

Solano County

*675 Texas Street
Fairfield, California 94533
www.solanocounty.com*



Agenda - Final

Thursday, August 2, 2018

7:00 PM

Board of Supervisors Chambers

Planning Commission

Any person wishing to address any item listed on the Agenda may do so by submitting a Speaker Card to the Clerk before the Commission considers the specific item. Cards are available at the entrance to the meeting chambers. Please limit your comments to five (5) minutes. For items not listed on the Agenda, please see "Items From the Public".

All actions of the Solano County Planning Commission can be appealed to the Board of Supervisors in writing within 10 days of the decision to be appealed. The fee for appeal is \$150.

Any person wishing to review the application(s) and accompanying information may do so at the Solano County Department of Resource Management, Planning Division, 675 Texas Street, Suite 5500, Fairfield, CA. Non-confidential materials related to an item on this Agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours and on our website at www.solanocounty.com under Departments, Resource Management, Boards and Commissions.

The County of Solano does not discriminate against persons with disabilities and is an accessible facility. If you wish to attend this meeting and you will require assistance in order to participate, please contact Kristine Sowards, Department of Resource Management at (707) 784-6765 at least 24 hours in advance of the event to make reasonable arrangements to ensure accessibility to this meeting.

AGENDA

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF THE MINUTES

There are no minutes available for approval.

ITEMS FROM THE PUBLIC:

This is your opportunity to address the Commission on a matter not heard on the Agenda, but it must be within the subject matter jurisdiction of the Commission. Please submit a Speaker Card before the first speaker is called and limit your comments to five minutes. Items from the public will be taken under consideration without discussion by the Commission and may be referred to staff.

REGULAR CALENDAR

- 1 [PC 18-033](#) Public Hearing to consider recommending that the Board of Supervisors adopt an ordinance establishing a permanent prohibition of the establishment of commercial cannabis activities, including commercial cultivation of medicinal and recreational cannabis; the commercial delivery, distribution, transportation, processing, collectives, cooperatives, manufacturing, retail operations, microbusinesses, and testing facilities of medicinal and recreational cannabis within the unincorporated areas of Solano County. (Project Planner: Karen Avery)

Attachments: [A - Draft PC Resolution](#)
 [A - Exhibit 1 - Prohibition Commercial Cannabis Ordinance](#)
 [B - Excerpt from November 14, 2017 BOS minutes](#)
 [C - Solano Cities Stance 07242018](#)

ANNOUNCEMENTS AND REPORTS

ADJOURN

To the Planning Commission meeting of August 16, 2018 at 7:00 P.M., Board Chambers, 675 Texas Street, Fairfield, CA



Agenda Submittal

Agenda #:	1	Status:	PC-Regular
Type:	PC-Document	Department:	Planning Commission
File #:	PC 18-033	Contact:	Karen Avery, 707.784.6765
Agenda date:	8/2/2018	Final action:	
Title:	Public Hearing to consider recommending that the Board of Supervisors adopt an ordinance establishing a permanent prohibition of the establishment of commercial cannabis activities, including commercial cultivation of medicinal and recreational cannabis; the commercial delivery, distribution, transportation, processing, collectives, cooperatives, manufacturing, retail operations, microbusinesses, and testing facilities of medicinal and recreational cannabis within the unincorporated areas of Solano County. (Project Planner: Karen Avery)		
Governing body:	Planning Commission		
District:			
Attachments:	A - Draft PC Resolution A - Exhibit 1 - Prohibition Commercial Cannabis Ordinance B - Excerpt from November 14, 2017 BOS minutes C - Solano Cities Stance 07242018		

Date	Ver.	Action By	Action	Result
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RECOMMENDATION:

The Department of Resource Management recommends that the Planning Commission:

1. Conduct a public hearing to consider an ordinance amending Chapter 28 (Zoning Regulations) establishing a permanent prohibition on commercial cannabis activities, including commercial cultivation of medicinal and recreational cannabis; the commercial delivery, distribution, transportation, processing, collectives, cooperatives, manufacturing, retail operations, microbusinesses, events and testing facilities of medicinal and recreational cannabis in the unincorporated areas of Solano County; and
2. Recommend that the Board of Supervisors find that the proposed ordinance is exempt from further environmental review under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment; and
3. Recommend that the Board of Supervisors approve the proposed ordinance amending Chapter 28 (Zoning Regulations) establishing a permanent prohibition on commercial cannabis activities, including commercial cultivation of medicinal and recreational cannabis; the commercial delivery, distribution, transportation, processing, collectives, cooperatives, manufacturing, retail operations, microbusinesses, and test facilities of medicinal and recreational cannabis in the unincorporated areas of Solano County.

SUMMARY:

The Board of Supervisors adopted an interim urgency ordinance establishing a 45-day moratorium on all commercial cannabis activities on December 6, 2016. Under Government Code section 65858 (a), the Board of Supervisors extended the urgency ordinance for 10 months and 15 days on January 10, 2017. Under

Government Code section 65858 (a), the Board of Supervisors approved a final one-year extension of the urgency ordinance on November 14, 2017. The interim urgency ordinance will expire on December 6, 2018. It is important to have an ordinance in place addressing cannabis activities prior to the expiration of the interim urgency ordinance. Establishing the permanent prohibition ordinance does not limit future amendments to this ordinance as further changes to the state cannabis regulations are being contemplated, which may result in the need for the county to make changes to the county's cannabis regulations.

DISCUSSION:

Since the passage of the initial interim urgency ordinance in December 2016, the Board of Supervisors hosted a variety of speakers to discuss various aspects of cannabis and cannabis regulations. Speakers included independent consultants in the cannabis industry to leaders within the state of Colorado's cannabis regulatory administration. Community meetings were held by staff in order to reach out to citizens and industry operators on the topics of personal and commercial regulations. The Board of Supervisors established an ad-hoc committee on cannabis and designated Supervisors Erin Hannigan and John Vasquez to work with staff to conduct site visits of cannabis operations. Tours were conducted of indoor and outdoor cannabis cultivation sites, an indoor nursery facility, two manufacturing operations as well as two testing facilities.

