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Mendocino County

MAY 05 2021

Planning & Building Services

>>> Michael Katz <Michael@mendocannabis.com> 5/5/2021 11:19 AM >>>

Good morning,

Attached please find a coalition memo from MCA and the Covelo Cannabis Advocacy Group with recommendations for the Commercial Cannabis Activities Ordinance being considered on May 6.

Please let me know if you have any difficulty accessing the attachment.

Thank you,  
Michael

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Michael Katz

Executive Director

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Mendocino County Planning Commission  
501 Low Gap Road  
Ukiah, CA 95482

May 6, 2021

Re: Commercial Cannabis Activities Ordinance - 5/06/2021

Honorable Commissioners,

The Covelo Cannabis Advocacy Group (CCAG) and Mendocino Cannabis Alliance (MCA) have come together to present you with these recommendations. We would like to thank you, and the Board of Supervisors, for ensuring the CCAO is a workable pathway for Phase 1 & 2 program participants. Some of our recommendations to these ends have been built into the ordinance, but we continue to request that the following **specific** items be added:

**The CCAO should ensure that Phase 1 and 2 permittees and embossed receipt holders transitioning to the CCAO will be able to:**

1. Have priority review of their CCAO Permit applications, whenever submitted;
2. Utilize a streamlined application process incorporating their Phase 1 or 2 application when applying for permitting under the CCAO.

Additionally, we have the following recommendations in response to the discussion on the [McGourty Memo](#) during the Board meeting on 4/19/21, and the [Staff Memo](#) providing options for consideration as directed by the Board on 4/19/21:

**Mixed Light**

- We support the option proposed in the [Staff Memo from 4/27](#) which limits Mixed Light and Indoor cultivation to the sizes allowed in Phase 1 and 2 for new applications and provides no opportunity for expansion beyond the currently allowed 10,000 sq ft maximum canopy area for ML or Indoor cultivation.
  - We do not support any changes to the Ag-Exempt Building Policy that would further limit the total square footage of ag-exempt hoop houses or greenhouses beyond the current limitations. Leaving the current policy as-is will lead to less confusion and will be easiest to implement.

## **Water - Section 22.18.050**

- We agree that due to drought conditions, no expansion of cultivation under the CCAO should happen in 2021, and we believe that expansion should not take place until we are no longer in a State of Emergency.
  - (B)(2) - Please add the following to this section of the ordinance as Item (c):  
**Once we are no longer in the State of Emergency drought conditions declared in April of 2021, Phase 1 and 2 operators who are currently cultivating less than 10,000 sq ft may expand to a full 10,000 sq ft of canopy subject to issuance of an Administrative Permit, and need not comply with the zoning district or parcel size criteria in Appendix A of this Chapter.**
  - (B)(3) - Water Trucking - We recommend that licensed cultivators simply be required to use all legal water sources. This includes legal commercial water delivery. The State already mandates that cannabis cultivators prove their lawful water right for that specific use. The State requires evidence of this. To require anything else is duplicative. The cultivator, if using a lawful water hauler, that has a lawful source of water for that purpose, cannot not be burdened with restrictions that no other business or other water user is burdened with. If the goal is to restrict illegal water hauling, create policies that target illegal water haulers, not already overburdened small businesses operating within the law.

## **Expansion Into Rangeland (All Cultivation on Rangeland) Section 22.18.050(C)(3)**

- We support Staff's #1 recommendation from their [4/27 memo](#) which proposes to "Consider limiting allowable Cultivation types and sizes on RL zoned properties as opposed to the exception language...as verification may prove difficult like it has for proof of prior cultivation in Chapter 10A.17."
- If the Planning Commission and the Board ultimately choose definitions presented by Staff in their [memo dated May 6](#), we strongly suggest the least restrictive definitions possible.

