

BOARD OF SUPERVISORS

Yolo County, California

Date: November 22, 2016

To: Ag ✓  
Co. Counsel ✓

42.

Waive second reading and consider adoption of an ordinance amending Chapter 20 to Title 5 of the Yolo County Code expanding the scope of prohibition on cultivation of medical marijuana in the unincorporated areas of Yolo County. (Potential general fund impact) (Young)

Jackie McGowan addressed the Board of Supervisors on this item.

Minute Order No. 16-169: Approved recommended action by **Ordinance No. 1478.**

MOVED BY: Chamberlain / SECONDED BY: Saylor

AYES: Chamberlain, Villegas, Saylor, Provenza.

NOES: Rexroad.

ABSTAIN: None.

ABSENT: None.



## County of Yolo

www.yolocounty.org

To: Supervisor Jim Provenza, Chair  
and Members of the Board of Supervisors

### Regular-General Government # 42.

### Agriculture

#### Board of Supervisors

**Meeting Date:** 11/22/2016

**Brief Title:** Commerical Cultivation Ordinance

**From:** John Young, Agricultural Commissioner

**Staff Contact:** Anna Louzon, Managment Analyst, County Administrator's Office, x5776

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#### Subject

Waive second reading and consider adoption of an ordinance amending Chapter 20 to Title 5 of the Yolo County Code expanding the scope of prohibition on cultivation of medical marijuana in the unincorporated areas of Yolo County. (Potential general fund impact) (Young)

#### Recommended Action

Waive second reading and adopt an ordinance amending Chapter 20 to Title 5 of the Yolo County Code regulating the cultivation of medical marijuana in the unincorporated areas of Yolo County.

#### Strategic Plan Goal(s)

Operational Excellence  
Safe Communities  
Sustainable Environment  
Flourishing Agriculture

#### Reason for Recommended Action/Background

##### Prohibition Amendment

On March 22, 2016, in response to the Medical Marijuana Regulation and Safety Act (MMRSA) and to effect greater local control, the Board of Supervisors adopted Ordinance 16-32, adding Chapter 20 to Title 5 of the Yolo County Code regulating medical marijuana cultivation in Yolo County. The Board requested the initial ordinance as an interim measure to address neighbor complaints and limit harmful environmental impacts while protecting patient access to medical marijuana, while state and county staff develop more comprehensive regulatory program.

The second reading of the proposed amendment will expand the scope of prohibition on the cultivation of medical marijuana. Adoption of this ordinance (Att. A: Ordinance) will make the cultivation of medical marijuana unlawful in all cases, with two exceptions. One, when cultivation is by a qualified patient cultivating medical marijuana at their own home in an area not exceeding 100 square feet. Two, those who are, in addition to meeting all other legal requirements, currently legally cultivating by permit may continue to do so, and those who have

submitted a Notice of Intent to the Central Valley Regional Water Quality Control Board no later than 5:00 p.m. on October 11, 2016 and owned their real property or were a duly authorized lessee of the property as of October 11, 2016, and meet all other requirements, may cultivate medical marijuana. Revised language in the second reading will include those in contract on a real property by the deadline as permissible.

### Proposed Fees

Ordinance 16-32 and subsequent amendments in October and November 2016 provide the County the ability to establish certain fees related to the Marijuana Commercial Cultivation program and permitting scheme. This new program in Yolo County has a few diverse case-level examples of initial implementation of permitting scheme and the associated workload for County staff. Absent fee revenue to support the program activities, full implementation of the permitting process cannot be implemented without subsidy of the General Fund. County staff and Board directive both recommend that this program for a specific sub-section of the business industry population in Yolo County should not receive preferential treatment from other business types where licensing fee structures support associate expenses, nor should General Fund monies be allocated for the purposes of this program. A hearing on the proposed fee structure is included on the Board of Supervisors agenda today.

Application Fee	\$1,500
Initial Permit Fee	\$7,600
CBD Dominant Annual Certification Fee	\$1.60/sq. ft.
THC Dominant Annual Certification Fee	\$2.48/sq. ft.
Hourly Enforcement Fee	\$142.00/hour

Initial permit inspections and enforcement actions are conducted by the multidisciplinary task force, that includes Buildings and Environmental Health from Community Services, Department of Agriculture, the Sheriff's Office, and the District Attorney's office. Interagency collaboration will include the fire chiefs, the Department of Water Resources, the Air Quality Management District, and other state regulatory agencies as they become active in the permitting process. Current ordinance language requires that commercial cultivators be in compliance with all applicable Yolo County codes for permit issuance, including Title 7 - Building Regulations.

### Next Steps

Staff is currently exploring tax revenue options and is developing an application tax where revenues could be directed toward the community benefit, in addition to the proposed fee structure to cover program expenses. The next cycle for a general tax will be in March 2018, and options around this tax will be included in the next Board of Supervisor's update on commercial cultivation in December 2016.

The passage of Proposition 64 in November 2016 legalizes recreational marijuana but brings no immediate changes to Yolo County's interim ordinances, as much of the state law and permitting scheme will go into effect beginning on January 1, 2018. Staff will be returning in December 2016 with an updated decision matrix to get Board direction as staff continues working to develop the permanent ordinance. Included in future planning and Board guidance discussions will be proposed approaches for inclusion in a permanent ordinance on how to best manage

land use in Yolo County.

