



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 3/7/2018

Agenda Placement: 9A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: Charlene Gallina for Jeffrey Richard - Acting County Counsel
County Counsel
REPORT BY: John Myers, Deputy County Counsel II - 707-259-8604
SUBJECT: Outdoor Cultivation of Cannabis for Personal Use

RECOMMENDATION

OUTDOOR CULTIVATION OF CANNABIS FOR PERSONAL USE

Request: Discussion of land use issues relating to outdoor cultivation of cannabis for personal use.

Staff Recommendation: Discuss land use issues and provide direction to staff for an ordinance relating to outdoor cultivation of cannabis for personal use.

Staff Contact: John Myers, Deputy County Counsel, (707) 253-4521 or john.myers@countyofnapa.org.

EXECUTIVE SUMMARY

State law permits individuals age 21 or older to cultivate up to six cannabis plants for their personal use. Napa County ordinances currently restrict this cultivation to indoor spaces. In order to promote access for medical cannabis patients and other Napa County residents, the Board of Supervisors is exploring a potential ordinance to allow these six plants to be cultivated outdoors, such as in backyards. The cultivation of these six plants for personal use would be in addition to any plants allowed to be cultivated for medical use by a patient or caregiver living at the same residence. An ordinance allowing outdoor cultivation requires consideration of the following land use policy considerations:

1. Is there a need to limit or regulate the location and/or size of an area dedicated to growing the six plants within the grower's property?
2. Is there a need to limit or regulate which parcels are eligible for outdoor cultivation based on external factors and uses?
3. Is there a need to apply different regulations depending on the different characteristics of properties within

the county?

County staff and the Board seek the Planning Commission's input on these land use considerations in drafting an ordinance that will be presented to the Planning Commission for recommendation to the Board.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Background on Local Cannabis Regulation

In February 2016, the Board of Supervisors adopted an ordinance banning the cultivation of cannabis in the unincorporated area outdoors and only allowing indoor cultivation of cannabis. In November 2016, California voters passed Proposition 64, which legalized the personal cultivation, possession, and use of small amounts of cannabis by persons age 21 or older. Proposition 64 granted California residents age 21 and older the right to cultivate up to six cannabis plants for personal use indoors and authorized local jurisdictions like the County to determine how many - if any - of those six plants could be grown outdoors by local residents. Following Proposition 64's passage, the California Legislature has passed and continues to consider additional legislation relating to cannabis cultivation, possession, and use. As a result of this massive overhaul of state law, the Napa County Board of Supervisors decided to re-evaluate its existing cannabis ordinances and explore potential policy changes consistent with Napa County voters' approval of Proposition 64.

On April 4, 2017, the Board of Supervisors selected Supervisors Gregory and Ramos to serve on an ad hoc committee - later named the Cannabis Roundtable - with representatives from each city and town within Napa County and other local elected officials. The goal of the Cannabis Roundtable was to learn more about the legalization of adult use, the State's regulatory framework, and how local municipalities can work together to find consistencies in developing local ordinances. The Cannabis Roundtable held three meetings consisting of panelists discussing all aspects of cannabis regulation, and the Roundtable members toured three commercial cannabis facilities in Oakland.

At the November 14, 2017, Board of Supervisors meeting, the Board received a report from staff and from fellow Board members on the Cannabis Roundtable and discussed various aspects of cannabis regulation. The Board prioritized two cannabis-related issues that it sought to address over the next year: ensuring access for medical cannabis patients and County residents by considering allowing the six plants allowed by law to be grown outdoors and exploring the possibility of allowing one or more types of commercial cannabis businesses to locate and operate within the unincorporated county.

On December 5, 2017, the Board adopted a temporary moratorium prohibiting outdoor cultivation and commercial cannabis activities in the unincorporated area while studying these issues. On January 16, 2018, the Board

extended the moratorium prohibiting outdoor cultivation until June 2018 to allow the Planning Commission and the Board to craft a new ordinance addressing outdoor cultivation of cannabis for personal use. Also on January 16, 2018, the Board extended the moratorium prohibiting commercial cannabis activities until December 2018.

Goals Relating to Outdoor Cultivation

Throughout its numerous meetings discussing cannabis regulations, the Board has indicated several goals relating to outdoor cannabis cultivation. These goals include:

- | Prioritizing public safety and environmental protection;
- | Ensuring access to cannabis for Napa County's residents who use cannabis for medical purposes; and
- | Ensuring consistency with neighboring jurisdictions, particularly regarding unincorporated County islands within city boundaries.

Primary Land Use Policy Considerations for Outdoor Cannabis Cultivation

With these goals in mind, the Planning Commission is tasked with considering, from a land use perspective, whether to recommend allowing individuals to cultivate up to the state maximum of six cannabis plants outdoors on their own property. If so, there are three primary land use policy issues for the Planning Commission to consider:

1. Is there a need to limit or regulate the location and/or size of an area dedicated to growing the six plants within the grower's property?
Examples of these types of regulations include prohibiting cultivation within a certain distance from the property lines, requiring cultivation to occur behind a locked fence, and/or limiting cultivation to a specific section of the property.
2. Is there a need to limit or regulate which parcels are eligible for outdoor cultivation based on external factors and uses?
An example of this type of regulation would be prohibiting outdoor cultivation within a certain distance of sensitive uses such as schools or day care centers.
3. Is there a need to apply different regulations depending on the different characteristics of properties within the county?
An example of this type of regulation would be applying different regulations or standards to different zones.

Neighboring Jurisdictions' Cannabis Cultivation Ordinances

Many of Napa County's neighboring jurisdictions have recently adopted ordinances addressing outdoor cultivation of cannabis for personal use. Ordinances passed by the cities of Calistoga, Napa, and Santa Rosa provide three examples of how other jurisdictions have addressed the three questions above. The attached chart provides a summary of the ordinances for each of these cities, as well as a breakdown of how each city addressed these questions.

Next Steps for Personal Cannabis Cultivation Ordinance

County staff and the Board seek the Planning Commission's input on the land use policy considerations for an outdoor cultivation ordinance. Upon receiving this input, County staff intends to draft an ordinance to be reviewed by the Planning Commission at a future meeting. If recommended for adoption by the Board, the ordinance would go to the next possible Board meeting for adoption.

SUPPORTING DOCUMENTS

A . Sample City Ordinances

B . Summary of Sample City Ordinances

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina