

BOARD OF SUPERVISORS

Yolo County, California

Date: February 7, 2017

To: Co. Counsel ✓

27.

Waive second reading and consider adoption of an ordinance prohibiting all forms of non-medical marijuana commercial activity in the unincorporated area of Yolo County. (No general fund impact) (Pogledich/Scarлата)

Minute Order No. 17-26: Approved recommended action by **Ordinance No. 1485.**

MOVED BY: Villegas / SECONDED BY: Provenza

AYES: Villegas, Provenza, Chamberlain.

NOES: Saylor, Rexroad.

ABSTAIN: None.

ABSENT: None.



County of Yolo

www.yolocounty.org

To: Supervisor Duane Chamberlain, Chair
and Members of the Board of Supervisors

Regular-General Government # 27.

Board of Supervisors

County Counsel

Meeting Date: 02/07/2017

Brief Title: Ordinance Prohibiting Non-Medical Marijuana Commercial Activity

From: Philip J. Pogledich, County Counsel

Staff Contact: Carrie Scarlata, Assistant County Counsel, County Counsel,
x8172

Subject

Waive second reading and consider adoption of an ordinance prohibiting all forms of non-medical marijuana commercial activity in the unincorporated area of Yolo County. (No general fund impact) (Pogledich/Scarlata)

Recommended Action

Waive second reading and consider adoption of an ordinance prohibiting all forms of non-medical marijuana commercial activity in the unincorporated area of Yolo County.

Strategic Plan Goal(s)

Safe Communities
Sustainable Environment
Flourishing Agriculture

Reason for Recommended Action/Background

Current Action:

This is the second reading of an ordinance the Board considered at its meeting on January 24, 2017, prohibiting commercial activities involving non-medical marijuana in the unincorporated area of Yolo County.

Background:

On November 8, 2016, California voters legalized non-medical use of marijuana via Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). AUMA allows the recreational use of marijuana by persons 21 years of

age and older and the personal cultivation of up to six marijuana plants. In addition, AUMA creates a state regulatory and licensing system governing the commercial cultivation, testing and distribution of non-medical marijuana, and the manufacturing of non-medical marijuana products. AUMA allows local jurisdictions to decide whether to allow non-medical marijuana activities, except for personal use and cultivation, which must be permitted indoors with reasonable regulations. If a local jurisdiction is silent as to non-medical commercial activities, an operator would be eligible for a state license once they become available in January 2018.

The attached proposed ordinance (Attachment A) prohibits commercial activities involving non-medical marijuana including cultivation, production, storage, processing, manufacture, dispensing, delivery, distribution, laboratory testing, labeling, transportation, provision and sale of marijuana or marijuana products in the unincorporated areas of the County. The ordinance is intended to allow staff and the Board of Supervisors time to more comprehensively study the issues surrounding non-medical marijuana commercial activities without allowing interested cultivators to proceed with commercial operations under state licensing without local control. While such non-medical commercial operations are not anticipated to begin until a comprehensive state licensing scheme is in effect early in 2018, some Board members asked staff to present an ordinance that would preserve local control.

Attachment B is the proposed ordinance with the revisions to the County Code pertaining to marijuana redlined.

Collaborations (including Board advisory groups and external partner agencies)

County Counsel worked with the County Administrators' Office.

Fiscal Information

No Fiscal Impact

Fiscal Impact of this Expenditure

Total cost of recommended action

Amount budgeted for expenditure

Additional expenditure authority needed \$0

On-going commitment (annual cost)

Source of Funds for this Expenditure

General Fund \$0

Attachments

Att. A. Ordinance

Att. B. Redlined Ordinance

Form Review

Inbox	Reviewed By	Date
Phil Pogledich	Phil Pogledich	01/30/2017 01:30 PM
Beth Gabor	Beth Gabor	01/30/2017 01:45 PM
County Counsel	Hope Welton	01/30/2017 01:48 PM
Form Started By: Carrie Scarlata		Started On: 01/25/2017 08:29 AM
Final Approval Date: 01/30/2017		

FEB 09 2017

BY *Julie Rachte*
DEPUTY CLERK OF THE BOARD

ORDINANCE NO. 1485

AN ORDINANCE OF THE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO PROHIBITING ANY COMMERCIAL ACTIVITY INVOLVING NON-MEDICAL MARIJUANA

The Board of Supervisors of the County of Yolo ordains as follows:

SECTION 1. Purpose and Intent

The purpose of this Ordinance is to amend Chapter 20 of Title 5 of the Yolo County Code to prohibit, to the maximum extent allowed under state law, commercial activities involving non-medical marijuana within the unincorporated area of the County, pursuant to the authority granted by Article XI, section 7 of the California Constitution, Business and Professions Code sections 19300 et seq., Health and Safety Code sections 11362.83 and 11362.768(f) and Business and Professions Code section 26200 et seq.

SECTION 2. Findings

WHEREAS, On November 8, 2016, California voters legalized non-medical use of marijuana via Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA); and

WHEREAS, certain portions of AUMA took effect immediately after the election including non-medical use by adults and indoor cultivation in private residences, which must be allowed with reasonable regulations; and

WHEREAS, AUMA creates a state regulatory and licensing system governing the commercial cultivation, testing and distribution of nonmedical marijuana, and the manufacturing of non-medical marijuana products. AUMA authorizes local jurisdictions to completely prohibit the establishment or operation of any non-medical marijuana business within its jurisdiction. If a local jurisdiction is silent as to non-medical activities, an operator would be eligible for a state license once they become available in January 2018; and

WHEREAS, the Board of Supervisors finds that commercial activities involving non-medical marijuana in the unincorporated area of the County may adversely affect the health, safety and well-being of the County residents and have the potential for adverse impacts on the County arising from the risks associated with the commercial cultivation, production, storage, processing, manufacture, dispensing, delivery, distribution, laboratory testing, labeling, transportation, provision, or sale of marijuana or marijuana products.

