



**PRELIMINARY WORKING DRAFT
FRAMEWORK FOR
REGULATING CANNABIS IN THE
UNINCORPORATED AREA OF
CONTRA COSTA COUNTY**

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**PREPARED FOR THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS
BY
THE CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND DEVELOPMENT**

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(NOTE: Yellow highlighted text marks ideas or components in an early stage of formulation and on which public input would be particularly appreciated.)

I. Introduction

In response to California voter approval of Proposition 64 (Adult Use of Marijuana Act) in November 2016, the Contra Costa County Board of Supervisors has directed the County staff¹, to initiate the process of preparing regulations for the establishment of commercial cannabis businesses in the unincorporated areas of the County. The regulations will also address cultivation of cannabis for personal use at home.

This working draft document is intended to provide an overview of potential cannabis regulations being formulated for the unincorporated areas of the County, including aspects still very far from being settled, based on guidance from the County Board of Supervisors at the April 25, July 18, and October 24, 2017 meetings. This document is being used to solicit further detailed public input on this matter.

In addition to preparation of land use and health regulations for commercial cannabis uses, the Board has also initiated the process of analyzing and preparing a potential taxing program for the various commercial cannabis uses. It is anticipated that no commercial cannabis uses would be authorized until such time as a cannabis tax ballot measure has been approved by County voters. A County cannabis tax initiative could be considered by voters at the next General Election in November 2018, so regulations permitting commercial cannabis uses are not expected to become effective until that time at the earliest.

No decision has been made by the Board on the regulatory framework contemplated in this document. Currently, and unless or until new regulations are approved by the Board of Supervisors, the commercial cultivation, distribution, storage, manufacturing, processing, and sale of medical cannabis and adult use cannabis and the outdoor cultivation of cannabis for personal use ***are prohibited*** within the unincorporated areas of the County.

II. Types of Commercial Cannabis Uses Under Consideration

The County is considering regulating and permitting the establishment of various commercial cannabis uses. No decisions have been made and it is possible that some or all categories of use will not be permitted. Types of use under consideration include:

¹ Staff from the following County Departments have been involved: County Administrators Office, County Counsel, Sheriff's Office, District Attorney, Health Services Department (HSD), Probation, Treasurer-Tax Collector, Agriculture, and Conservation and Development (DCD). DCD is taking the lead with respect to developing land use regulations. HSD is taking the lead with developing health regulations.

- **Cultivation**-Cultivation refers to the growing of cannabis for commercial use, including artificial, mixed light and natural light cultivation (i.e. indoor, greenhouse and outdoor).
- **Retail Sales/Delivery**- Retail sales of cannabis refers to the sale of cannabis to retail customers from a storefront that sells only cannabis products. Retail delivery refers to deliveries from a storefront or other permitted site to customers.
- **Manufacturing/Processing**- Involves the processing of cannabis or cannabis products into various marketable forms, including edibles, oils, tinctures, etc. The County may be well-positioned to attract and retain these types of businesses because the County has significant industrial land and a strong industrial base.
- **Distribution Center**- A cannabis distribution center refers to a site where cannabis or cannabis products are warehoused and distributed to licensed cannabis retailers. The retail sale of cannabis or cannabis products is not permitted from cannabis distribution centers.
- **Testing**- A cannabis testing facility is a facility where cannabis and cannabis products are tested for potency, quality, and health and safety requirements.

III. Land Use Permitting Process

All applications for commercial cannabis uses are proposed to be subject to the County *Land use Permitting Process* (Article 26-2.20 of County Code). Under the land use permitting process, applications for all commercial cannabis uses would be subject to the following procedures:

- Review of application for completeness.
- Solicitation of comments from other County, State, and community agencies/organizations.
- Review of project for compliance with the California Environmental Quality Act.
- Mailing of public hearing notice to all property owners within 300-feet of property where use is proposed.
- Public hearing before the County Zoning Administrator.
- Discretionary decisions would be made by the County Zoning Administrator who could approve or deny applications. Zoning Administrator decisions can be appealed

to the County Planning Commission and decisions by the Planning Commission can be appealed to the County Board of Supervisors.

Each permitted use would be subject to specific conditions intended to protect public health, safety and welfare (further discussion of key examples of protections is provided below). The permits would be subject to suspension or termination if performance standards are not met or public health, safety or welfare was threatened. The regulations could incorporate automatic expiration of cannabis permits after a set number of years and require re-approval of permits, including a new application review process. Periodic permit review hearings or review procedures could also be included.

