



County of Sonoma
State of California

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ATTEST: OCT 16 2018

SHERYL BRATTON, Clerk/Secretary

BY [REDACTED]
DEPUTY CLERK/ASST. SECRETARY

Date: October 16, 2018

Item Number: 24

Resolution Number: 18-0442

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Making Findings in Support of Ordinance No. 6245, Amending Chapter 26 Of The Sonoma
County Code To Allow Adult Use Cannabis In Sonoma County For The Full Cannabis Supply
Chain, Enhance Neighborhood Compatibility, Add New Definitions And Make Minor Non-
Substantive Amendments To Harmonize With California State Law And Regulations Where
Appropriate**

Whereas, the Medical Cannabis Regulation and Safety Act ("MCRSA"), signed into law in October 2015, constructed a comprehensive framework for the regulation of medical cannabis and replaced the collective/cooperative model with a dual commercial licensing scheme at the local and state levels; and

Whereas, on December 20, 2016, the Board of Supervisors adopted a series of ordinances to establish a comprehensive local program, to permit and regulate the complete supply chain of medical uses, including the Medical Cannabis Land Use Ordinance, which was codified in Chapter 26 of the Sonoma County Code, Sections 26-88-250 through 26-88-258; and

Whereas, the Senate Bill 94 ("SB 94"), signed into law on June 27, 2017, repealed the Medical Cannabis Regulation and Safety Act ("MCRSA") and incorporated certain provisions of MCRSA into the provisions of the Adult Use of Marijuana Act ("AUMA") to create one regulatory framework termed the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"); and

Whereas, SB 94 amended Business and Professions Code section 26055 to add subsection (h), which provides that the CEQA process does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of applications for permits, licenses, or other authorizations to engage in commercial cannabis activity, and that in order to qualify for this exemption, the discretionary review of applications provided for by any such law, ordinance, rule, or regulation shall include a requirement for any applicable environmental review pursuant to the CEQA process to occur prior to taking action on such applications; and

Whereas, on April 10, 2018, the Board of Supervisors adopted a Resolution of Intention, directing staff to explore and propose amendments to the Medical Cannabis Ordinance to allow for Adult Use cannabis for the full supply chain, enhance neighborhood compatibility, and adopt new definitions and minor technical changes to harmonize with State law and regulations where appropriate; and

Whereas, the Planning Commission held public hearings on the proposed amendments on June 7, 2018, and June 28, 2018, and adopted Resolution Number 18-008 recommending that the Board of Supervisors adopt the proposed amendments to the Medical Cannabis Land Use Ordinance in Chapter 26 of the Sonoma County Zoning Code; and

Whereas, the Board of Supervisors held a public hearing on August 7, 2018 to consider the proposed Ordinance and Planning Commission recommendations thereon; and

Whereas, two items were raised during public comment and Board deliberations that were not previously considered by the Planning Commission and were referred back for report and recommendation pursuant to Government Code Section 65857; and

Whereas, the Planning commission held an additional public hearing on September 6, 2018, and adopted Resolution Number 18-017 recommending the following modifications: (1) eliminate the 24 hour notice requirement for inspections, (2) allow centralized processing on agriculturally zoned lands, and (3) maintain that zoning permits have a one year term and are exclusively for medical cannabis uses; and

Now, Therefore, Be It Resolved that the Board of Supervisors makes the following findings and determinations in support of its adoption of the Ordinance:

- I. **California Environmental Quality Act Findings.** The Board finds and determines that this Ordinance [and any corresponding administrative regulations, if any] is exempt from the California Environmental Quality Act (CEQA) pursuant to Business and Professions Code Section 26055(h), because the Ordinance provides for a discretionary review and approval process, including CEQA review, of permits to engage in commercial cannabis activity. The Board further finds that adoption of the Ordinance is further exempt from CEQA review pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment. The basis for this determination is that the Ordinance

