



County of Sonoma

State of California

THE WITHIN INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE

ATTEST: March 15, 2022

SHERYL BRATTON, Clerk/Secretary
BY *Noelle Francis*

Date: March 15, 2022

Item Number: 22

Resolution Number: 22-0088

☐ 4/5 Vote Required

Resolution Of Intention Of The Board Of Supervisors Of The County Of Sonoma, State Of California, To Direct and Guide Staff In Its Preparation Of a Draft Ordinance, Potential General Plan Amendments, And A Programmatic Environmental Impact Report To Amend The Cannabis Land Use Ordinance And Related Regulations

Whereas, in 1996, the voters of the State of California approved Proposition 215, "The Compassionate Use Act" (codified as Health and Safety Code Section 11362.5), which was intended to decriminalize cultivation and possession of medical marijuana by a seriously ill patient, or the patient's primary caregiver, for the patient's personal use, and to create a limited defense to the crimes of possessing or cultivating cannabis. The Compassionate Use Act further provided that nothing in it shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for nonmedical purposes; and

Whereas, the State enacted SB 420 in 2004 (known as the "Medical Marijuana Program Act", codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering medical cannabis, as well as limiting the amount of medical cannabis a qualified individual may possess; and

Whereas, the Sonoma County Board of Supervisors adopted Medical Marijuana Possession and Cultivation Guidelines on September 26, 2006 by Resolution 06-0846. The Guidelines provided a limited defense to prosecution or other sanction by the County of Sonoma and was only available to someone who possesses or cultivates marijuana for personal medical use. These Guidelines were not zoning code regulations, and did not allow or regulate any manner of cultivation, growing, or delivery of marijuana; and

Whereas, the Sonoma County Board of Supervisors adopted Ordinance No. 5715 on March 20, 2007, establishing use permit requirements and standards for medical cannabis dispensaries in

the unincorporated area, and Ordinance No. 5967 on January 31, 2012 establishing a limit of nine dispensaries; and

Whereas, the State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on September 11, 2015 (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis through numerous changes and additions to the Business & Professions Code and the Health and Safety Code. MMRSA legalized and regulates for-profit commercial activity related to medical marijuana in California. MMRSA provided that cities and counties retain local regulatory authority over medical cannabis; and

Whereas, on June 27, 2016, the Governor signed SB 837, changing the term “marijuana” to “cannabis” and renaming the Medical Cannabis Regulation and Safety Act; and

Whereas, on November 8, 2016, the voters of California passed Proposition 64, the California Marijuana Legalization Initiative; and

Whereas, on December 20, 2016, the Board of Supervisors adopted the Medical Cannabis Land Use Ordinance No. 6189 establishing regulations to allow commercial medical cannabis uses and establish standards for cultivation, nurseries, laboratories, manufacturing, distribution, transportation, and dispensaries; and

Whereas, on June 27, 2017, the Governor approved SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which created one regulatory system for both medicinal and adult-use cannabis; and

Whereas, on July 5, 2017, the County began accepting applications for commercial cannabis use permits and zoning permits; and

Whereas, on November 16, 2017, the Department of Consumer Affairs’ Bureau of Cannabis Control, Department of Public Health’s Manufactured Cannabis Safety Branch, and Department of Food and Agriculture’s CalCannabis Cultivation Licensing Division each released emergency licensing regulations for commercial medicinal and adult-use cannabis; and

Whereas, on April 10, 2018, the Board of Supervisors adopted a Resolution of Intention, directing staff to explore and propose amendments to the Medical Cannabis Ordinance to allow for Adult Use cannabis for the full supply chain, enhance neighborhood compatibility, and adopt new definitions and minor technical changes to harmonize with State law and regulations where appropriate; and

Whereas, on October 16, 2018, the Board of Supervisors adopted Ordinance number 6245, amending Chapter 26 to allow adult use cannabis in Sonoma County for the full cannabis supply

chain, enhance neighborhood compatibility with a 10-acre minimum parcel size for cultivation, add new definitions, and make minor non-substantive amendments to harmonize with California state law and regulations, where appropriate; and

Whereas, on December 17, 2019, the Board of Supervisors approved direction for staff to amend the Cannabis Land Use Ordinance to expand opportunities for ministerial cannabis cultivation permits to be administered through the Department of Agriculture/Weights and Measures; and

Whereas, on May 18, 2021, the Board of Supervisors voted 5-0 to reject the Planning Commission's recommendation to adopt a Mitigated Negative Declaration and a new chapter 38 to increase ministerial permitting for cannabis cultivation within Agricultural and Resource zoned parcels. The Board, instead, directed staff to bring forth a timeline and resources plan necessary to undertake a comprehensive update of the cannabis program, including an update to the County Code and preparation of an Environmental Impact Report (EIR); and