It is important to note that additional permits from the County (as well as a state license) may be required. For example, Environmental Health may require additional applications and permits, consistent with the handling and sales of consumer goods (see Section IX). Building permits may also be required.

IV. Potential Cap on Number of Permits

In order to help ensure the establishment of safe, orderly and accessible commercial cannabis businesses, the Board may wish to consider placing a cap on the number of permits to be issued for some or all of the commercial cannabis uses to be permitted. Establishment of a "ramp-up" program where the cap on the number of permits is increased on an annual basis may also be considered by the Board, which would enable enforcement needs and community effects to be assessed and resource allocation to be adjusted in a deliberative manner. Considerations on potential caps for each of the use types are as follows:

[[ULTIMATE OR INTERIM LIMIT, IF ANY, FOR EACH COMMERCIAL USE TO BE DETERMINED BY THE BOARD]]

- **Commercial Cultivation-** [No limit] OR [A maximum of (10?)-(50?)-(100?) (more?)] permits for the commercial cultivation of cannabis, including indoor, mixed light and outdoor cultivation.
- **Retail Sales-** [No limit] OR [A maximum of (3?)-(6?)-(9?)-(12?) (more?)] permits for the retail sale of commercial cannabis and cannabis products. For delivery-only retail the cap could be increased or eliminated altogether.
- **Manufacturing-** [No limit] OR [A maximum of (5?)-(10?)-(15?)-(20?) (more?)] permits for manufacturing of cannabis and cannabis products. Given that the County could have competitive advantages in the sectors of manufacturing, distribution and testing, and that community impacts may be well addressed with

proper siting, staff suggests the Board consider a high (or no) ultimate cap on these sectors (interim caps for a “ramp-up” may have merit).

- **Distribution Center-** [No limit] OR [A maximum of (?)-(?)-(?)] permits for cannabis and cannabis products distribution center.
- **Testing Facility-** [No limit] OR a maximum of (?)-(?)-(?) permits for cannabis and cannabis products testing facility.

V. Applicant Selection Process

As described in Section II, in order to ensure the establishment of safe and accessible commercial cannabis uses, all applications for commercial cannabis uses would be subject to the County’s land use permitting (LUP) process and any other applicable regulations (e.g. Environmental Health permits and building permits). If the Board establishes ultimate or interim caps on the number of businesses to be permitted for any use category (see Section IV), the County will establish a selection process to determine how available permits will be allocated. If a selection process is needed, the Board has expressed an interest in utilizing a “request for proposal” (RFP) process and scoring system.

Utilizing the RFP and scoring process, the County would solicit proposals for establishment of a commercial cannabis use. The proposals would be scored utilizing a pre-defined and approved scoring system. The proposals with the highest scores would then be invited to submit a formal land use permit application, the application would be processed under the County LUP process and would be subject to denial, or conditional approval, by the County Zoning Administrator, County Planning Commission or Board of Supervisors. If a permit was denied, the highest ranked proposal just below the initial cut-off could be invited to apply until the cap on permits is reached. The screening process could be done in phases. For instance, the County could initially invite submission of concise and simple pre-proposals (less detailed and costly to complete than full proposals), review and rank the pre-proposals, then invite the proponents with the highest ranking pre-proposals to submit full proposals which would be screened again to determine who would be invited to submit a formal land use permit application (this is similar to some grant selection processes).

Please note, applications for a land use permit for commercial cannabis uses would only be accepted for qualifying properties located within the appropriate zoning district and outside of any approved buffer areas (see Sections VI and VII, below).

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VI. Eligible Locations

The County has prepared a matrix and [Preliminary Cannabis Use Maps](#) identifying the zoning districts where specific commercial cannabis uses could be eligible to apply for a discretionary permit. **The draft matrix and maps are still under review by the Board.** The draft matrix is below. The [draft maps are in an attachment](#).

LEGEND ZONING DISTRICT	CULTIVATION			PROCESSING AND MOVEMENT			SALES	
	Artificial Light	Mixed Light	Natural Light	Distribution Center	Manufacturing	Testing	Retail Delivery Only	Retail Storefront
Agricultural Zoning Districts (A-)	Land Use Permit	Land Use Permit	Land Use Permit		Land Use Permit			
Area-Wide Planned Unit Development (P-1)	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit
Retail-Business (R-B)							Land Use Permit	Land Use Permit
General Commercial (C)				Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit
Controlled Manufacturing (C-M), Light Industrial (L-I), Heavy Industrial (H-I)	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit	Land Use Permit
Potential Sustainability Requirements	Renewable Energy and Sustainable Water Supply		Sustainable Water Supply		Potential limits on number of employees/trips outside ULL			
Key Considerations and Limitations by Use	Maximum 22, 000 sf		Max 2 acres	only within ULL	Potential limits on number of employees/trips outside ULL	only within ULL	only within ULL	only within ULL
	Ag Districts: maximum 10,000 sf structure or in existing structure		Greenhouse only in non-ag districts	Cultivators may distribute own produce to retailers				500 ft from another retail location

Note: Microbusinesses (operations that grow, process and sell cannabis products to retail customers at a small-scale site) are also under consideration where cultivation is allowed.