Per Board request, the overall review of cannabis regulations was separated into two parts: non-commercial (personal and caregiver) and commercial. The personal and caregiver cannabis cultivation ordinance was reviewed and recommended for adoption by the Planning Commission in September 2017 and enacted by the Board in October 2017.

On November 14, 2017, the Board conducted a public hearing to consider the adoption of the one-year extension of the interim urgency ordinance. At that same meeting, the Board received a report from the ad-hoc Cannabis Committee regarding their research and initial findings and recommendations regarding potential commercial cannabis license types that could be given further consideration in certain zoning districts. The ad-hoc Committee recommended the Board authorize further staff review into cannabis nurseries and microbusinesses as license types that could work in Solano County. After considering the ad-hoc Committee's recommendations, the Board directed staff to prepare an ordinance prohibiting all cannabis business activities in the unincorporated area (see Attachment B - excerpt of Minutes of November 14, 2017 Board of Supervisors meeting). The primary reasons for this direction were that the unincorporated areas of Solano County lack water, wastewater treatment, and road infrastructure needed for most commercial and industrial cannabis uses in rural areas. In addition, it was noted that most of the cities in Solano County, as well as near-by counties, have approved some type of commercial cannabis activities, including non-storefront cannabis retailers that provide delivery, and found that there was not a compelling need to duplicate such uses in unincorporated Solano County where services are limited.

ENVIRONMENTAL ANALYSIS:

In accordance with the California Environmental Quality Act (CEQA), it has been determined that this project is exempt from further environmental review under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment.

UPDATE ON STATE AND LOCAL CANNABIS REGULATIONS:

Staff continues to follow the cannabis regulatory environment and below is a brief summary of current state and local jurisdictions:

Status of State Law and Recent Changes

Bureau of Cannabis Control (Bureau)

The Bureau is currently issuing temporary licenses for cannabis distributors, retailers, testing laboratories, microbusinesses. The Bureau is now allowing individual cannabis businesses to apply for and obtain one license to serve both the medicinal and recreational markets. The Bureau has added two additional license types: Cannabis Event Organizer and Cannabis Event License. A person must have a Cannabis Event Organizer license prior to obtaining a Cannabis Event License to hold a Cannabis Event. The Bureau has

established a Cannabis Advisory Committee which advises the Bureau and the other licensing authorities - the California Department of Food and Agriculture and the California Department of Public Health - on the development of regulations to help protect public health and safety and to reduce the illegal market for cannabis. On July 13, 2018, the Bureau released proposed permanent regulations on July 13, 2018 for 45-day public comment; the proposed regulations can be found at the following link:

<https://cannabis.ca.gov/cannabis-regulations/>. These regulations would replace the emergency regulations that the Bureau is currently operating under.

California Department of Food and Agriculture (CDFA) - CalCannabis Cultivation Licensing

CDFA is responsible for issuing 18 types of cannabis cultivation licenses including indoor/outdoor/mixed-light cultivation licenses, nursery and processor licenses (cultivation site that does trimming, drying, curing of non-manufactured cannabis). On July 13, 2018, CDFA released proposed permanent regulations for 45-day public comments; the proposed regulations can be found at CDFA's CalCannabis Cultivation Licensing website at www.calcannabis.cdfa.ca.gov <http://www.calcannabis.cdfa.ca.gov>. These regulations would replace the emergency regulations that the CDFA is currently operating under.

California Department of Public Health (CDPH) - Manufactured Cannabis Safety Branch (MCSB)

The MCSB is currently issuing temporary licenses for four types of cannabis manufacturing: Type 7 - produce an extract or concentrate using a volatile solvent

Type 6 - produce an extract or concentrate using a mechanical method or non-volatile solvent such as CO₂ and ethanol

Type N - produce edible or topical products other than extracts or concentrates

Type P - package cannabis products or label cannabis product containers/wrappers only

As of July 1, 2018, all cannabis goods must meet all the statutory and regulatory requirements for testing, packaging and labeling, THC limits for edible and non-edible cannabis products as proposed in MAUCRSA (Medical Adult-Use Cannabis Regulatory and Safety Act). On July 13, 2018, CDPH published proposed permanent regulations for a 45-day comment period; the proposed changes may be found at www.cdph.ca.gov/mcsb/rulemaking <http://www.cdph.ca.gov/mcsb/rulemaking>. These regulations would replace the emergency regulations that the MCSB is currently operating under.

California Department of Tax and Fee Administration (CDTFA)

As of May 2018, the CDTFA has reported revenue of \$60.9 million from cannabis sales beginning January 1, 2018 which includes the state cultivation tax of \$1.6 million, 15% excise tax of \$32 million and sales tax of \$27.3 million.

The state's cultivation tax rates are:

- \$9.25 per dry-weight ounce of cannabis flowers,
- \$2.75 per dry-weight ounce of cannabis leaves, and
- \$1.29 per ounce of fresh cannabis plant (must be weighed within two hours of harvesting)

The state's excise tax rate is:

- 15% of the "average market price" when purchased at retail

California City and County Sales and Use Tax:

- applies to retail sales of cannabis and cannabis products after the excise tax has been added
- does not apply to medicinal cannabis purchased by a holder of a California Medical Marijuana Identification Card issued by a county health department

Summary of Solano Cities Cannabis Ordinances

Since January 2018, cities within Solano County have been holding community meetings and developing their own cannabis regulations.

Cities of Fairfield and Vacaville

The City of Fairfield adopted a ban on all commercial cannabis activities and the City of Vacaville continues their moratorium on commercial cannabis activities.

City of Vallejo

The City of Vallejo has had medical cannabis dispensaries operating for a number of years, they have currently approved the sale of recreational cannabis within the existing medical dispensaries. Vallejo continues to study regulating recreational cannabis.

