

# Cannabis Advisory Group: Neighborhood Compatibility Committee, *June 2019*

*Neighborhood Compatibility Committee was formed at the Cannabis Advisory Group in 2019 to discuss possible solutions to concerns that have arisen since the permitting process began in Sonoma County. The concerns cover a range of subjects; however, they fall into two categories: individuals or communities opposing cannabis permits, and farmers or small businesses who find it financially challenging to participate in the cannabis permit process.*

*The following document outlines concerns and solutions to some of the matters that have been brought to the committee's attention. Our goal is to suggest some solutions for compatibility of cannabis activity in zones that may have residences nearby, and support small cultivators to participate in the permit process.*

*Please note that each of the issues outlined in this draft could be expanded on. Our goal was to keep the concepts simple and clear to present to the CAG. If these are matters the CAG chooses to support, we will gladly provide more policy details, suggestions, or guidance.*

## Members:

Omar Figueroa  
Laura Waldbaum  
Sarah Shrader

## Points of Agreement

- The current permitting system in Sonoma County is drawing large corporations to participate instead of small existing cannabis farmers
- Cannabis activities should have minimal to no neighborhood impact
- It would be ideal if there was a procedure to mitigate neighborhood concerns prior to CUP hearing; waiting until the CUP hearing is expensive and time consuming
- Safety of the neighbors, and permitted farmers is a priority for public interest

- The minimum of 10 acres makes it expensive for a previous cannabis farmers to relocate to comply to zoning requirements
- Smell can be subjective, and can impact individuals differently
- Concern about timeline for EIR, it may take up to a year to complete this process for Sonoma County, if the county chooses to prioritize it

## Proposed Solutions for Neighborhood Concerns

*Voters of Sonoma County have been very supportive of cannabis, with 69% in favor of medical cannabis in 1996 for the passage of proposition 215, and 59% of Sonoma County Voters supported the passage of Prop 64. Residents who have cannabis activities near them report that illegal cannabis cultivation has impacted them in a variety of ways. The following suggestions are potential solutions to reducing these complaints.*

### Easements

Background:

Complaints from neighbors have arisen from shared property rights, specifically driveway easements. One individual experienced change of locks, and unleashed guard dogs when she was opening the gates to enter her property.

Solution:

Residential Easements not allowed, three exemptions:

1. Existing Pipeline applicants allowed to continue
2. Temporary Access to easement granted with grading permit (or any other applicable permits) to install driveway, while work is being done.
3. Signed Agreements with neighbors, renewed at the time of permit renewals. This may require maintenance expenses, to be determined between both parties signing the easement agreement.

### Class 3 & Class 4 Watersheds

Background:

High water use in Class 3 & Class 4 watersheds have impacted surrounding parcels. Neighbors have documented wells as deep as 400 feet no longer have water available.

## Potential Solutions:

Real time monitoring, proper meters, set up outside of residential use, to measure agricultural use.

No pumping water for cannabis cultivation in same same deferment period as direct diversion. Water storage required.

## Day Care\*

\*Please note, this may fall under State Alignment Committee

## Background:

The state recently changed their definition of licensed Day Care Facility, which now includes children ages 0-5, but exempts family home child care programs. The suggestion is to align these definitions.

## Solution:

Align the definition of Daycare to state definition, which includes licensed day care facilities (not family daycare).

*"Child Care Center" or "Day Care Center" (or "center") means any child care facility of any capacity, other than a family child care home as defined in Section 102352f.(1), in which less than 24-hour per day non-medical care and supervision are provided to children in a group setting*

*Here is the definition of family day care in California law:*

HEALTH AND SAFETY CODE - HSC

***DIVISION 2. LICENSING PROVISIONS [1200 - 1797.8]*** ( Division 2 enacted by Stats. 1939, Ch. 60. )

***CHAPTER 3.4. California Child Day Care Act [1596.70 - 1596.895]*** ( Chapter 3.4 added by Stats. 1984, Ch. 1615, Sec. 9. )

***ARTICLE 1. General Provisions and Definitions [1596.70 - 1596.7996]*** ( Article 1 added by Stats. 1984, Ch. 1615, Sec. 9. )

***1596.78.***

(a) ***"Family day care home"*** means a home that regularly provides ***care***, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per ***day***, while the parents or guardians are away, and is either a large ***family day care home*** or a small ***family day care home***.