Properties with incompatible zoning could apply to be rezoned, but this is a long and complex process requiring Board approval. Outside of the Area-Wide P-1 zoning districts that cover the former Redevelopment Areas (and that may be eligible for cannabis uses per the above matrix), other lands that are zoned P-1 (Planned Unit Development) could go through a process other than rezoning to become eligible for cannabis uses if they have a compatible General Plan designation. They could apply for a Development Plan modification to include a cannabis use as an eligible use, which would require separate approval but not necessarily by the Board.

VII. Buffer Zones

In addition to being located within compatible zoning districts, commercial cannabis uses may also be subject to buffer requirements in order to protect certain sensitive uses from potential cannabis influence or to prevent cannabis businesses from being located too close to each other.

Under current State law a buffer of 600 feet is required between any cannabis business licensed by the State and any K-12 school, day care center or youth center. A County ordinance may increase this buffer distance. A County ordinance may also establish buffers between cannabis businesses and other sensitive uses, such as parks.

For comparison purposes, the County Code currently restricts the establishment of new tobacco retail establishments within 1,000 feet of any school, playground, park or library and within 500 feet of any existing tobacco retailer.

Buffers for the County's cannabis ordinance could range in distance. The appropriate distance could be determined based on a variety of factors such as use, location, parcel size and type of sensitive sites the County chooses to identify. [The Preliminary Cannabis Use Maps](#) show two alternatives, one that includes 500 foot buffers from residential zoning districts along with 1000 foot buffers from schools, community parks/playgrounds, libraries, drug treatment centers, and homeless shelters and one that includes the 1000-foot buffers but omits the 500-foot buffers to residential zoning districts. Other buffer scenarios are being considered.

VIII. Security and Nuisance Abatement Requirements

In order to ensure that commercial cannabis uses are operated in a safe and secure manner, commercial uses are proposed to be subject to substantial security measures to be incorporated into the regulations. Examples of security measures may include (the below are examples only—many additional measures could be considered during development of the detailed regulations):

- Require that cannabis establishments be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
- Require design measures and an enforceable security plan to ensure the applicant will secure the premises twenty-four hours per day, seven days per week. Examples of specific measures include: security cameras; background checks for employees; establishing limited access areas accessible only to authorized personnel; storing all finished cannabis products in a secured and locked room; preventing off-site impacts to adjoining or near properties; and limiting the amount of cash on the premises.

Examples of operational conditions of approval include:

- Requiring permitted facilities (other than retail space in storefronts) to be closed to the general public; prohibiting transporter deliveries and pick-ups between the hours of, for example, 7:00 p.m. and 8:00 a.m.
- Odors shall be contained on the property on which the commercial cannabis activity is located.
- No production, distribution, storage, display or wholesale of cannabis and cannabis-infused products shall be visible from the exterior of the building where the commercial cannabis activity is being conducted.

IX. Public Health Safeguards

Contra Costa Health Services recommends that the Board adopt a local health ordinance that establishes permitted activity, and the conditions under which consumer products which contain cannabis can be manufactured and sold to consumers. Adopting a local health ordinance will also allow county staff to inspect, regulate and enforce appropriate state and local laws pertaining to the cannabis industry. The primary reasons for crafting a local regulatory health ordinance are:

- Provide authority for local environmental health staff to inspect and enforce the numerous state laws pertaining to: i) the manufacturing of food and beverage products that contain cannabis (termed “edible cannabis products”); and ii) the retail sale and dispensing of cannabis products including, but not limited to, leaf, bud, edibles, beverages, tinctures, candies, etc.

- Provide local authority to establish, inspect, and enforce additional rules and restrictions on the manufacturing and sale of consumer products which contain cannabis.
- Provide local authority to restrict use of cannabis in public places and smoking of cannabis in multi-unit housing. Currently, the County has a second hand smoke ordinance that bans the smoking of cannabis products in the unincorporated area of the County in all of the same places where tobacco smoking is prohibited. In addition, the County is poised to consider a revised ordinance that would add multi-unit residences to the locations where both tobacco and cannabis smoking would be prohibited. The current and proposed smoking prohibitions are inclusive of the use of electronic smoking devices (vaping). In addition, the County could consider an outright ban on the use of cannabis in any form at certain public events and venues.