**Collaborations (including Board advisory groups and external partner agencies)**

Department of Agriculture worked closely with County Counsel, the County Administrator's Office and the District Attorney's Office in developing the interim ordinance update, as well as in coordination with the Medical Marijuana Cultivation Task Force, comprised of representatives from the Department of Community Services, the Sheriff's Office, and Health and Human Services Agency. Regional and state agencies, such as the Central Valley Regional Water Control Board and the Yolo-Solano Air Quality Management District. Fire District Chiefs are also being incorporated into the inspection and permitting process. Medical marijuana industry groups and businesses, and Yolo County residents and neighbors have been actively part of the iterative dialog in developing these changes to the interim ordinance.

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**Fiscal Information**

Potential fiscal impact (see notes in explanation section below)

Fiscal Impact of this Expenditure

Total cost of recommended action	\$3,200,000
Amount budgeted for expenditure	\$3,200,000
Additional expenditure authority needed	\$0
On-going commitment (annual cost)	\$3,200,000

Source of Funds for this Expenditure

General Fund	\$0
Cultivation Fees	\$3,200,000

Further explanation as needed

Program costs will be recouped from fees proposed for adoption on November 22, 2016. Upon fee approval, formal budget resolutions for staffing and program implementation costs will be brought back to the Board for approval.

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**Attachments**

Att. A. Ordinance

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**Form Review**

Inbox	Reviewed By	Date
Mindi Nunes	Mindi Nunes	11/16/2016 05:00 PM
Financial Services	Tom Haynes	11/17/2016 08:49 AM
County Counsel	Hope Welton	11/17/2016 11:15 AM
Form Started By: Anna Louzon		Started On: 11/08/2016 01:54 PM
Final Approval Date: 11/17/2016		

DEC 01 2016

BY *Julie Nacht* CLERK OF THE BOARD  
DEPUTYORDINANCE NO. 1478AN 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 expand the scope of prohibited activities until the County develops and implements more comprehensive medical marijuana regulation.

**SECTION 2.** 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) As of October 11, 2016, have been the record owner of, or be currently leasing, the real property on which they cultivate medical marijuana and for which they have filed a Notice of Intent with the Central Valley Water Board; 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.

**SECTION 3.** 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 November 22, 2016, by the following vote:

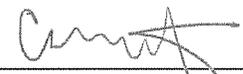
AYES: **Chamberlain, Villegas, Saylor, Provenza.**  
NOES: **Rexroad.**  
ABSENT: **None.**  
ABSTENTION: **None.**

  
\_\_\_\_\_  
Jim Provenza, Chair  
Yolo County Board of Supervisors

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

  
\_\_\_\_\_  
Deputy (Seal)

Philip J. Pogledich, County Counsel

By:   
\_\_\_\_\_  
Carrie Scarlata, Asst. County Counsel



# COUNTY OF YOLO

## Board of Supervisors

District 1, **Oscar Villegas**  
District 2, **Don Saylor**  
District 3, **Matt Rexroad**  
District 4, **Jim Provenza**  
District 5, **Duane Chamberlain**

625 Court Street, Room 204 • Woodland, CA 95695  
(530) 666-8195 • FAX (530) 666-8193  
[www.yolocounty.org](http://www.yolocounty.org)

County Administrator, **Patrick S. Blacklock**  
Deputy Clerk of the Board, **Julie Dachtler**

### PUBLIC NOTICE

#### ADOPTED ORDINANCE NO. 1478

NOTICE is hereby given that at its regularly scheduled meeting of November 22, 2016 the Yolo County Board of Supervisors adopted Ordinance No. 1478 amending Chapter 20 of Title 5 of the Yolo County Code regarding medical marijuana cultivation to expand the scope of prohibited activities until the County develops and implements more comprehensive medical marijuana regulation.

The Ordinance was adopted by the following vote:

AYES: Chamberlain, Villegas, Saylor, Provenza.

NOES: Rexroad.

ABSENT: None.

ABSTAIN: None.

Copies of the full text of the Ordinance are available at the Office of the Clerk of the Board of Supervisors, 625 Court Street, Room 204, Woodland, CA 95695.

Dated: December 4, 2016

Julie Dachtler, Senior Deputy Clerk  
Yolo County Board of Supervisors

(2015.5 C.C.P.)

Filing Stamp

STATE OF CALIFORNIA  
County of Yolo

I am a citizen of the United States  
and a resident of the county aforesaid.  
I am over the age of eighteen years  
and not a party to or interested  
in the above-entitled matter.  
I am the principal clerk of the  
printer of

THE DAVIS ENTERPRISE  
315 G STREET

**FILED**

DEC 06 2016

BY A. Ramirez  
DEPUTY CLERK OF THE BOARD

Proof of Publication  
DE207089  
Ordinance

printed and published Wednesday, Friday  
and Sunday in the city of Davis, County  
of Yolo, and which newspaper has  
been adjudged a newspaper of general  
circulation by the Superior Court  
of the County of Yolo, State of  
California, under the date of  
July 14, 1952, Case Number 12680.  
That the notice, of which the annexed  
is a printed copy (set in type not  
smaller than non-pareil), has been  
issue of said newspaper and not in  
any supplement thereof on the  
following dates to-wit:

December 4

All in the year(s) 2016

I certify (or declare) under penalty  
of perjury that the foregoing  
is true and correct.

Dated at Davis, California,  
This 30<sup>th</sup> day of November, 2016.

Molly McMahon  
Molly McMahon  
Legal Advertising Clerk

Public Notices	Public Notices	Public Notices	Public Notices
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The Ordinance was adopted by the following vote:  
 AYES: Chamberlain, Villegas, Saylor, Provenza.  
 NOES: Rexroad.  
 ABSENT: None.  
 ABSTAIN: None.

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Dated: December 4, 2016  
 Julie Dachtler, Senior Deputy Clerk  
 Yolo County Board of Supervisors

DE207089  
 December 4, 2016