(b) “Large **family day care home**” means a home that provides **family day care** for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) “Small **family day care home**” means a home that provides **family day care** for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

(Amended by Stats. 1996, Ch. 18, Sec. 2. Effective January 1, 1997.)

## Increasing Setbacks from Residential Homes, and Reduce 10 Acre Parcel

### Background:

Biggest complaint that comes in related to cannabis has been smell. Residents have the right to enjoy their homes without nuisances, however it should be acknowledged that Sonoma County has a range of unwanted smells related to agriculture and dairies.

### Solution:

Consider removal of minimum 10 acre parcel size in allowed zones with advanced odor mitigation measures (such as vapor phase system) required on sub 10 acre parcels and increased setbacks from neighboring homes.

Develop science based odor detection threshold for acceptable limits at property line. Require cultivators to keep odors below threshold. If odor levels exceed threshold more than 3 times within one year, cultivator would be subject to fines and immediate abatement of odor. If fines are not paid within 60 days, permit would be withdrawn. If odor levels exceed threshold more than 5 times in one year, cultivation permit would be withdrawn.

## Safety

### Background:

Illegal cannabis activity has drawn incidents of theft, and even incidents that ended in violence. Residents want to feel safe in their homes, and see cannabis permittees take responsibility for unwanted visitors or activity.

Solution: Signage provided with prominent law enforcement insignia for licensed cannabis activities. Support from law enforcement should include a cannabis liaison, and sheriff hotline (to call and text) for safety related matters involving cannabis.

## Mediator

### Background:

A Conditional Use Permit hearing can take up to a year to schedule, and may be denied due to neighborhood opposition. We recognize ministerial permits do not set conditions of use, however, having a procedure early in the process to address concerns would be beneficial to both parties (applicant and opposition).

### Solution:

It would be ideal to mitigate some of the neighbor concerns early in the application process. One suggestion was to hire a formal mediator to hear support and opposition to the project to be presented in a formal report.

## Solutions to Help Small Farmers Participate

*A consequence of high regulatory standards has been that many small farmers cannot afford to participate. The cost of relocating to proper zoning, water board certification, hydrogeologic report, permitting fees, and holding a property during a permit process makes it financially difficult for individuals to apply for a permit, with no financial backing.*

*Small cannabis farmers are being driven out of the communities that they have to contributed to for many years, due to the cost of living, not having re-training available, permitting expenses, and relocating a farm.*

## Removing 10 Acre Minimum with Increased Setbacks or Odor Mitigation Plan

### Background:

The cost of relocating to proper zoning for small farmers can be very expensive. There are minimal spaces available, which often end up in competitive bidding processes, further increasing the price. The 10 acre further increases the cost for small cannabis farmers and producers, and does not support the goal of making permits accessible for small agriculture.

### Solution:

Consider removal of minimum 10 acre parcel size in allowed zones with advanced odor mitigation measures (such as vapor phase system) required on sub 10 acre parcels and increased setbacks from neighboring homes. See suggestions above

## Equity Program\*:

\*Please note, this may fall under Economic Vitality Committee

### Background:

10 Million dollars available from the State for programs implemented by Cities and Counties to help rectify the impact of the War on Drugs. If Sonoma County is interested in applying for any of this money, they must draft a policy to be implemented. The intention is to help people that were impacted by the *War on Drugs* that may not have had the same opportunities because of the financial burdens placed on a family, such as arrest or incarceration. These examples can have impacts for generations. Local equity programs are designed to “level the playing field” between applicants by providing incentives for “equity qualified participants”.

### Solution:

Developing a Sonoma County equity program that supports goals helping “equity” qualified individuals to get cannabis activity permits. Examples could include; individuals who had previous cannabis charges, families impacted by the drug war, long term residents in Sonoma County, and local families, see proposed qualifiers list to start this discussion. Bureau of Cannabis Equity Grant Program:  
[www.bcc.ca.gov/about\\_us/equity\\_grant.html](http://www.bcc.ca.gov/about_us/equity_grant.html)

### Proposed Qualifiers (3 out of 5)\*:

- Previous arrest, raid, or charge of cannabis in Sonoma County
- Parent, or legal guardian arrested for drug charges
- 10 years residency in Sonoma County
- 5 years attendance in a Sonoma County School District  
(An Individual, their Parent, or their child)
- Previous cultivators who were in compliance with Prop 215, & SB420  
(Documentation required, ie Seller’s permit, Collective Agreements, Tax payments, etc)

\*Please note Economic Vitality has included two additional qualifiers: income & veterans

## New Sensitive Uses

Background:

If a cannabis permittee goes through the permitting process, they should not be threatened to close in the future due to a new sensitive use moving in.

