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August 7, 2018

Board of Supervisors
44 N. San Joaquin Street, Suite 627
Stockton, CA 95202

Dear Board Members:

**Adopt Ordinance Amending the
San Joaquin County Code of Ordinance Title 4, Division 10, to Add
Chapter 3 Personal Cannabis Cultivation
(Said Ordinance Introduced and Waived on July 10, 2018)**

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt the proposed addition to San Joaquin County Code of Ordinance Title 4, Division 10, to add Chapter 3 Personal Cannabis Cultivation.

Discussion:

California State Law

The Medicinal and Adult-Use Cannabis Regulation and Safety Act or "MAUCRSA" is the operative law for commercial medicinal and adult-use cannabis and personal cannabis cultivation. MAUCRSA Section 130 amends the California Health and Safety Code Section 11362.2 to allow a person 21 years of age or older to do the following:

1. Plant, cultivate, harvest, dry, or process not more than six cannabis plants;

2. Retain the cannabis from those plants;
3. Inside their private residence¹ or in a locked accessory structure (shed, etc.); and
4. So long as the cannabis and cannabis products are not visible from a public place.

Under Section 11362.2, adults cannot sell, trade, or barter away their personal cannabis but can give away 28.5 grams (1 ounce) of non-concentrate cannabis and 8 grams (.28 ounces) of concentrated cannabis (though it is not clear how often such gifts may occur).

While “a county may enact and enforce reasonable regulations on the cannabis activities,” allowed under Section 11362.2, a county “shall not completely prohibit persons engaging in the actions and conduct” allowed.

Proposed Personal Cultivation Ordinance

This proposed ordinance is consistent with the County’s Cannabis Working Group’s two policy priorities in developing the proposed ordinance:

1. Maintain public safety and community character by ensuring cannabis-related violations are effectively enforced.
2. Create an efficient and effective enforcement system.

It prohibits the cultivation of more than six plants, prohibits outdoor cultivation, and requires that allowed cultivation be in a secured personal residence or accessory structure that complies with all building and fire codes.

Under the proposed ordinance, legal personal cultivation must meet the following requirements:

1. Have landlord approval for rented personal residences;
2. Safely store/secure cannabis plants and cannabis products in a manner that is inaccessible to minors;
3. Use pesticides properly; and
4. Use water properly.

Under the proposed ordinance, the following things are prohibited:

¹ “Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling.

1. Cultivation of seven plants or more;
2. Outdoor cultivation;
3. Publicly visible cannabis, cultivation, or cannabis products;
4. Creating conditions that constitute a public nuisance; and
5. Using volatile solvents or carbon dioxide in cannabis cultivation or processing.

Under the proposed ordinance, a violation subjects the cultivator to enforcement under Title 1, Division 2 (see discussion below) as well as the following civil fine/penalty for each violation each day the violation remains unabated:

- \$500 per non-plant violations of the proposed ordinance
- \$1,000 per cannabis plant over the six-plant limit in the proposed ordinance.

Conclusion

The Proposed Personal Cannabis Cultivation Ordinance reasonably regulates personal cannabis cultivation as allowed under state law in a manner that mitigates the impacts that unregulated cannabis cultivation and processing pose to the health, safety, and welfare of individual cultivators and communities. It does so in a manner that allows the County to focus its resources on reducing illicit cannabis activity in the County for the benefit and safety of County residents and first responders.

Fiscal Impact:

Little or no additional General Fund or Department impact is expected to result from the proposed ordinance since there is no application, permit, registry, or other administrative costs over and above response and enforcement. The costs of enforcement will be reduced through the administrative enforcement tools available in the revised Title 1, Division 2. Further, the time, services, and materials spent in enforcement actions are recoverable through cost recovery processes in the revised Title 1, Division 2. Finally, enforcement costs will be partially deferred through the collection of the fines/penalties of \$500 for each non-plant violation and \$1,000 for each plant over the six plants allowed in the proposed ordinance.

While the full fiscal impact of the proposed ordinance will depend on the number of enforcement actions and the amount of successful cost recovery for enforcement actions, it is clear that the majority of the fiscal impact to the County is as a result of the State's legalization and allowance of personal cultivation and not as a result of the adoption of the proposed ordinance.

Action to be Taken Following Approval:

Thirty (30) days after the date of adoption, the ordinance will become effective pursuant to Government Code Section 25123. Within fifteen (15) days after the date of adoption, the Clerk will cause to be published a summary of the ordinance, shall make available to the public upon request a certified copy of the ordinance, and post the ordinance pursuant to Government Code Section 25124. Thereafter, the adopted ordinance will be published in the San Joaquin County Ordinance Code.

Very truly yours,



J. Mark Myles
County Counsel

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Attachments:

Attachment A: Proposed County Code of Ordinance Title 4, Division 10, Chapter 3

- c: Board Clerk for Agenda 08/07/2018
- Board of Supervisors
- Sheriff's Office
- District Attorney
- Public Defender
- Office of the Agricultural Commissioner
- Community Development Department
- Environmental Health Department
- Public Health
- Human Services Agency
- Treasurer-Tax Collector
- County Administrator

Reviewed by County Administrator's Office:

Reviewed by County Counsel's Office:


Chris Rose

7/31/2018



J. Mark Myles, County Counsel

7/30/2018