Cities of Dixon and Rio Vista

The cities of Dixon and Rio Vista have approved cannabis retail stores and cannabis manufacturing businesses.

City of Suisun

The Suisun City Council recently approved cannabis regulations which would allow a retailer and other cannabis activities in certain zoning districts.

City of Benicia

Benicia has approved the allowance of one retailer, a microbusiness and other cannabis businesses in certain areas of the city.

A more in-depth status of the cannabis regulations for the cities within Solano County can be found in Attachment C - Summary of Solano Cities Cannabis Ordinances.

Overall Statewide Trends

The Legislature is considering a large number of wide-ranging cannabis-related bills, such as a bill to make compassionate care cannabis exempt from use taxes; a bill to giving cannabis investigators for CDFA the power to serve warrants and effect arrests; and a bill allowing veterinarians the ability to prescribe cannabis for pets. CDPH is continuing to expand on its "Let's Talk Cannabis" initiative to share science-based cannabis awareness information (

<https://www.cdph.ca.gov/Programs/DO/letstalkcannabis/Pages/LetsTalkCannabis.aspx>).

Cannabis retailers are reporting rising demands for "microdosing" products, which typically contain under 5 milligrams of THC. Counties and cities across the state continue to develop cannabis regulations. Since 2018 is an elections year, many jurisdictions have cannabis taxation on their ballots. A trend seen with these new cannabis tax ballot measures is the proposing of a sliding scale for taxation - starting at a low percentage with gradual increase annually or over a specific number of years. Another trend noted by staff is that several jurisdictions with higher rates of taxation and fees on cultivation are now reducing those rates and fees. This reduction has been referenced as providing a relief for cannabis businesses as they begin their newly permitted cannabis operations. Also, it is being recognized that if taxes are too high on legal cannabis operations, there is the potential that it will perpetuate non-legal cannabis operations that exist without permits or proper licenses.

RECOMMENDATION:

Staff recommends that the Planning Commission finds that the proposed ordinance is exempt from further environmental review under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment; and recommends such finding to the Board of Supervisors. Staff recommends that the Planning Commission consider the proposed ordinance and recommend the Board approve the proposed ordinance.

ATTACHMENTS:

- A. Draft Resolution with Exhibit 1 - Proposed Ordinance
- B. Excerpt of Minutes from November 14, 2017 Board of Supervisors Meeting
- C. Summary of Solano Cities Cannabis Ordinances

**SOLANO COUNTY PLANNING COMMISSION
RESOLUTION NO. _____**

**RECOMMENDING ADOPTION OF ORDINANCE AMENDING CHAPTER 28 TO PROHIBIT
ALL COMMERCIAL CANNABIS ACTIVITIES IN UNINCORPORATED SOLANO COUNTY**

WHEREAS, in 1996, the voters of the State of California approved the Compassionate Use Act (Proposition 215), which was intended to provide a defense to criminal charges for the cultivation and possession of medical cannabis by a seriously ill patient, or the patient's primary caregiver; and

WHEREAS the Medical Marijuana Regulation and Safety Act (MMRSA) was enacted on September 11, 2015 (later renamed the "Medical Cannabis Regulation and Safety Act" (MCRSA)) to provide a comprehensive state-wide licensure and regulatory scheme for medical cannabis; and

WHEREAS, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) (Proposition 64) was approved by the voters on November 8, 2016 to decriminalize and regulate commercial and non-commercial recreational cannabis; and

WHEREAS, on June 27, 2017, as part of budget trailer legislation (SB 94), the state enacted the Medicinal and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA), which was intended to synthesize the state-wide medical and recreational cannabis laws; and

WHEREAS, MAUCRSA (as well as its predecessors, AUMA and MMRSA) allows cities and counties to retain local land use regulatory control over recreational and medicinal cannabis; and

WHEREAS, there is currently a prohibition on medical marijuana dispensaries in the Solano County Zoning Regulations; and

WHEREAS, the Board of Supervisors enacted a moratorium on all commercial cannabis activities on December 6, 2016 which shall expire on December 6, 2018; and

WHEREAS, the moratorium has allowed the County time to hold public meetings, receive community input, and create an ad-hoc committee which has studied commercial cannabis activities and attended tours of cannabis manufacturing facilities, cultivators, testing laboratories, and other commercial cannabis activities; and

WHEREAS, the Board of Supervisors received the report from its ad-hoc committee on November 14, 2017 recommending further consideration and study of cannabis nurseries and microbusinesses as potential allowable uses in Solano County; but after further discussion, a majority of the Board directed staff to bring forward a prohibition on commercial cannabis activities in the unincorporated County, and made the ad-hoc Cannabis Committee a standing committee so as to continue to monitor and report back to the Board as cannabis regulation in California unfolds; and

WHEREAS, the County lacks the essential infrastructure necessary for most commercial and industrial uses and the majority of the cities in Solano County, which do possess this

infrastructure, have approved commercial cannabis activities, including delivery-only retailers, thereby ensuring cannabis' availability to Solano County residents; and

WHEREAS, there is uncertainty over the "in-progress" state regulatory process and potential federal responses to the state's cannabis regulatory system; and

WHEREAS, concerns have been expressed over trespass issues, as well as changes in community character, if commercial cannabis cultivation were to be permitted; and

WHEREAS, the County's moratorium on commercial cannabis activities ends December 6, 2018 and it is necessary to have regulations, such as a prohibition, in place by then to insure that the County retains control over commercial cannabis uses within its jurisdiction; and

WHEREAS, the proposed zoning amendment is in compliance with the County's General and Specific Plans; and

WHEREAS, in compliance with Government Code sections 65854 and 65855, the Planning Commission has held a public hearing as to the proposed draft zoning amendment and rendered a written recommendation to the Board.

NOW THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above Recitations are true and correct; and
2. The Planning Commission does hereby recommend that the Board of Supervisors adopt the proposed amendments to Chapter 28 of the County Code (Exhibit A).