continues existing development standards, permit requirements, and other measures for commercial cannabis activity within the unincorporated area of the county including, but not limited to, riparian setbacks, biotic resource protection, waste discharge requirements, and significant constraints on water use in the County's most water scarce areas. The Ordinance also enhances protections by increasing the minimum parcel size and adding new setbacks from sensitive uses. Further, the Ordinance expands regulation of the County's cannabis industry to encompass adult-use for the full supply chain, encouraging illegal cannabis cultivators to come into compliance with the environmental protection standards provided for in the Ordinance. The Board further finds and determines that the Ordinance is exempt from CEQA under Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment. The basis for this determination is that the Ordinance also makes minor technical, clarifying, or conforming changes to the existing standards, permit requirements, and other measures for commercial cannabis activity within the unincorporated area of the county. Ordinance changes are largely limited to the discretionary permitting process that ensures further site- and project-specific environmental review. The adoption of the Ordinance will not result in any direct or indirect physical change to the environment, and will instead ensure the maintenance and protection of natural resources and the environment, by maintaining existing environmental standards for commercial cannabis activity within the unincorporated area of the county.

II. **Consistency with General Plan 2020.** For the reasons discussed below, the Ordinance is compatible and consistent with the objectives, policies, general land uses, and programs specified in General Plan 2020 and with its implementing specific plans.

- A. In and through its prior action adopting the Medical Cannabis Land Use Ordinance, the Board has already interpreted its own General Plan and determined that cannabis uses, as defined and limited by that ordinance, are consistent with the overall intent, goals, objectives, and policies of the General Plan. More specifically, the Board determined that cannabis cultivation, as limited, is compatible with agricultural production on land designated for agricultural use (e.g., Land Intensive Agriculture, Land Extensive Agriculture, Diverse Agriculture districts) and that cannabis cultivation is consistent with the overall intent, goals, objectives, and policies of the General Plan.
- B. **Agricultural Resources Element.** The Ordinance is substantially consistent with the goals, objectives, and policies of the Agricultural Resources Element of the General Plan, as follows:

1. Goal AR-3 and related objectives and policies. Goal AR-3 provides that it is desirable that the County “[m]aintain the maximum amount of land in parcel sizes that a farmer would be willing to lease or buy for agricultural purposes.” The Ordinance will not impact existing parcel sizes in areas designated for agriculture and agricultural production (LIA, LEA, DA), and will not promote parcelization. The Ordinance specifies minimum parcel sizes by type of cultivation, and limits the footprint of cannabis activity on each parcel to ensure that most of each affected parcel remains in, or available for, agricultural production and that agricultural production remains the primary use of each parcel. Objective AR-3.1 provides that the County should “avoid the conversion of agricultural lands to residential or nonagricultural commercial uses.” As with the discussion above related to Goal AR-3, because the Ordinance requires minimum parcel sizes, including increasing the minimum parcel size for smaller cultivation sites, and ensures that cannabis uses are limited to a maximum ten percent of the parcel, the primary use of each parcel in agriculture designations will remain agricultural production or related uses as contemplated by the General Plan and zoning ordinance. Further, the Ordinance increases the minimum parcel size for smaller cultivation sites.

2. Goal AR-4 and related objectives and policies. Goal AR-4 provides that it is desirable to “[a]llow farmers to manage their operations in an efficient, economic manner with minimal conflict with nonagricultural uses.” To achieve this goal, Policy AR-4a provides, in pertinent part, that “[t]he primary use of any parcel within the three agricultural land use categories shall be agricultural production and related processing, support services, and visitor serving uses....” As discussed above, because the footprint of a cannabis use on any parcel with an agriculture land use designation would be a small fraction of the entire parcel size, the Ordinance ensures that the primary use of each parcel remains agricultural production and related uses.

3. Policy AR-5b provides that the County should “[c]onsider allowing the processing of non viticultural agricultural products where the processing is demonstrated to support projected or new agricultural production, provided that the processing use is proportional to the new production on site or in the local area.” The Ordinance would permit cannabis centralized processing facilities with a use permit. The discretionary process and CEQA review that will be conducted prior to any determination whether to grant a use permit would consider whether the proposed processing use would be proportional to cannabis production on site or in the local area. The use permit process would also consider other potential impacts, including impacts on existing agricultural production.

