

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO
AMENDING CHAPTER 20 OF TITLE 5 OF THE YOLO COUNTY CODE REGARDING
MEDICAL MARIJUANA CULTIVATION

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

SECTION 1. Purpose

The purpose of this Ordinance is to amend Chapter 20 of Title 5 of the Yolo County Code regarding medical marijuana cultivation to broaden the exception to the cultivation prohibition, provide an appeals process for those denied a business license to cultivate medical marijuana by permit and to add a 1,000 foot cultivation setback from tribal lands.

SECTION 2. 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 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 3. Section 5-20.04 is amended to read as follows:

Section 5-20.04 Prohibited Activities.

A. The cultivation of medical marijuana, in any amount or quantity, upon any premises, is declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless one of the following conditions is satisfied:

1. Patient Exemption

- a. Cultivation is by a qualified patient cultivating marijuana pursuant to Section 11362.5 of the Health & Safety Code if the area he or she uses to cultivate marijuana does not exceed 100 square feet, at full plant maturity, per legal

parcel, and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity.

- b. The 100 square feet limitation is imposed regardless of the number of qualified patients residing on the property, participating directly or indirectly in or benefitting from the cultivation.
 - c. For purposes of this subsection, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants at full maturity on the premises.
 - d. The qualified patient shall reside full-time in the residence where the medical marijuana cultivation occurs and may not participate in medical marijuana cultivation in any other residential location within the County of Yolo.
2. By Permit. Cultivation is in compliance with California Regional Water Quality Control Board Central Valley Region Order No. R5-2015-0113. All medical marijuana cultivation sites cultivating pursuant to this subsection shall provide to the Yolo County Department of Agriculture a copy of a submitted Notice of Intent, which must be complete and have been received with full payment by the Central Valley Regional Water Quality Control Board no later than 5:00 p.m. on October 11, 2016, to obtain regulatory coverage by the Central Valley Water Board as a Tier 1, 2 or 3 cultivator, Monitoring Self-Certification and other documents filed with the Central Valley Regional Water Quality Control Board demonstrating compliance with Order No. R5-2015-0113, or any substantially equivalent rule that may be subsequently adopted by the County of Yolo or other responsible agency. Notwithstanding the foregoing, the garden canopy must be between 1,000 square feet and 43,560 square feet; cultivation of medical marijuana of less than 1,000 square feet under this subsection is prohibited.
- a. Persons cultivating medical marijuana by permit under this subsection shall:
 - 1) Be currently leasing or, as of October 11, 2016, have been the record owner of or have a fully executed purchase and sale agreement for the purchase of, the real property on which they will cultivate medical marijuana and for which they have filed a Notice of Intent with the Central Valley Water Board by October 11, 2016; and
 - 2) Participate in any track and trace program required by the County, pay any associated fees and meet all associated requirements; and

- 3) Sign a written consent to reasonable on-site compliance inspections of the cultivation area by law enforcement or other County personnel during reasonable hours; and
- 4) Execute an agreement to indemnify and hold harmless the County of Yolo and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the cultivation of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the cultivation of marijuana for medical use. The indemnification shall apply to any damages, costs of suit, attorneys' fees or other expenses awarded against the County, its agents, officers and employees in connection with any such action. In addition, the agreement shall release the County of Yolo, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution for cultivation in violation of state or federal laws.

b. Appeals

- 1) The applicant may appeal the denial or revocation of a Yolo County business license to cultivate medical marijuana by permit under this subdivision to the County Administrator or his/her designee by filing a statement in writing setting forth the grounds of the appeal within 15 days after the denial or after the mailing of a notice of revocation. The appeal shall be heard within 15 days after receiving notice of the appeal.
- 2) The scope of the appeal shall be limited to a determination of whether the application for a business license meets the requirements of this Chapter.
- 3) If no appeal is made within the time specified for an appeal following a denial or revocation of a business license, the license shall be deemed denied or revoked, as applicable.
- 4) The decision of the County Administrator or his/her designee shall be final.

SECTION 4. Subsection A(1) of Section 5-20.05 is amended to read as follows:

Section 5-20.05 Limitation on Location to Cultivate Marijuana.

A. The cultivation of marijuana, in any amount or quantity, shall not be allowed in the following areas:

1. Outdoors within 1,000 feet of a youth-oriented facility, a school, a school-bus stop, a park, a church or federal lands held in trust by the federal government for a federally recognized tribal government or lands held in fee by a federally recognized tribal government. The setback from lands held in trust for or in fee by a federally recognized tribal government shall apply prospectively and not be applicable to those exempt under 5-20.04.A.1-2.
 - a. Such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the youth-oriented facility, school, school bus stop, park, church, residential treatment facility or tribal lands are located.

SECTION 5. 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 January 10, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTION:

By: _____
Duane Chamberlain, Chair
Yolo County Board of Supervisors

Attest: Julie Dachtler, Deputy Clerk
Yolo County Board of Supervisors

By: _____
Deputy (Seal)

Philip J. Pogledich, County Counsel

By:  _____
Carrie Scarlata, Asst. County Counsel