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Planning Commission on August 2, 2018 by the following vote:

AYES:	Commissioners	_____

NOES:	Commissioners	_____
ABSTAIN:	Commissioners	_____
EXCUSED:	Commissioners	_____

By: _____

Bill Emlen, Secretary

ORDINANCE NO. 2018-_____

**AN ORDINANCE AMENDING CHAPTER 28 TO PROHIBIT ALL COMMERCIAL CANNABIS
ACTIVITIES IN UNINCORPORATED SOLANO COUNTY**

The Board of Supervisors of Solano County do hereby ordain as follows:

SECTION I. Findings

- A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess cannabis, whether for medical or recreational purposes.
- B. In 1996, the voters of the State of California approved Proposition 215, the Compassionate Use Act (Health and Safety Code Section 11362.5), which was intended to provide a defense to criminal charges for the cultivation and possession of medical cannabis by a seriously ill patient, or the patient's primary caregiver.
- C. In 2016, the Medical Marijuana Regulation and Safety Act (SB 643, AB 266, and AB 243) came into effect, instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis. Cities and counties retained local regulatory authority over medical cannabis.
- D. On November 8, 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was enacted by the voters to decriminalize and regulate commercial and non-commercial recreational cannabis. AUMA also provided that cities and counties retained local regulatory control over commercial recreational cannabis.
- E. In order to preserve the status quo pending the creation and adoption of state and local regulations in response to MCRSA and AUMA, the Solano County Board of Supervisors on December 6, 2016 adopted interim urgency ordinance number 2016-1781 prohibiting all commercial cannabis activities and outdoor cultivation of personal use cannabis. The Board extended urgency ordinance on January 10, 2017 and November 14, 2017 and it is set to expire on December 6, 2018.
- F. The Board of Supervisors created an ad hoc committee on December 16, 2016 to study commercial cannabis activities, which included attending tours of cannabis manufacturing facilities, cultivators, testing laboratories, and other commercial cannabis activities.
- G. On June 27, 2017, as part of budget trailer legislation (SB 94), the state enacted the Medicinal and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA), which was intended to synthesize the medical and recreational cannabis laws. MAUCRSA allows cities and counties to retain local land use regulatory control over recreational and medicinal cannabis.
- H. On October 24, 2017, the Board of Supervisors adopted a non-commercial cannabis cultivation ordinance to allow cultivation of cannabis by caregivers, patients, and recreational users in conformance with state law.

- I. After the passage of MAUCRSA, the three state agencies tasked with drafting regulations for commercial cannabis activities - the Departments of Consumer Affairs, Food and Agriculture, and Public Health - withdrew their draft regulations. Emergency regulations were released in November 2017 and re-adopted in June 2018.
- J. The state began issuing temporary licenses valid for 120-days for commercial cannabis activities on January 1, 2018 and on July 13, 2018 the three state agencies released draft regulations for public comment.
- K. Health and Safety Code section 11362.83 and Business and Professions Code section 26200 preserve the authority of local governments to enact ordinances allowing or prohibiting commercial cannabis activities. Under Business and Professions Code section 26055, state licensing authorities are precluded from approving a state commercial cannabis activities license if the applicant is not in compliance with all applicable local ordinances and regulations.
- L. The Solano County ad hoc cannabis committee reported on its work and its recommendation on commercial cannabis activities to the entire Board of Supervisors on November 14, 2017. A majority of the Board of Supervisors directed staff to prepare an ordinance prohibiting all commercial cannabis activities in the unincorporated County. The primary reasons for this direction were that the county lacks the necessary water, wastewater, and road infrastructure necessary for most commercial and industrial uses; concerns over trespass and related crime, as well as changes in neighborhood character if commercial cannabis cultivation were permitted; uncertainty over the “in-progress” state regulatory process and potential federal responses; and that most of the cities in Solano County, as well as near-by counties, have approved commercial cannabis activities, including delivery-only retailers, thereby ensuring cannabis’ availability to Solano County residents. The Board also made the cannabis ad hoc committee a standing committee in order to monitor the roll-out of medicinal and adult-use cannabis both state-wide and locally, and to make further recommendations on commercial cannabis activities to the Board as needed.
- M. The Board of Supervisors finds and declares that the adoption of this Ordinance is necessary and desirable to ensure the public health, safety, environmental, and nuisance factors related to commercial cannabis activities are adequately addressed.

SECTION II.

“Medical Marijuana Dispensary” of Section 28.01 entitled “Definitions” in the Solano County Code is repealed.

“Commercial Cannabis Activities” is added to Section 28.01 “Definitions” to read:

Commercial Cannabis Activities. Cannabis uses that require a state license or are otherwise regulated by the state, including, but not limited to cannabis testing laboratory, distributor, transporter, storefront retailer, non-storefront retailer, microbusiness, collective, cooperative, cultivator, nursery, manufacturer, or processor, regardless of whether for-profit or not, as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, sections 26000 to 26231.2) and its regulations, as they may be amended. For purposes of this definition, a transporter or non-storefront retailer may transport and deliver cannabis and cannabis products in any zoning district. For purposes of

this definition, Commercial Cannabis Activities do not include a temporary cannabis event, as defined in California Code of Regulations, Title 16, Division 42, Chapter 5, sections 5601 – 5603, as may be amended. Personal and Primary Caregiver Cannabis Cultivation, as defined in Section 28.82 of this Code, shall be excluded from this definition of Commercial Cannabis Activities.

Section 28.70.20, subsection C, “Land Uses Prohibited in All Zoning Districts” is amended to read:

C. Land Uses Prohibited in All Zoning Districts

1. *Commercial cannabis activities.*

SECTION III.

The Board of Supervisors repeals Ordinance 2016-1781 as that temporary prohibition on commercial cannabis activities is superseded by the enactment of this ordinance.

SECTION IV.

In accordance with the California Environmental Quality Act (CEQA), it has been determined that this project is exempt from further environmental review under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment. The Director of Resource Management is directed to file a Notice of Exemption in accordance with CEQA.