Specific examples of the kinds of safeguards that are being considered for inclusion in new regulations include the following:

- Consider limiting the sale of edible cannabis products to those where dosing is a maximum of 10mg THC/dose and packaged as a single dose. Consumers would be allowed to purchase up to the limit allowed in state law.
- Prohibit sale of flavored leaf and bud.
- Consistent with recent legislation in Colorado, consider prohibiting the sale of edible products that mimic the shape and appearance of animals, humans, or fruit, including gummy bears.
- Prohibit sale of flavored e-juices.
- Prohibit all self-service vending of all cannabis and products which contain cannabis.

A [report from Contra Costa Health Services](#) with detailed recommendations and analysis of health issues is available [here](#).

X. Cost Recovery

The County may consider establishing fees on cannabis businesses to cover County costs associated with application review and monitoring compliance with permit conditions.

XI. Taxation

A ballot measure to seek approval for taxes on certain commercial cannabis uses is under consideration. It is anticipated that no commercial cannabis uses would be authorized until such time as a cannabis tax ballot measure has been approved by County voters. A County cannabis tax initiative could be considered by voters at the next General Election in November 2018. The tax measure could provide funding for a variety of public purposes, including but

not limited to enhanced public safety, improved public health, drug treatment and education, and enhanced code enforcement capability.

XII. Personal Cultivation

In addition to providing comprehensive regulations for the establishment of commercial cannabis uses, the County cannabis ordinance could also address cultivation for personal use. Under current County cannabis regulations, limited indoor cultivation is permitted. The current regulations for personal indoor cultivation has been provided below.

- **Indoor Personal Use Cultivation**- *Under the County's current cannabis regulations*, six or fewer cannabis plants may be cultivated indoors at a private residence, or inside a fully-enclosed and secured accessory structure to a private residence located on the grounds of the private residence, if all of the following conditions are met:
 1. The private residence or accessory structure, and all lighting, plumbing, and electrical components used for cultivation, must comply with applicable zoning, building, electrical, and plumbing codes and permitting requirements.
 2. All living cannabis plants, and all cannabis in excess of 28.5 grams produced by those plants, must be kept in a locked room and may not be visible from an adjacent property, right-of-way, street, sidewalk, or other place accessible to the public.
 3. The private residence must be lawfully occupied by the person who cultivates the cannabis plants within the private residence or within the accessory structure. If the private residence is not owner-occupied, written permission from the owner of the private residence must be obtained before cannabis plants may be cultivated.

The final regulations could continue the current restrictions on cultivation for personal use or they could be expanded to allow for limited outdoor cultivation for personal use and/or allow for exceptions. Outdoor personal cultivation could raise more odor or security concerns with neighbors but may be less expensive and use less energy. The County is also keeping an eye on state regulations in this area as Proposition 64 prevents access to certain grant funds by those local agencies that ban commercial cultivation, or personal outdoor cultivation, or retail sales of cannabis, and the standards for enforcing these restrictions have not yet been defined.

- **Outdoor Personal Use Cultivation**- Examples of restrictions on outdoor cultivation for personal use that could be considered in lieu of outright prohibition include:

1. Not more than three marijuana plants are cultivated outdoors at one time.
 2. The plants are not visible from a public right-of-way or adjacent parcel.
 3. No part of the plants being cultivated are within five feet of any property line.
- **Discretionary permit process could be considered to allow for exceptions to limitations on personal cultivation.** The Board could consider whether the limitations on personal cultivation are hard and fast limits with no exceptions or whether to allow a discretionary permit process to enable certain specified exceptions. For instance, outdoor personal cultivation could be permitted or denied through such a process. The process would require notification to neighbors and a public hearing and decisions would be appealable.

XIII. Enforcement

In order to ensure the orderly establishment of commercial cannabis uses and to prevent and discourage the establishment of unregulated cannabis uses, robust enforcement capacity should be a component of the regulatory program. County staff is working to more fully explore the most effective enforcement mechanisms and to better identify enforcement roles and resource needs.

XIV. Additional sections?

Additional sections may be added to address other aspects of the potential regulations deemed important to include in a summary document such as this Framework.

XV. Attachments

[Maps](#)
[Health Services Report](#)