

Kayla Miles - Fwd: MCGA Comments

From: Victoria Davis
To: Kayla Miles
Date: 3/15/2018 8:59 AM
Subject: Fwd: MCGA Comments

print 15

Victoria Davis
 Commission Services Supervisor
707-234-6664

>>> "Casey O'Neill" <casey@cagrowers.org> 3/14/2018 9:23 PM >>>
TO: Mendocino County Planning Commission and Staff
FROM: Mendocino County Growers Alliance (MCGA)

SUBJECT: OA_2018-0004- AMENDMENT TO MENDOCINO COUNTY CODE CHAPTER 10
 A.17 MEDICAL CANNABIS CULTIVATION AND CHAPTER 20.242- MEDICAL CANNABIS
 CULTIVATION SITE OF THE INLAND MENDOCINO COUNTY CODE.

We appreciate the opportunity to comment on these important amendments to the cultivation ordinance. We thank the Commission and County Staff for their hard work.

In addition to offering the following comments, we would like to offer support for the comments submitted by Attorney Hannah Nelson. Our comments are listed by issue along with the language from the Staff Memo submitted for tomorrow.

DISTURBANCE

- "Disturbance" would be defined, in accordance with Staff recommendations, to mean "areas of land where natural plant growth has been removed whether by physical, animal, or chemical means, or natural grade has been modified for any purpose. Land disturbance includes all activities whatsoever associated with developing or modifying land for cannabis cultivation related activities or access. Land disturbance activities include, but are not limited to, construction of roads, buildings, or water storage areas; excavation; grading; and site clearing. Disturbed land includes cultivation areas and storage areas where soil or soil amendments (e.g., potting soil, compost, or biosolids) are located."

MCGA COMMENT:

1. As written, the definition of disturbance is excessive. We agree that high impact disturbance such as grading and excavation should constitute disturbance. The way this definition is written it, If a farmer cleared 200 sq. ft. of poison oak for a small hoop house for their immature plants, they'd be breaking the rules

2. The inclusion of 'water storage areas' in this definition is particularly problematic as CDFW and/or SWB are requiring a majority of cultivators to install enough water storage to meet the dry month forbearance period.

IMMATURE PLANT CANOPY

- Currently, the square footage of cultivation area dedicated to propagation of starts is included in measuring the cumulative total square footage allowed under a given Permit. This would be changed to no longer count the propagation of immature plants towards the total square footage. A performance standard would also be added that such propagation must not constitute any new disturbance such as grading or clearing.

MCGA COMMENT:

1. Please remove the last sentence... or amend it to read "must not constitute any illegal grading or clearing of trees"... or revise the definition of disturbance so that it is more workable

PHASE 1 DEADLINE EXTENSION

- Paragraph (A)(1) of section 10A.17.080 is proposed to be amended to extend the application deadline for Phase One applications for sites within the Sunset areas until December 31, 2018, pursuant to the direction of the Board of Supervisors

MCGA COMMENT:

1. Please remove 'for sites within the Sunset Areas'. We understand that this extension stems from the delay in the overlay process, but the EXCEPTIONS part of the overlay contract is even further delayed and effects people outside of the sunset zones.

MICROBUSINESS LIMITED TO SELF-DISTRIBUTION

- Microbusinesses that are home occupations or cottage industries would be limited to Self-Distribution of the microbusiness' own cannabis and cannabis products and limited to customer levels as allowed by the home occupation or cottage industry ordinances.

MCGA COMMENT:

1. Please consider allowing Distribution beyond Self-Distribution.

- Distribution Transport Only and Self-Distribution licenses would be allowed in any zoning district as an accessory use to a cultivation site under application review or permitted pursuant to Chapters 10A.17 and 20.242, but the licensee would be restricted to distributing cannabis goods grown or made by the licensee itself.

MCGA COMMENT:

1. Please remove the requirement that the Distribution Transport-Only license would be limited to their own product. This will dissallow one person in a neighborhood/region from performing transportation services for the community and force everyone to drive their own product down.

This means every cultivator will have to invest in compliant vehicles with security systems. It will cause an increase in traffic.. etc.