SECTION V.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion(s) of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VI.

This Ordinance and all amendments to the Solano County Code as set forth herein shall take effect thirty (30) days after the date of Board adoption.

SECTION VII.

A summary of this Ordinance will be published in the Fairfield Daily Republic, a newspaper of general circulation in Solano County, within fifteen (15) days after its adoption.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on _____ by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

JOHN M. VASQUEZ, Chair
Solano County Board of Supervisors

ATTEST:
Birgitta E. Corsello, Clerk
Board of Supervisors

By: _____
Jeanette Neiger, Chief Deputy Clerk

Attachment B

The following is an excerpt from the Solano County Board of Supervisors meeting of November 14, 2017 with regard to Cannabis.

Central Services Manager Dianne Luna also provided information on the proposed revisions.

In response to comments from Supervisor Brown, Mr. Artiche provided information on historical records preservation activities and methods.

In response to comments from Supervisor Hannigan, Ms. Luna provided information on objectives of the prior managed print services contract. She noted that the County was still experiencing cost savings from the implementation of the contract.

In response to questions from Supervisor Spering, Mr. Artiche provided information on the department head purchasing authority threshold levels. County Administrator Birgitta Corsello provided information on the Performance Improvement Committee that provided recommendations on the threshold levels. She noted that all of the department heads were given the opportunity to comment on the levels. She then noted that the \$7,500 threshold indicated was targeted specifically for credit card use for things like training, travel and workshops.

Supervisor Spering commented on credit card control.

On motion of Supervisor Thomson, seconded by Supervisor Brown, the Board approved revisions to the County Purchasing and Contracting Policy Manual; and Authorized the County Administrator, or designee, to approve technical changes as necessary. So ordered by 5-0 vote.

RECESS

This meeting of the Solano County Board of Supervisors recessed at 10:20 A.M. and reconvened at 2:00 P.M. All members were present and Chair Vasquez presided.

2:00 P.M.

16

17-815

Conduct a noticed public hearing and consider adoption of a one-year extension of the Interim Urgency Ordinance which established a prohibition on the commercial cultivation of medicinal cannabis and non-medicinal cannabis, and prohibited commercial delivery, distribution, transportation, manufacturing, retail operations, and testing facilities for medicinal cannabis and non-medicinal cannabis within the unincorporated territory of Solano County; Adopt an ordinance approving the extension to the urgency ordinance (4/5 vote required); Consider background information prepared by staff on commercial cannabis license types and possible zoning districts where such activities might be allowed; Receive a report from the Cannabis Ad-hoc Committee regarding their research and initial findings/recommendations regarding possible commercial cannabis license types that should be given further consideration in certain zoning districts in unincorporated Solano County; and Provide direction to staff on possible parameters for a draft ordinance

Attachments: [A - Ordinance](#)
 [B - License Types Under MAUCRSA](#)
 [C - Summary/Analysis of Zoning Districts & Licenses Table & Comments](#)
 [D - Cities Cannabis Regulations](#)
 [E - Counties Cannabis Regulations](#)
 [F - Notice of Public Hearing](#)
 [Presentation](#)
 [Adopted Ordinance](#)
 [Correspondence](#)
 [Minute Order](#)

Chair Vasquez advised that the items would be taken up individually.

On motion of Supervisor Thomson, seconded by Supervisor Brown, the Board approved reading the proposed ordinance by title only and waiving further reading of the ordinance to adopt a final extension of an Interim Urgency Ordinance prohibiting the following land uses within the unincorporated territory of the County of Solano: All commercial cannabis activity, including commercial cultivation, distribution, manufacturing, retail operations and testing of cannabis; Adopt as an urgency measure. So ordered by 5-0 vote.

Senior Planner Karen Avery provided an overview of the agenda item topics, the past Board actions concerning the Interim Urgency Ordinance and staff's request for an extension of the ordinance.

Chair Vasquez opened the public hearing.

Chair Vasquez invited members of the public to address the Board on this matter and the following comments were received:

A) James Hinton, Napa, commented in opposition to extending the Interim Urgency Ordinance.

Chair Vasquez closed the public hearing.

Supervisor Hannigan made a motion to approve the ordinance and asked that this issue not be extended another year.

Supervisor Brown commented in opposition to the ordinance noting that she felt the moratorium was unnecessary.

Supervisor Thomson commented that he was not in support of cannabis growing in the county and that he was voting for the extension simply because it required a 4/5 vote.

On motion of Supervisor Hannigan, seconded by Supervisor Spering, the Board adopted Ordinance No. 2017-1789, a final extension of an Interim Urgency Ordinance prohibiting the following land uses within the unincorporated territory of the County of Solano: All commercial cannabis activity, including commercial cultivation, distribution, manufacturing, retail operations and testing of cannabis; Adopted as an urgency measure. Supervisor Brown voted no. So ordered by 4-1 vote.

Ms. Avery provided an overview of state licensing agencies for nurseries and cultivators, state license types and commercial cannabis license types permitted/not permitted in Solano cities. She then provided an update on the activities of the Board Cannabis Ad-Hoc Committee.

Supervisor Hannigan thanked staff for working on all the information and tours that were provided to the ad-hoc committee. She noted that the County had jurisdiction over unincorporated areas and not over the cities. She then commented on discussions that took place about cultivation businesses, the need for use permits to ensure appropriate locations and reduce impacts on neighbors and the environment, nurseries being limited to ag and ag industrial zoning located on larger parcels that would not be the primary ag activity on the property. She noted that she was supportive of owner-occupied/owner-operator nurseries and not leasing them to a third property to support small business owners.

Chair Vasquez thanked staff for the information to the ad-hoc committee. He noted that taking personal beliefs out of it when looking at everything was helpful. He then commented on looking at microbusinesses and vertical integration. He advised that it would take a lot more work for staff to come up with regulations and conditions for permits.

Supervisor Hannigan commented on discussions concerning square footage of cannabis cultivation and cannabis not being the primary ag business on a property.