Solution:

Clause protecting permitted/licensed cannabis permits when sensitive uses move in after the cannabis activity.

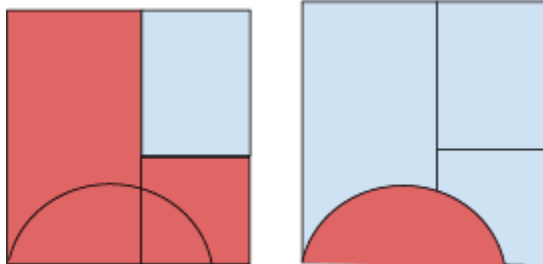
## Radius Measurements

Background:

Large properties may fall within a small portion of a sensitive use radius, this should not rule out the entire parcel.

Solution:

If a parcel is only partially within a radius of a sensitive use, the portions of the property that fall outside of the radius may be used for cannabis activities.



Current Policy

Proposed Change

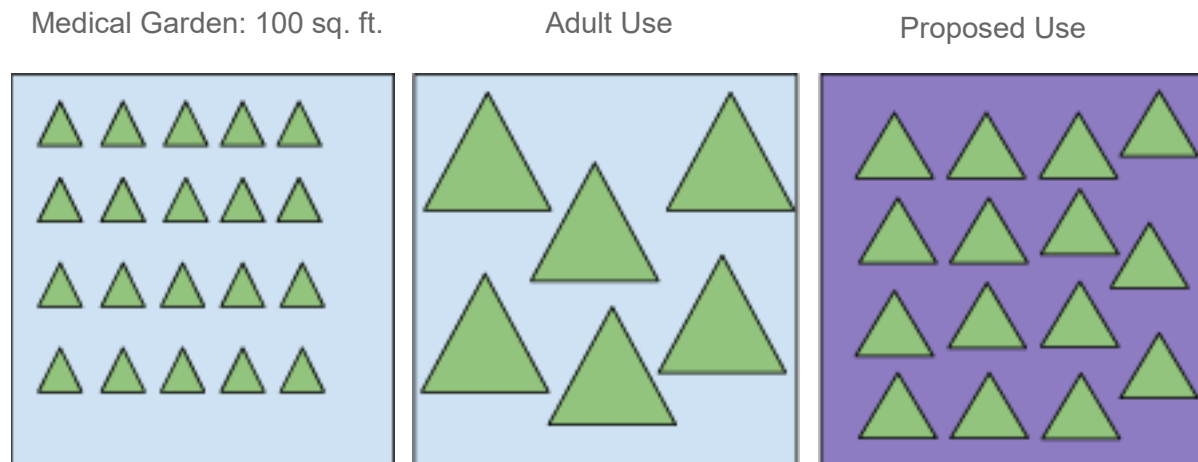
## Small Commercial Gardens

Background:

Medical cannabis patients who cultivate in Sonoma County are allowed as many plants as they choose within a 100 square foot area. Adult cannabis users, can cultivate the same garden size, 100 square feet, with up to 6 large plants within that area.

Solution:

100 square feet is already allowed in all areas, with minimal environmental impact, and no permitting fees or registry. If we allowed for permits to be issued for 100 square feet commercial gardens, the only impact would be where the finished product is going; instead of being consumed by one individual, it would enter into the regulated cannabis market. State testing requirements would still apply, and ensure that contaminants were not being used. Transportation would be arranged with a licensed distributor. Further exploration of this issue would include fulfilling the state track and trace requirement.



### Amnesty for Fines, Not Permits

Background:

Unpermitted building and electrical upgrades to cannabis cultivations were a common issue prior to cannabis permitting. There were a variety of contributing factors; fear of working with a department that may notify law enforcement, not being aware of the scope of work requiring a permit, or the costs involved. As we are encouraging individuals and companies to take steps for proper regulatory compliance, we should provide incentives for those who go out of their way to make these corrections without code enforcement requiring them to do so.

Solution:

Stay any fines when there is self-reporting, as an incentive for unpermitted work to step forward to make proper corrections. Fines would be waived after permits are issued and the work completed. If permits were not issued, and/or the work not completed, the fines would of course not be waived, and the stay would be lifted, meaning payment would be due.