C. Land Use Element. The Ordinance is substantially consistent with the goals, objectives, and policies of the Land Use Element of the General Plan, as follows:

1. Goal LU-1 and related objectives and policies. Goal LU-1 provides that “[t]he County shall continue to use the following selected Specific Plans and Area Plans to implement this plan.” These plans include the Bennett Valley Area Plan, Penngrove Area Plan, and the Franz Valley Area Plan, discussed below.

a. The Bennett Valley Area Plan goals are to retain the rural character of the area and reflect the environmental and economic constraints, suitabilities, and sensitivities of the area. The Ordinance requires that all commercial cannabis activity is subject to restrictive design standards for the siting of new structures, visibility, lighting, and fencing similarly to any other proposed development, and in some cases the proposed ordinance is more restrictive for commercial cannabis activity such as in water scarce areas, taking into account the constraints of the area in which development may be permitted. Furthermore, the Ordinance requires minimum parcel sizes, including increasing the minimum parcel size for smaller cultivation sites, and ensures that cannabis uses are limited to a maximum ten percent of the parcel, consistent with the rural character of Bennett Valley.

b. The Penngrove Area Plan reflects the goal of accommodating a variety of rural living environments while protecting agriculture and recognizing septic and water constraints. More specifically, this area plan aims to protect and enhance the profitability of existing agriculture and protect agricultural soils for future generations. The Board has already found that the Medical Cannabis Land Use Ordinance “consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultur[e], stabilize farm incomes and provide opportunities for diversification of agricultural products; [and] protect Important Farmlands . . .” (Ord. No. 6189(U).) The Ordinance continues existing development standards, permit requirements, and other measures for commercial cannabis activity, and provides consistent, and in some cases, more restrictive protections of riparian corridors, farmland, and water resources. The Ordinance requires that excess irrigation water or effluent from cultivation activities discharging to a septic system and submit an evaluation by a qualified sanitary engineer demonstrating the system’s capacity to handle the waste. Additionally, sites within marginal groundwater areas must demonstrate that the proposed use would not result in a net increase in water use through implementation of water

conservation measures such as rainwater catchment or recycled water systems, or that the onsite groundwater supply is adequate to serve on site water needs and will not result in or exacerbate an overdraft condition in basin or aquifer, reduce critical flow in nearby streams, or cause interference at offsite wells. These stringent standards ensure that development in the area is consistent with the Plan.

c. The Franz Valley Area Plan reinforces the County's policy of protecting agriculture. As discussed above with respect to consistency with Goals AR-3 and AR-4, the Ordinance will not impact existing parcel sizes in areas designated for agriculture and agricultural production (LIA, LEA, DA), and will not promote parcelization. Also discussed above, the footprint of a cannabis use on any parcel with an agriculture land use designation would be a small fraction of the entire parcel size, so that the ordinance ensures that the primary use of each parcel remains agricultural production and related uses, consistent with the Plan's goal to keep options open for resource development and conservation by not permitting uses which would preclude the best use of the land. These standards promote diversification of agricultural products and ensure the area remains in agricultural production, consistent with this Plan.

2. Goal LU-8 and related objectives and policies. Goal LU-8 provides that the County should "[p]rotect Sonoma County's water resources on a sustainable yield basis that avoids long term declines in available surface and groundwater resources or water quality." The Ordinance requires an on-site water supply source to meet all on site uses on a sustainable basis. Further, the Ordinance requires that sites within Groundwater Availability Zones 3 and 4 demonstrate that the proposed use would not result in a net increase in water use through implementation of water conservation measures such as rainwater catchment or recycled water systems, or that the onsite groundwater supply is adequate to serve on site water needs and will not result in or exacerbate an overdraft condition in basin or aquifer, reduce critical flow in nearby streams, or cause interference at offsite wells. These, and other, stringent standards in the Ordinance protect water resources and avoid long term declines in water availability or quality.