Chair Vasquez noted that he was bringing the idea of cannabis as a microbusiness to the board for discussion.

Chair Vasquez opened the public hearing.

Chair Vasquez invited members of the public to address the Board on this matter and the following comments were received:

- A) James Hinton, Napa, commented in support of microbusinesses, in support of Type 6 Manufacturer 1 licenses, compliance and developing a brand.*
- B) Christen Brown, unknown residence, commented in support of allowing commercial cannabis.*
- C) Rascal Cayangyang, Richmond Progressive Alliance, commented in support of allowing light commercial cannabis and with allowing Type 6 licenses.*
- D) Matthew Pasqual, Santa Rosa, commented in support of commercial cannabis regulation to ensure proper delivery, lab testing and distribution.*

E) Mark Richard, Vacaville, commented in support of allowing commercial cannabis nurseries and microbusinesses.

Chair Vasquez closed the public hearing.

In response to a question from Supervisor Thomson, Deputy County Counsel Davina Smith provided information on current federal banking and taxing of cannabis.

In response to a question from Supervisor Spering, Ms. Smith provided information on reporting of cannabis cash sales for purposes of filing taxes.

Supervisor Spering if anyone in the audience could provide information on filing taxes related to cannabis income.

Mr. Pasqual advised that there was a working bank group discussing the issue of banking for cannabis businesses and that Internal Revenue Code section 280E was used for filing taxes.

Mr. Richard also commented on Internal Revenue Code section 280E and the use of track and trace for reporting and auditing.

Supervisor Thomson commented on the need for consequences for those that did not follow the rules.

Ms. Smith advised that the state and local jurisdictions would both have a role in regulation and that this would need to be considered further.

In response to questions from Chair Vasquez, Ms. Smith advised that unlicensed cultivation was illegal and that there were several avenues for enforcement. She noted that elimination of the black market of cannabis was a goal of the state and that the state was hiring many different types of regulators. She then advised that staff was anticipating state regulations about this matter.

County Administrator Birgitta Corsello commented on state licensing agencies and noted that local jurisdictions would still have some responsibilities for enforcement. She then asked the Board for direction on what they would like staff to focus on concerning commercial cannabis license types.

Supervisor Hannigan noted that cultivation and nurseries were different and that the distinction should be made. She noted that the Cannabis Ad-Hoc Committee had discussed cannabis delivery.

Ms. Avery noted that the question of taxes for a dispensary delivering to unincorporated County was still being looked at.

County Counsel Dennis Bunting noted that delivery would be a different subject altogether and suggested looking at distributorship.

Supervisor Hannigan noted that a retailer would be using a point of sale system to manage their products for auditing and taxing purposes. She then noted discussion of whether to allow deliveries into the unincorporated areas.

Mr. Bunting advised that counties would likely have a difficult time restricting or banning cannabis deliveries.

Supervisor Brown requested that the Board consider looking at everything that the City of Dixon was doing. She suggested looking at the unincorporated areas near to where Dixon and Rio Vista were zoning for cannabis and use a model so that local jurisdictions had the same or similar rules across boundaries.

In response to a question from Supervisor Hannigan, Ms. Avery provided information on unincorporated areas noting that there were no city services such as sewer or water that were connected already. She noted that many areas were zoned agriculture and it would take a vote of the people to change the zoning.

Director of Resource Management Bill Emlen noted that patrolling of the unincorporated areas would be less frequent as well.

In response to a question from Chair Vasquez, Ms. Avery noted that zoning text amendments in the form of an ordinance would be needed to allow cannabis uses and that it would need to go through the ordinance process.

Mr. Emlen advised that the process would include going back to the Planning Commission for a recommendation to the Board of Supervisors.

Ms. Smith advised that staff needed direction from the Board on what license types and regulations to take to the Planning Commission.

Supervisor Spering noted that it would be helpful to hear each Board member's objective on the matter. He then advised that the cannabis black market would always be around and that it was available to everyone. He then commented on potential impacts on ag businesses in the long term.

Supervisor Hannigan advised that cannabis was an opportunity to increase revenues. She commented on the importance of being mindful of what was a good fit for unincorporated areas. She noted that a nursery was a logical choice to satisfy utilizing tax and fitting into the ag environment.

Supervisor Thomson advised that he did not support cannabis licenses in watershed and conservation, marsh protection and park districts.

In response to a question from Supervisor Thomson, Planning Manager Mike Yankovich noted that Commercial Recreation and Recreation Limited districts were places like Collinsville.

Ms. Corsello noted that the districts were parcels in places like waterfronts.

Supervisor Brown noted that there would be still need language for these districts and that language should be crafted and ready to apply down the road. She noted a need to gather input from people on what to do with their properties.

Chair Vasquez advised that enforcement would be required no matter what and that future discussions should address this and include impacts to County services. He then advised that impacts to the ag commissioner, public and environmental health also needed to be addressed no matter what direction the Board took.

Mr. Emlen advised that more work needed to be done and suggested that staff could bring the matter back again for another discussion but needed some general parameters to begin with.

Chair Vasquez asked the board members if they wanted to move forward in any categories.

Supervisor Spering advised that if the objective was to raise revenues then the Board needed to know which licenses and activities would do that.

Mr. Emlen advised that there were a lot of costs that went along with revenues.

Chair Vasquez asked the board members for any further direction or comments.

Supervisor Thomson advised that he was not interested in cannabis in unincorporated areas in any manner and noted that cities were more set up for it.

Supervisor Brown advised that she was interested in getting regulations in place for allowing commercial cannabis.

Supervisor Hannigan advised that she was interested in having staff look more into nurseries and microbusinesses and on deliveries as well.

Chair Vasquez noted that deliveries could occur in cities.

Mr. Bunting advised that mobile was different than delivery.

Supervisor Spering advised that he was in support of medical marijuana but not supportive of cannabis in unincorporated areas.