Whereas, on June 8, 2021, the Board of Supervisors approved an initial resource request for staffing to support the comprehensive cannabis program update effort; and

Whereas, on July 12, 2021, the state passed Assembly Bill 141, which made changes to MAUCRSA, and created the Department of Cannabis Control (DCC) by consolidating three former state cannabis agencies and transferred all state authority for regulation, licensing, and inspection of cannabis activity in California to the DCC; and

Whereas, on September 28, 2021, the Board received a report summarizing results of community engagement conducted in August and early September, 2021, and provided direction to staff on overall goals and policy options for updating the Cannabis Ordinance and associated EIR. The Board was also presented a tentative timeline, which included completion of a draft ordinance framework outlining all potential program elements to consider in the EIR for the new program.

Now, Therefore, Be It Resolved that pursuant to Section 26-96-010 of the Sonoma County Code, the Board of Supervisors hereby adopts this Resolution of Intention and Cannabis Program Update Framework (Exhibit A), to direct and guide staff in its preparation of a draft ordinance, potential General Plan Amendments, and a Programmatic Environmental Impact Report to amend the Cannabis Land Use Ordinance and related regulations.

Be It Further Resolved that the Board of Supervisors designates the Clerk of the Board as the custodian of documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Resolution #22-0088

Date: March 15, 2022

Page 4

Supervisors:

Gorin: Aye

Rabbitt: Aye

Coursey: Aye

Hopkins: Aye

Gore: Aye

Ayes: 5

Noes: 0

Absent: 0

Abstain: 0

So Ordered.

CANNABIS PROGRAM UPDATE FRAMEWORK

1. Zoning Ordinance. Amend the Zoning Code, as needed, to allow for comprehensive changes to the existing Cannabis Program, hereafter referred to in this document as the “cannabis land use ordinance.”
2. Transparency. Include transparency at all levels throughout the ordinance update process, such as: hosting outreach sessions online, monthly posting of public comments received, distribution of a newsletter to subscribers of the Sonoma County Cannabis Email Updates listserv group (subscribe at the project webpage below), and frequent updates to the project webpage: (<https://sonomacounty.ca.gov/Cannabis/Comprehensive-Cannabis-Program-Update-and-Environmental-Impact-Report>).
3. Community Engagement. Continue public engagement and community input throughout the ordinance update process. Outreach strategy shall focus on meeting with interest groups, including targeted engagement of Spanish-speaking communities. All outreach meetings held online (i.e., via the Zoom platform) shall be made available for public viewing on the project webpage.
4. Allowed Activities. Evaluate allowing activities under all state license types currently offered or likely to be offered by the California Department of Cannabis Control (DCC): <https://cannabis.ca.gov/applicants/license-types/> and evaluate all General Plan Land Use categories and corresponding Zoning Districts to determine which designations and zones are suitable for which activities. The cannabis land use ordinance shall clearly define allowed and excluded activities per Zoning District:
 - a. Activities which are allowed by right.
 - b. Activities which are allowed by right, but require a business license.
 - c. Activities which are allowed by ministerial permit.
 - d. Activities which are allowed by discretionary permit.
 - e. Activities which are excluded.
5. General Plan Amendment. Consider General Plan Amendments, as necessary, to ensure the new ordinance remains consistent with the General Plan. This will involve evaluating, among other policies, whether to include cannabis within the meaning of “agriculture” and “agricultural use” as used in the Sonoma County General Plan.
6. Administrative Adaptability. Staff recognize that the industry, environment, and state and federal regulations will continue to evolve over time. Therefore, the cannabis land use ordinance shall clearly outline the process and authority to create and implement code interpretations, Best

Management Practices, or other guidance documents to streamline continuing implementation of the cannabis program.

7. Neighborhood Compatibility. Evaluate options to increase compatibility between cannabis land uses and the neighborhoods they are located within or near. The following policies shall be developed and informed by data, factual analyses, and results from the programmatic EIR:

- a. Neighborhood separation criteria intended to ensure sufficient separation of a cannabis operation from a residential type neighborhood shall consider, at minimum, odor, groundwater, visual, safety (including road access and wildfire), and noise impacts.
- b. Criteria to determine what constitutes a “rural neighborhood enclave” shall be developed and shall consider, at minimum, residential density and community character. If designated rural neighborhood enclaves are adopted, the cannabis land use ordinance shall include maps of all such enclaves.
- c. Criteria to establish Exclusion Zones shall consider, at minimum, groundwater availability, topography, infrastructure (e.g., road access, lack of electrical/other utilities), safety concerns (including wildfire risk and emergency response times), and biological habitat protection. If designated Exclusion Zones are adopted, the cannabis land use ordinance shall include Exclusion Zone maps.