## **Slope Restrictions - Section 22.18.070(B)**

- We recommend aligning this ordinance with State policy on slope. Sites over 2,000 sq ft and under 1 Acre are defined as Low Risk if "No portion of the disturbed area is located on a slope greater than 30 percent." Sites are defined as Medium Risk if "Any portion of the disturbed area is located on a slope greater than 30 percent" but less than 50%.
- [Water Board FAQ](#)

## **Application Process Section 22.18.060**

- (A) We fully support the Staff Recommendation to allow staff discretion in deciding when they will and will not accept CCAO applications.

- We strongly recommend that more planners be hired immediately to work through both Phase 1 and 2 operators transitioning to the new ordinance, and new applicants coming into the program for the first time.
- We recommend that Staff provide a 60 Day Notice Period in advance of opening an Application Period, and at least a 21 Day Notice Period in advance of closing an Application Period.
- (A) Remove the requirement that applications contain copies of all documentation submitted to the State because it is impossible to submit a complete application to the State until local authorization is granted.
  - Delete the second half of the last sentence of section (A): **“the application shall also contain copies of all documentation submitted to the State as part of its application process for obtaining a State Commercial Cultivation License.”**
- (B) Please add **‘and Phase 2’** after ‘Phase 1’ in the first sentence.
- (B) Please recommend that the Board of Supervisors pursue every legal avenue to ensure Phase 1 and Phase 2 cultivators in good standing do not have to discontinue operations while transitioning to the CCAO.
  - To this end, please add the following sentence at the end of this section: **Phase 1 and 2 operators will be permitted to continue cultivation operations (under the rules of 10A.17) while they transition and wait for their Land Use Permit to be issued.**

#### **Required Findings Section 22.18.070(H)**

- As stated above, we support the Staff’s recommendation which proposes to limit the size and type of cultivation on Rangeland, rather than a determination of a land that has been ‘previously cleared and tilled and has a prior crop history’ due to all of the confusion created with the ‘proof of prior’ requirement for 10A.17

#### **More Compliance = More Community Protections**

We believe that the best way to solve the problem of unregulated cannabis cultivation in Mendocino County is to open a reasonable pathway to licensure for parcels in the county that are not in Opt-Out or Sunset Zones.

Cultivation sites in the program are the most heavily regulated agricultural operations in the State. The most effective ways to mitigate potential damages from unregulated cultivation are to allow more operators to become regulated, through the CCAO, and to amend and reopen

Phase 1, even if that means programmatic CEQA documents will need to be created and/or amended.

Opening the permitting process to more Mendocino County businesses not currently covered under this ordinance will enable the County to determine who is willing to participate and be regulated, and who is not. This would benefit all of Mendocino and do much to prevent severe negative socio-economic impacts in our community.

The Board has acknowledged that as written, this ordinance does not address access to the licensed cannabis market for potentially thousands of both new and existing operators. Additionally, while the County has received over 3 Million Dollars in Equity Grant money from the State to help those locally who have been disproportionately harmed by the War on Drugs, many potential recipients of these funds will not be able to move to parcels that will be deemed allowable in this new ordinance. You have the ability to address that gap today.

### **Create Craft Cultivation Permit Type**

- A Craft Cultivation Permit should be developed that reduces barriers to entry for smaller operators (10,000 sq ft and under) through reduced fees, streamlined permitting, and lesser discretionary review, similar to that of Phase 1 and 2 operators that are transitioning to CCAO.

We recommend:

- Parcels of 1 - 5 acres should be able to apply for a cottage permit (up to 2,500 sq ft), with an Administrative Permit, or up to 5% of parcel size with a Use Permit.
- Parcels of 5 - 10 Acres should be able to apply for permit types up to and including 5% of parcel size with a Use Permit.

Both CCAG and MCA remain ready to work with the Planning Commission, Supervisors, the Mendocino Cannabis Program, and County Staff to ensure that both the new CCAO and the existing 10A.17 ordinance are optimized to create efficiencies for all stakeholders, and a clear pathway forward for all those who desire to participate in the licensed cannabis program in Mendocino County.

We implore you to please take these suggestions into deep consideration and incorporate them directly into the ordinance.

We thank you for all the time you have taken with these delicate and complicated issues.

Sincerely,

Covelo Cannabis Advocacy Group & Mendocino Cannabis Alliance