



COUNTY OF DEL NORTE

Office of the County Counsel
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Agenda Materials

Date: September 12, 2017
To: Del Norte County Board of Supervisors
From: Joel Campbell-Blair, Deputy County Counsel
Re: Commercial and Personal Cultivation of Cannabis Ordinance Options

Commercial Cannabis Ordinance Options

Business and Professions Code §26055(d) provides that state licensing authorities may not approve an application for a license to conduct commercial cannabis activity if such approval will violate the provisions of any lawful local ordinance. Below are four options for potential ordinances to limit and control the commercial cultivation of cannabis in Del Norte County.

1. Complete ban of all commercial cannabis activity in the unincorporated area of Del Norte County.
2. Interim Ordinance temporarily restricting commercial activity and preserving the *status quo* pending deeper consideration of a comprehensive ordinance. (Gov. Code §65858.) Requires 4/5 of the Board; does not need to go to the planning commission; can be extended up to two years.
3. Limited Commercial Activity, medical only:
 - a. Not in coastal zone; not on agricultural land
 - b. Cultivation: permit that corresponds to the Specialty Cottage permit, which is the smallest state cultivation permit:
 - i. Business and Professions Code §26061(a)(4).

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"Type 1C, or "specialty cottage," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises."

- ii. Allow outdoor and mixed light in timberland zones
- iii. Possibly allow indoor in commercial and manufacturing zones
- iv. Limit to 10-20 total permits
- c. Retail: Allow dispensaries in commercial and/or manufacturing zones with limitations
 - i. Only 2-3 permits issued
 - ii. Restrictions on proximity to residential zones, schools, day cares
- d. No other permit types.
- 4. Moderate Commercial Activity: medical and/or recreational
 - a. Allow as much commercial activity as possible consistent with current general plan, possibly up to 1 acre on large parcels;
 - i. No activity in the coastal zone or agricultural zones
 - b. Allow at least some activity at every level of the supply chain: cultivation, distribution, testing, manufacturing, retail. Issue 2-3 permits each for distribution, manufacturing and testing

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Personal Cultivation Reasonable Regulations Options

Health and Safety Code §11362.2 provides that "a person shall plant, cultivate, harvest, dry or process plants in accordance with local ordinances," and a county may "enact and enforce reasonable regulations to regulate" personal cultivation. The following is a list of such "reasonable regulations" other counties have imposed on personal cultivation. At this point, none of these have been validated by published decisional law.

1. Residency Requirement: personal cultivation only permitted on parcels with a residence and a full-time resident. (Sonoma)
2. Maximum area: While each residence may have up to six plants, those six plants may occupy only 64 square feet (San Diego) or 100 square feet. (Sonoma)
3. Indoor cultivation shall not exceed 50 square feet or exceed 10 ft in height. No outdoor in addition to indoor. (Humboldt)
4. All structures used for growing cannabis must be legally constructed with all applicable permits for grading, electrical, plumbing, building, etc. (Sonoma)
5. No person shall plant, cultivate, harvest, dry or process cannabis outdoors in anything other than a secured structure upon the grounds of a private residence. (San Diego)
6. The cultivation of marijuana outdoors by any person, including primary caregivers and qualified patients, collectives, cooperatives or dispensaries, for any purpose is prohibited on any parcel in the unincorporated area of Sacramento County. (Sacramento)

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7. Cultivation indoors must be concealed from the view of the public and neighbors.
(Sacramento)
8. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure. (Sonoma)
9. No Structure used for cultivation shall bear any exterior evidence of cannabis cultivation. (Sonoma)
10. All structures used for cultivation shall have locking doors or gates to prevent free access. All cultivation structures shall be equipped with odor control filtration and ventilation systems adequate to prevent an odor, humidity, or mold. (Sonoma)
11. The use of generators is prohibited, except as emergency back-up systems. (Sonoma)
12. Maximum electrical panel for cultivation area shall be fifty amps. (Shasta)
13. Grow lights shall not exceed 1200 watts. (Humboldt)
14. The accessory structure shall have locking doors and a working security system which shall consist of a standard audible residential alarm of at least ninety dBA, but not exceeding one hundred ten dBA. (Shasta)
15. Notarized written consent of all owners of the property before cultivation (Shasta).
16. All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.
(Sonoma)

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17. The indoor residential cultivation of medical marijuana shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of medical marijuana. (Humboldt)
18. A waterproof membrane or other waterproof barrier shall be installed in the cultivation area or beneath individual plants to protect the floor of the indoor cultivation area from water damage. (Humboldt)