



MEMORANDUM

March 3, 2017

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Medical Cannabis Interdepartmental Work Group

MEETING DATE: March 6, 2017

SUBJECT: Draft Medical Cannabis Dispensary and Cultivation Ordinances

BACKGROUND

At your February 14, 2017 meeting, staff presented a revised draft ordinance that incorporated the direction your Committee provided at your January meeting to address several issues that were raised by public comments. Since that meeting, the draft ordinances have been considered at the February 21st Planning Commission meeting and the February 27th Castro Valley Municipal Advisory Council (MAC) meeting.

DISCUSSION/SUMMARY

Greenhouse standards

At the February 14th Committee meeting, Supervisor Haggerty directed staff to research what other counties that are further along with the development of their ordinances, such as Monterey, Humboldt, and Mendocino Counties, require in their cultivation ordinances in relation to standards for the construction and appearance of greenhouses for cannabis cultivation.

Monterey County

Monterey County has an abundance of existing greenhouse structures which are dilapidated. The requirement to undertake cultivation in existing greenhouses was an opportunity for these to be refurbished. The ordinances therefore require that cannabis cultivation must be within an existing warehouse or greenhouse that was legally established before January 1, 2016.

The ordinance defines "greenhouse" as "a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting for cultivation."

Mendocino County

Mendocino County is developing a cannabis cultivation ordinance and related zoning ordinance. The draft zoning ordinance defines "greenhouse" as "a completely enclosed structure whose structural members are made of preformed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass that is fixed in place, which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside." The ordinance defines "hoop house" as "a structure whose structural members are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently."

The ordinance also defines "indoors" as "within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement."

Humboldt County

Humboldt County's Commercial Medical Marijuana Land Use Ordinance went into effect on February 25, 2017. Over 2,300 applications were received. The ordinance allows existing (illegal) operations to apply for legalization. The ordinance does not contain specific standards for greenhouses; however, the application process requires submittal of architectural elevations and Design Review Committee approval.

Changes to Exhibit A of the Dispensary Ordinance

Also at the February 14th meeting, Supervisor Miley directed staff to redraw the boundaries of the three areas shown on Exhibit A in the existing dispensary ordinance. The existing dispensary ordinance allows one dispensary in each of the three areas shown on the map in Exhibit A (Chapter 6.108 of the County General Code). The revised map will replace the three areas delineated on the existing map with the boundaries of the Eden Area General Plan and Castro Valley General Plan areas. With these changes, Areas 1 and 2 on the existing map will be combined into a new Area 1 consisting of the communities of Ashland, Cherryland, and San Lorenzo. Area 3, which consists of the Castro Valley Urban Area, will be renamed Area 2. The Fairmont Campus will also be added to the new Area 2. The revised map has not yet been completed.

February 21st Planning Commission Meeting

At the February 21st Planning Commission meeting, staff provided an update on the status of the ordinance approval process and the direction your committee provided to staff at your February 14th meeting. The commissioners did not provide any comments on the ordinances. One resident of the unincorporated area spoke in opposition to allowing additional cannabis facilities in the unincorporated area. The Commission continued the item to their March 20th meeting.

February 27th Castro Valley Municipal Advisory Council

Staff presented the original version of the proposed draft medical cannabis dispensary and cultivation ordinances to the Castro Valley MAC at its October 24th, 2016 meeting. At that meeting, the MAC voted to recommend several changes to the draft ordinances. At the February 27th, 2017 MAC meeting, staff presented the most recent versions of the proposed ordinances. The Council adopted a motion recommending the following changes:

- No additional dispensaries should be allowed in West County beyond the two existing dispensaries.
- No dispensaries should be allowed in rural areas.
- Dispensaries and cultivation sites should not be located on the same property.
- The sale of edibles should be prohibited until state standards on potency are in place.
- Individuals with Prop 47 reclassified drug violations within the last 10 years should be excluded from employment/licensure at a cannabis facility, as individuals who have been convicted of a felony within the last ten years are.
- Any funds raised through a future tax on cannabis facilities should be given to the Sheriff's Office.
- No testing or ingestion of product should be allowed on the premises of any dispensary or cultivation site.
- The boundaries of Areas 1-3 depicted on Exhibit A of the existing ordinance should not be changed.
- Any performance standards developed by the planning director under Section 17.52.585 of the proposed ordinance amending the County Zoning Ordinance to implement the pilot cultivation program should be reviewed by the public.
- No more than four cultivation sites should be allowed in the unincorporated area.

NEXT STEPS

Project Timeline

A tentative meeting schedule for the completion of the public process for the approval of the draft dispensary and cultivation ordinances is provided in the table below. The public meeting schedule, including times and locations, is available on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>. This webpage also provides a list of past meetings and links to presentations and written materials from those meetings.

March 20, 2017	Planning Commission
March 22, 2017	Unincorporated Services
April 3, 2017	Planning Commission – Action
April 25, 2017	Board of Supervisors - First Reading
May 9, 2017	Board of Supervisors - Second Reading

The ordinances will go into effect 30 days after the Board takes action at the second reading of the ordinances. After that time, staff will begin preparing for the solicitation of proposals for the additional dispensaries and the cultivation sites allowed under the ordinances.