CODE ENFORCEMENT MAIL POLICY

- Minor changes are proposed to sections 10A.17.140 through.160 regarding enforcement procedures pursuant to the recommendation of the Code Enforcement Division. It is recommended to delete any requirement of the County to request a return receipt when mailing, and to clarify that letters be mailed to the mailing address associated with the permit. Code Enforcement has stated that the return receipt requested requirement slows down the process and has not added any value. The changes also clarify that cultivating cannabis while in the application process is an exception to the nuisance declaration only during Phase One. Minor formation changes are also recommended.

MCGA COMMENT:

1. Please remove the sentence deeming cultivation a nuisance during the application process after phase one.
2. Isn't the return receipt process designed to prevent cultivators from missing their 10-day response window before realizing they even received a notice of violation? If this change makes it more likely that people will miss their opportunity to appeal, then we do not support it.

FULL SUPPORT OF THESE AMENDMENTS

- Paragraph (D) of section 10A.17.070 is proposed to be amended pursuant to the direction of the Board of Supervisors. Changes would allow a permit to include any combination of cultivation types (though if any of the types would require a permit pursuant to Chapter 20.242, the entire permit would undergo such review) and to allow a single permit for multiple continuous legal parcels under the same ownership.

FULL SUPPORT

- Non-Storefront Retail locations would be permitted in any zoning district as an accessory use to a cultivation site under application review or permitted pursuant to Chapters 10A.17 and 20.242.

FULL SUPPORT

- Eliminate references to "medical"; incorporation of both medical and adult use cultivation; remove language explicitly prohibiting non-medical cannabis purposes.

FULL SUPPORT

- The ordinance currently uses the phrase "medical or adult-use" throughout. Occurrences of this phrase would be eliminated in most cases as the County would not be base their permit types on whether it was a medical or adult use facility.

FULL SUPPORT

- Relevant definitions set by the MAUCRSA would be added, including "A-License," "Flowering,"

"Immature plant," "License," "M-license," "M-licensee," "Mature plant," and "Private residence".

FULL SUPPORT

- Currently, the definition of "Microbusiness" means "the cultivation of adult use cannabis on an area 10,000 square feet or less and acting as a licensed distributor, Level 1 manufacturer, and retailer...". As such, applicants are required to have all four components to qualify for a microbusiness license. The MAUCRSA only requires an applicant to have three out of the four components to qualify. To align with this state regulation, the definition would be changed to mean, "at least three (3) of the following commercial cannabis activities: cultivation of adult use cannabis on an area 10,000 square feet or less, distribution, Manufacturing Level 1 (Non-Volatile), and acting as a licensed retailer/dispensary under this Chapter...".

FULL SUPPORT

NO COMMENT ON THESE AMENDMENTS

- The definition of "Baseline date" would be set to August 26, 2017 which is the date the Initial Study under the California Environmental Quality Act for the MCCR was initiated.

NO COMMENT

- Section 10.A.17.030 - Changes have been made to insert provisions of existing Chapter 9.30, governing personal cultivation of adult use cannabis, into this section, with minor changes to Section 20A.17.040 as well. The provisions of Chapter 9.30 were adopted by the Board of Supervisors in April 2017, and are not substantively changing. The intent of the changes is to eliminate Chapter 9.30 and rely on Chapter 10.A.17 for all regulations regarding the cultivation of cannabis for personal use, whether for medical or adult use. An additional change recommended by the Department of Agriculture is the deletion of the requirement that qualified patients or primary caregivers register with the Department. This registration requirement has lost some relevancy following the legalization of adult use cannabis and cultivation. Enforcement of the personal Page 3 cultivation provisions for either medical or adult use may be done without the registration requirement.

NO COMMENT

- Currently, cannabis facilities are prohibited within a one thousand (1000) foot radius of a youth-oriented facility, a school, a park, or any church or residential treatment facility, as defined in Chapter 10A.17.020. Applicants would be able to apply for a reduction in the setback through an administrative permit, subject to the existing limitations of the chapter.

NO COMMENT

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