Chair Vasquez commented on discussions in the ad-hoc committee regarding nurseries and on cannabis microbusinesses that could be on 20+ acre ag parcels. He commented that he had been approached about the subject of microbusinesses from landowners.

Chair Vasquez then noted that Supervisors Thomson and Sperring were against any commercial cannabis. He then asked for clarification from staff on what was needed.

Ms. Corsello noted that it was a land-use matter and that staff needed direction from the Board as to what they wanted staff to do.

Supervisor Sperring suggested that the ad-hoc committee meet with staff.

In response to a comment from Supervisor Thomson, Ms. Corsello noted that some sort of environmental analysis would need to be done to look potential at impacts of adding additional products or businesses into different zones.

Supervisor Thomson suggested that the ad-hoc meet with staff again. He then advised that analysis needed to be done to see if commercial cannabis would be lucrative or not.

Chair Vasquez advised that a lot of work on the issue had already been done and that he did not want to continue to tie up staff time.

Supervisor Sperring advised that Chair Vasquez would need to make his decision as the swing vote.

Mr. Yankovich advised that staff could do more work on nurseries and microbusiness license types.

Mr. Emlen advised that staff could do analysis on business license tax in the context of the nursery and microbusiness licenses regarding costs and revenue generation.

In response to a question from Chair Vasquez, Mr. Emlen advised that the matter was a zoning issue. He noted that the matter would go back to the Planning Commission no matter which direction was given.

Supervisor Hannigan noted that she would want to avoid back and forth with the Planning Commission.

Mr. Emlen advised that staff could do further refinement on license types to look at where they would best fit.

In response to comments from Supervisor Brown, Mr. Emlen noted that all the allowed licenses under a microbusiness would have to be addressed.

Chair Vasquez advised that he was not in support of allowing commercial cannabis in unincorporated areas.

Ms. Smith noted that staff would go to the Planning Commission with the Board's direction to prepare an ordinance to ban all cannabis business activities in the unincorporated area.

In response to a question from Supervisor Brown, Mr. Bunting advised that the minutes would reflect the direction to staff to prepare an ordinance.

The Board provided direction to staff on parameters for a draft ordinance to prohibit commercial cannabis within unincorporated Solano County.

BOARD MEMBER COMMENTS AND REPORTS ON MEETINGS

County Counsel Dennis Bunting provided an update on litigation concerning lead paint.

Chair Vasquez invited members of the Board to make comments or reports on meetings. The following comments were received:

A. Chair Vasquez requested that this meeting of the Solano County Board of Supervisors be adjourned in memory of Ernest Mike Gnos, an active member of the Dixon community.

ADJOURN:

This meeting of the Solano County Board of Supervisors adjourned at 3:48 P.M. in memory of Ernest Mike Gnos. Next meeting of the Solano County Board of Supervisors will be December 5, 2017 at 8:30 A.M., Board Chambers, 675 Texas Street, Fairfield, California.

JOHN M. VASQUEZ, Chair
Solano County Board of Supervisors

BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By _____
Jeanette Neiger, Chief Deputy Clerk

Summary of Solano Cities Cannabis Ordinances

City	Personal Cultivation	Storefront and Mobile Retailers/ Dispensaries	Commercial Cannabis
<p><u>Benicia</u></p> <p>Personal Ord. 18-4 Chapter 17.84.030</p>	<ul style="list-style-type: none"> • No more than 6 cannabis plants per occupied residence • Cultivation within fully enclosed structure • No plants visible from public right of way • All odors mitigated • No gas products including butane • Drying and processing must occur in fully enclosed structure • Accessory structure may include shed, garage, greenhouse, fully enclosed and locked. Located in rear or side yards, with 5’ setbacks from property lines. Structure maximum height of 10’. 	<ul style="list-style-type: none"> • Commercial Cannabis – includes Cannabis Retail and Microbusiness • 1 microbusiness and 2 retail businesses are allowed • Currently undergoing RFP process to elicit proposals. Proposals are due September 10, 2018. • Will require conditional use permit from Community Development Department and a Cannabis Public Safety License from the Benicia Police Department. • Retail operations limited to General Commercial, Community Commercial and Waterfront Commercial zones • Microbusiness limited to Limited Industrial, General Industrial, Industrial Park and Water Related Industrial zones • All businesses must keep 600’ buffer from schools. 	<ul style="list-style-type: none"> • Industrial Cannabis – includes manufacturing, distribution, cultivation, and delivery. • No limit on the number of permits issued • Requires a Cannabis Public Safety License from Benicia Police • Requires Cannabis Use Permit • Cannabis Testing • Must be 600’ from schools • Located within Office Commercial, Limited Industrial, General Industrial, Industrial Park, and Water Related Industrial

Summary of Solano Cities Cannabis Ordinances

City	Personal Cultivation	Storefront and Mobile Retailers/ Dispensaries	Commercial Cannabis
<p><u>Dixon</u></p> <p>Ordinance 17-008</p>	<ul style="list-style-type: none"> • Personal Cultivation as permitted by the State. • Limited to 6 plants 	<ul style="list-style-type: none"> • Limit 2 dispensaries/retailers allowed in the city at any time. • One retailer is open for business; no delivery at this time. • Must be fully enclosed. • Delivery is prohibited unless that activity is performed by a cannabis dispensary authorized by the city. • Must maintain a license, permit, and follow specific regulations. 	<ul style="list-style-type: none"> • Cannabis manufacturing businesses and cannabis testing labs are allowed within the city in 2 zones: <ul style="list-style-type: none"> - Light Industrial Area - Heavy Industrial Area • Follows same licensing, permits, and regulations as dispensaries. • City Council added distribution to City's pilot program which includes distribution of raw product to testing facility and processed product to retail operation and also allows transport only from cultivation to manufacturer or another distributor.
<p><u>Fairfield</u></p> <p>Resolution: NO. 2017-2</p>	<ul style="list-style-type: none"> • Personal Cultivation as permitted by the State. 	<p>Medical cannabis dispensaries, recreational dispensaries, mobile dispensaries, & delivery services are not a permitted within city limits.</p>	<p>Commercial businesses/cultivation are prohibited within city limits.</p>