SECTION 3. The title of Chapter 20 to Title 5 of the Yolo County Code is revised from "OUTDOOR MEDICAL MARIJUANA CULTIVATION" to "MARIJUANA".

SECTION 4. Section 5-20.01 is amended to read as follows:

Section 5-20.01 Purpose and Intent

It is the purpose and intent of this chapter to prohibit commercial activities involving non-medical marijuana and to regulate medical marijuana in a manner that is consistent with state law and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Yolo by balancing: (1) the needs of medical patients and their caregivers for enhanced access to medical marijuana; (2) the needs of neighbors and communities to be protected from public safety and nuisance impacts; and (3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation. Nothing in this Chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance as defined in this Chapter; (2) to conflict with state law as contained in the Control, Regulate and Tax Adult Use of Marijuana Act of 2016; or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California law.

SECTION 5. Section 5-20.03 is deleted in its entirety and replaced with the following:

Sec. 5-20.03. Definitions.

As used in this ordinance the following definitions shall apply:

A. "Caregiver" or "primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7(d) as it now reads or as amended.

B. "Commercial activity" shall mean any enterprise or activity, whether or not for profit, gain or benefit, concerning the cultivation, production, storage, processing, manufacture, dispensing, delivery, distribution, laboratory testing, labeling, transportation, provision, or sale of marijuana or marijuana products.

C. "Cultivate" or "cultivation" shall have the same definition as set forth in California Business and Professions Code section 19300.5(1) as it now reads or as amended.

D. "Distribution" shall mean the procurement, sale, and transport of marijuana or marijuana products between entities or facilities. Distribution does not include such transactions if done directly to an individual end-user.

E.. "Garden canopy" means the net vegetative growth area measured by the combined diameters of individual marijuana plants.

F. "Indoor" or "Indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Yolo, 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 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.

G. "Manufacture" shall mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

H. "Marijuana" shall have the same definition as "cannabis" as set forth in California Business and Professions Code section 19300.5(f) as it now reads or as amended.

I. "Medical marijuana" shall have the same definition as "medical cannabis" and "medical cannabis product" as set forth in California Business and Professions Code section 19300.5(ag) as it now reads or as amended.

J. "Outdoor" or "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined in this chapter.

K. "Testing Laboratory" shall mean a facility, entity, or site that offers or performs tests of marijuana or marijuana products.

L. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7(f) as it now reads or as amended.

SECTION 6. Section 5-20.04 is amended to add the following:

Section 5-20.04(B). Except as otherwise permitted by California law, any commercial activity involving non-medical marijuana is prohibited in the unincorporated areas of the County of Yolo, including but not limited to the cultivation, production, storage, processing, manufacture, dispensing, delivery, distribution, laboratory testing, labeling, transportation, provision, or sale of marijuana or marijuana products.

SECTION 7.

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law. If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof is for any reason held to be unconstitutional by any final court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

SECTION 8.

The Clerk of the Board will publish the Ordinance codified in this chapter as required by law. The Ordinance codified in this chapter shall take effect 30 days after passage.

PASSED AND ADOPTED by the Yolo County Board of Supervisors at its regular meeting on February 7, 2017, by the following vote:

AYES: Villegas, Provenza, Chamberlain.

NOES: Saylor, Rexroad.

ABSENT: None.

ABSTENTION: None.

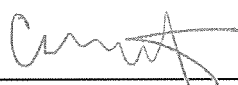


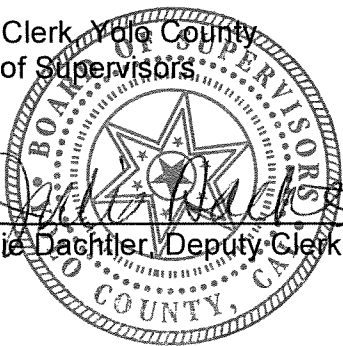
Duane Chamberlain, Chair
Yolo County Board of Supervisors

Attest: Clerk, Yolo County
Board of Supervisors

Approved as to Form:
Philip J. Pogledich, County Counsel

By:  _____
Julie Dachler, Deputy Clerk (Seal)

By:  _____
Carrie Scarlata,
Assistant County Counsel



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WHEREAS, the Board of Supervisors finds that commercial activities involving non-medical marijuana in the unincorporated area of the County may adversely affect the health, safety and well-being of the County residents and have the potential for adverse impacts on the County arising from the risks associated with the commercial cultivation, production, storage, processing, manufacture, dispensing, delivery, distribution, laboratory testing, labeling, transportation, provision, or sale of marijuana or marijuana products.

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PASSED AND ADOPTED by the Yolo County Board of Supervisors at its regular meeting on February 7, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTION:

Duane Chamberlain, Chair
Yolo County Board of Supervisors

Attest: Clerk, Yolo County
Board of Supervisors

Approved as to Form:
Philip J. Pogledich, County Counsel

By: _____
Julie Dachtler, Deputy Clerk (Seal)

By: _____
Carrie Scarlata,
Assistant County Counsel