3. Goal LU-9 and related objectives and policies. Goal LU-9 states that the County should "[p]rotect lands currently in agricultural production and lands with soils and other characteristics that make them potentially suitable for agricultural use. Retain large parcel sizes and avoid incompatible non agricultural uses."

a. Objective LU-9.1 provides that the County should “[a]void conversion of lands currently used for agricultural production to nonagricultural use.” As discussed above with respect to consistency with Goals AR-3 and AR-4, the ordinance will not cause conversion of lands currently used for agricultural production to non-agricultural use. Additionally, indoor and mixed light cultivation sites shall not remove agricultural production or must offset such agricultural production at a 1:1 ratio, further ensuring farmlands are not converted to nonagricultural uses. Cannabis is an agricultural product that the Board has previously determined to be compatible with other agricultural production activity. Moreover, the parcel and use size limitations built in to the ordinance will ensure retention of larger parcel sizes and also ensure that traditional agricultural production remains the primary use of each affected parcel.

b. Objective LU-9.4 provides that the County should “[d]iscourage uses in agricultural areas that are not compatible with long term agricultural production.” In addition to the facts discussed above, the Ordinance may help to stabilize and maintain traditional but economically marginal agricultural production over the long term, by allowing for cannabis cultivation on a small portion of certain agricultural parcels but ensuring that the remainder of each such parcel remains in agricultural production.

4. Goal LU-10 and related objectives and policies. Goal LU-10 provides that “[t]he uses and intensities of any land development shall be consistent with preservation of important biotic resource areas and scenic features.” The Ordinance requires that all proposed cultivation operations, including all associated structures, demonstrate that the project is not located within, and will not impact sensitive or special status species habitat. The Ordinance requires sites within these areas obtain all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species, or a biotic assessment concluding that the proposed development will not result in a take of a protected wildlife species within the meaning of the state or federal endangered species acts. Furthermore, the Ordinance provides siting, fencing, lighting and other standards that ensure the consistency with the rural character of the County’s scenic vistas. Small scale cultivation operations in agricultural and industrial zones are subject to these stringent standards. To avoid potential visual impacts, the Ordinance requires that new structures be subject to design standards and includes required setbacks from sensitive uses. In addition to these standards, all cannabis support uses and larger operations are subject to a use permit and further CEQA analysis to ensure individual projects are consistent with the goals of preserving important biotic resource areas and scenic features.

D. Water Resources Element. The Ordinance is substantially consistent with the goals, objectives, and policies of the Water Resources Element of the General Plan, as follows:

1. Goal WR-1 and related objectives and policies. Goal WR-1 provides that the County should "[p]rotect, restore and enhance the quality of surface and groundwater resources to meet the needs of all reasonable beneficial uses." The Ordinance prohibits runoff containing sediment or other wastes or byproducts from entering the storm drain system, waterways, or adjacent lands. Additionally, the Ordinance requires cultivation operations to comply with applicable State Water Resource Control Board discharge requirements and the Agricultural Commissioner's best management practices for management of wastes, water, erosion control, and management of fertilizers and pesticides. The Ordinance's stringent water supply and water quality standards ensure the protection of surface and groundwater resources, further contributing to the restoration and enhancement of the resource to meet the needs of all reasonable beneficial uses.

2. Goal WR-2 and related objectives and policies. Goal WR-2 provides that the County should "[m]anage groundwater as a valuable and limited shared resource." The Ordinance specifies that cannabis cultivation requires an onsite water supply adequate to meet all on site uses on a sustainable basis and requires that operations within the most critical water areas demonstrate "no net increase" by using all available water conservation techniques. Sites within Groundwater Availability Zones 3 and 4 must demonstrate that the proposed use would not result in a net increase in water use through implementation of water conservation measures such as rainwater catchment or recycled water systems, or that the onsite groundwater supply is adequate to serve on site water needs and will not result in or exacerbate an overdraft condition in basin or aquifer, reduce critical flow in nearby streams, or cause interference at offsite wells. With the inclusion of these stringent standards, the Ordinance requires the use of all water conservation techniques to ensure groundwater is managed as a valuable and shared resource within the County.

Be It Further Resolved that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings for Ordinance No. 6245 upon which the findings and determinations herein are based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

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Supervisors:

Gorin: Aye

Rabbitt: Aye

Zane: Aye

Hopkins: Aye

Gore: Aye

Ayes: 5

Noes: 0

Absent: 0

Abstain: 0

So Ordered.