Summary of Solano Cities Cannabis Ordinances

City	Personal Cultivation	Storefront and Mobile Retailers/ Dispensaries	Commercial Cannabis
<p><u>Rio Vista</u></p> <p>Municipal Code: Section 17.70</p> <p>Ordinance 005-2017 Adopted</p>	<p>Personal cultivation of no more than 6 plants allowed indoors in a private residence or in a detached, secure enclosure with cannabis cultivation use permit issued by city manager.</p> <ul style="list-style-type: none"> Personal Cultivation only be allowed in specific residential zones dictated by Ordinance 005-2017. Cultivation within an enclosed, secured greenhouse which includes mechanical ventilation with filtration systems is permitted. The grower shall have the written consent of the property owner. Comply with CA building, electrical, and fire codes as adopted by the city. 	<ul style="list-style-type: none"> Cannabis Dispensaries are allowed in the C-2 (Community Commercial), C-3 (General Service Commercial and Industrial), B-P (Business Park), I-P-I (Industrial Park and/or Industrial) and MG (General Manufacturing) zones, with the issuance of a conditional use permit (valid for 2 years) and development agreement, which jointly, must first be reviewed and recommended by the Planning Commission for City Council approval. 600ft setback from sensitive uses. Medical Cannabis Deliveries from Authorized Dispensary allowed with Permit. Non-Medical Cannabis Deliveries Prohibited. Mobile dispensaries are expressly prohibited. Limit of 2 retailers (storefronts) 	<p>Conditional Use permit process for indoor cultivation of cannabis, medicinal plant research, manufacturing, and packaging of Cannabis products.</p> <p>Business Park (B-P) and Industrial Park and/or Industrial (I-P-I).</p> <ul style="list-style-type: none"> The conditional use permit and development agreement must first be reviewed and recommended by the Planning Commission prior to City Council review. The six hundred (600) feet shall be measured from the closest property line of the school, child care center, or park to the closest property line of the commercial cultivation parcel Any structure used for the commercial cultivation of cannabis must have a ventilation and filtration system Limit of 2 microbusinesses. One microbusiness is open and operating with storefront retail and delivery available.

Summary of Solano Cities Cannabis Ordinances

City	Personal Cultivation	Storefront and Mobile Retailers/ Dispensaries	Commercial Cannabis
<p><u>Suisun City</u></p> <p>Municipal Code: Chapter 18.49</p>	<ul style="list-style-type: none"> Personal Cultivation as permitted by the State. Only allows individual cultivation, this excludes caregiver/collective cultivation. 	<ul style="list-style-type: none"> Allows both non-storefront medical/adult-use retailer and delivery and store front medical/adult-use retailer and delivery. Uses limited to Commercial Services & Fabrication zones (along Railroad Ave) 	<ul style="list-style-type: none"> City Council approved indoor cultivation, mixed-light cultivation, manufacturing, testing and distributor with approval of a City-issued commercial cannabis business permit and in compliance with all other applicable city and state regulations. Cannabis business operator or property owner would need to establish a cannabis business zone for commercial cannabis businesses. City has not established an area.
<p><u>Vacaville</u></p> <p>Municipal Code: Chapter 9.13</p> <p>Moratorium in Affect</p>	<ul style="list-style-type: none"> Personal Cultivation as permitted by the State. Moratorium does not prohibit personal cultivation brought about by state law for medical and non-medical personal cultivation. Council held study session July 10, 2018 to discuss codifying state law. Council directed staff to begin drafting ordinance. 	<ul style="list-style-type: none"> All dispensaries prohibited. All deliveries of medical cannabis are expressly prohibited within the City of Vacaville. No person shall conduct any deliveries that either originate or terminate within the City 	<ul style="list-style-type: none"> Commercial cannabis activities of all types are expressly prohibited within the City of Vacaville This moratorium was expanded to September 26th, 2019 unless repealed before its expiration. Per July 10, 2018 Council meeting - City staff will begin a series of study sessions and meetings on regulating cannabis cultivation, manufacturing, distribution and testing facilities.

Summary of Solano Cities Cannabis Ordinances

City	Personal Cultivation	Storefront and Mobile Retailers/ Dispensaries	Commercial Cannabis
<p><u>Vallejo</u></p> <p>Municipal Code: Chapter 7.100-7.200</p> <p>Ordinances: 1780, 1781, 1782</p>	<ul style="list-style-type: none"> Recognizes the need for access to medical marijuana by patients. Personal cultivation as permitted by State. 	<ul style="list-style-type: none"> Medical Marijuana Dispensaries allowed provided permits authorizing them to operate in Vallejo. No mobile dispensary allowed Minimum of 600 feet from any public or private school, kindergarten through high school, day care center, or youth center. <ul style="list-style-type: none"> 11 dispensaries are compliant with municipal code. 9am-8pm operating hours for dispensaries. The dispensary property utilizes a sufficient odor-absorbing ventilation and exhaust system to so that odor generated by inside the property is not detected outside dispensary. 	<ul style="list-style-type: none"> Resolution NO. 17-135 N.C.: Ad Hoc Sub Committee was extended through August 30th, 2018 to continue to research other possible cannabis businesses. Current permanent ordinances address only address medical marijuana businesses Council adopted emergency ordinances in regards to medical cultivation, distribution and manufacturing. Only persons who were issued a permit to operate a medical marijuana dispensary may apply for a permit to operate as a Medical Marijuana Cultivation (P-CLT), Manufacturer (P-MFG), and/or Distributor (P-DST). Spring/Summer 2018 Planning Commission and City Council currently going back thru the public hearing process to adopt permanent ordinances addressing cultivation, distribution and manufacturing. Current zoning districts cannabis businesses allowed include the Industrial Use, Industrial Limited Use and Planned Development Industrial.