8. Permit Streamlining. Evaluate methods to streamline cannabis permitting. The following policies shall be developed and informed by data, factual analyses, and results from the programmatic EIR:

- a. Site development and operating standards for ministerial permits shall be developed and clearly defined;
- b. Criteria to establish Inclusion Zones shall consider, at minimum, groundwater availability, infrastructure (e.g., road access, availability of electrical/public water/sewer/ stormwater facilities), safety concerns (including wildfire risk and emergency response times), biological habitat protection, and proximity/density of sensitive uses. If designated Inclusion Zones are adopted, the cannabis land use ordinance shall include Inclusion Zone maps and clearly defined requirements and processes for permits within Inclusion Zones; and
- c. Other permit streamlining options shall be explored, such as development of a CEQA streamlining checklist for discretionary permits. The checklist would outline the scope of what was already studied under the programmatic EIR, so that applications which meet the checklist could be approved without additional project-specific environmental review or with only minimal additional environmental review.

9. Development Standards. Establish regulatory limits for the cannabis land use ordinance (e.g., parcel size, setback distances, cultivation size limits) informed by factual analyses and results of the programmatic EIR.

10. Environmental Analysis. Evaluate all environmental impact categories from the California Environmental Quality Act (CEQA) Guidelines in the programmatic EIR: Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology/Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology/Water Quality, Land Use /Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities/Service Systems, Wildfire, and cumulative impacts. The following key issues shall be specifically considered:
- a. Aesthetics analysis shall consider, at minimum, fencing, lighting, stockpiles of equipment used in outdoor cultivation operations such as containers and growth media, temporary hoop houses, and permanent structural development;
 - b. Agriculture analysis shall consider, at minimum, compatibility of cannabis operations with traditional agriculture and potential conversion of agricultural lands to non-agricultural uses;
 - c. Air quality analysis shall consider potential impacts from cannabis plant odors;
 - d. Biological resources analysis shall consider, at minimum, potential impacts to special status species, Critical Habitat, and to regionally-sensitive and locally-important watersheds, including fish-bearing streams, riparian habitat, the Laguna de Santa Rosa, and other wetland areas;
 - e. Energy analysis shall consider, at minimum, potential impacts from indoor and mixed light cultivation activities;
 - f. Hydrology analysis shall consider, at minimum, potential impacts from groundwater overdraft, well interference, streamflow depletion, and water quality related to cannabis water use and agricultural chemical use, and shall consider current drought conditions and future drought scenarios;
 - g. Noise analysis shall consider, at minimum, potential impacts related to emergency generator use, air filtration and ventilation equipment, transportation noise, activities associated with cannabis tourism, and special events;
 - h. Utilities/Service Systems analysis shall consider, at minimum, potential impacts related to cultivation waste products, including hoop house membrane materials, growth media and containers, and green waste.
 - i. Wildfire analysis shall consider, at minimum, potential impacts related to road access (i.e., physical road condition and configuration to support concurrent emergency access by first responders and evacuation by residents), wildfire risk (i.e., site characteristics which influence fire likelihood and fire behavior), emergency response times, and availability of water for fire-fighting purposes; and
 - j. Cumulative analysis will consider, at minimum, potential impacts related to multiple cannabis operations in specific geographical areas (i.e., over-concentration).

11. Transitional Pathway. Consider the impact of proposed changes on existing permitted operations and permit applications already in process prior to adoption of the new ordinance, and consider transitional pathway options for existing permittees and applicants.
12. Equity. Staff acknowledge that certain communities within the county have been substantially and adversely affected by poverty and the criminalization of cannabis, and further, that the greatest disparities occur along racial and socio-economic lines. Therefore, the cannabis land use ordinance shall consider equity throughout all policy decisions.
13. Enforcement. Consider how the new ordinance would be enforced through existing code enforcement regulations and procedures in Chapter 1 of Sonoma County Code, and consider changes to code to clarify and simplify enforcement procedures related to cannabis.
14. Jurisdictional Comparison. Conduct a comprehensive review of other county and city cannabis ordinances and programs and consider the best regulations and management practices from other agencies.
15. Mapping. Any geographical information systems (GIS) data layers developed by the programmatic EIR shall be added to the County's online ActiveMap viewer collection for public use.
16. Economic Analysis. Conduct an economic analysis concurrent with the programmatic EIR to help inform relevant policy decisions. The analysis could include, but would not be limited to: evaluation of cannabis tax collection revenue and method(s); staffing costs to implement the program, including permitting, compliance inspection, and code enforcement; permit and inspection fees and other applicant costs to obtain permits and run permitted operations; and civil penalties.