recommendation to the Board of Supervisors that they approve the Project by adopting an ordinance amending Mendocino County Code, Title 22, to add Chapter 22.18 and amending Chapters 10A.17 and 20.242 of the Mendocino County Code to remove reference to the previous permitting system, with modifications made at the meeting and as specified in their resolution.

The Planning Commission, at their May 6, 2021 meeting, adopted a resolution making a further recommendation to the Board of Supervisors that they adopt an ordinance amending Mendocino County Code, Title 22, to add Chapter 22.18 creating a new discretionary cannabis cultivation permitting system and amending Chapters 10A.17 and 20.242 of the Mendocino County Code to remove Phase 3 of the previous permitting system, with modifications made at the meeting and as specified in their resolution.

Please see Staff Memorandum, Ordinance and associated documents for additional detail.

Alternative Action/Motion:
Provide direction to staff.

Supervisorial District: All

vote requirement: Majority

Supplemental Information Available Online At:
<https://www.mendocinocounty.org/government/planning-building-services/public-notices>

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: No
if no, please describe:
revenue agreement: N/A

Agreement/Resolution/Ordinance Approved by County Counsel: Yes

CEO Liaison: Steve Dunnicliff, Deputy CEO
CEO Review: Yes
CEO Comments:

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Executed By: Atlas Pearson, Deputy Clerk I
Date: **JUNE 3, 2021**

Final Status:Approved with Modification