



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: November 14, 2017

Subject: Draft Framework for Regulating Cannabis in the Unincorporated Area and Public Outreach Plan.

RECOMMENDATION(S):

1. APPROVE Preliminary Working Draft Framework for Regulating Cannabis in the Unincorporated Area of Contra Costa County (Framework), reflecting changes requested by the Board on October 24, 2017, and
2. DIRECT the Director of the Department of Conservation and Development to implement Public Outreach Plan to solicit public input on the Framework.

FISCAL IMPACT:

Preparation of regulations on the commercial cultivation, distribution, transport, storage, manufacturing, processing, and sale of medical cannabis and medical cannabis products, and of adult-use cannabis and adult-use cannabis products,

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/14/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Diane Burgis, District III
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 14, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jamar Stamps, (925)
674-7832

FISCAL IMPACT: (CONT'D)

as authorized by the Control, Regulate, and Tax Adult Use of Marijuana Act, and on cultivation for personal use, is expected to cost approximately \$100,000 to \$150,000 in staff time and consulting fees.

BACKGROUND:

On October 24, 2017, the Board received presentations from County staff and consultants on the development of cannabis regulations, financial analysis and the Preliminary Working Draft Framework for Regulating Cannabis in the Unincorporated Area of Contra Costa County (“Draft Framework”). The Board provided input on the Draft Framework for staff to incorporate and indicated the importance of public input. This Board Order includes a revised Draft Framework (Exhibit A (clean version) and Exhibit B (track changes version)).

The Board also provided guidance on public outreach. Based on that input staff developed a draft Public Outreach Plan (Exhibit C). The Draft Framework, once approved, will be used in future public outreach efforts. Staff will also offer field visits for Board Members.

On October 24, the Board requested that staff confirm the following:

Maximum number of cannabis plants.

Under state law, the maximum number of cannabis plants that may be cultivated for personal use is six. State law requires that local agencies allow up to six cannabis plants to 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, subject to any reasonable regulations the local agency may enact. A local agency may, but is not required to, allow outdoor cultivation at a private residence. (H&S Code, § 11362.2.) Accordingly, Ordinance No. 2017-24, adopted by the Board on October 24, allows six or fewer cannabis plants to 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. Outdoor cultivation is prohibited under the ordinance.

Under state medical cannabis laws, a qualified patient or primary caregiver may maintain no more than six mature or 12 immature cannabis plants per qualified patient. (H&S Code, § 11362.77.) A local agency may allow the cultivation of cannabis plants for medical purposes, but the courts have held that a local agency may also ban this type of cultivation. Under Ordinance No. 2017-24, the indoor cultivation of six or fewer cannabis plants may be for personal use or medical purposes.

Eligibility for grant funding.

Local agencies may regulate or ban commercial cultivation of cannabis, personal outdoor cultivation of cannabis, and the retail sale of cannabis or cannabis products. If a local agency bans all commercial cultivation, personal outdoor cultivation of cannabis, or the retail sale of cannabis or cannabis products, the agency is not eligible for state grants to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Proposition 64. (R&T Code, § 34019.) Staff will follow development of the regulations concerning the grant program to learn the details of how the state will interpret and enforce these provisions.

Voter approval of cannabis tax in unincorporated area.

Counties are authorized to impose a tax on the privilege of cultivating, manufacturing, producing, process, preparing, storing providing, donating, selling, or distributing marijuana or marijuana products. (R&T Code, § 34021.5.) If a county establishes a tax on one or more of those activities, the tax is imposed on state licensees. The Board of Supervisors by ordinance sets the tax rate and specifies the activities subject to the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance. If the Board specifies that the tax applies in the unincorporated area, then the electorate voting on the tax would be registered voters in the unincorporated area.

Information on cannabis transaction limits in other states.

Contra Costa Health Services has prepared a table comparing state limits on cannabis transactions (Exhibit D).

CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not act in the affirmative on the above recommendations, County staff will not disseminate the Draft Framework for Regulating Cannabis in the Unincorporated Area of Contra Costa County and the Public Outreach Plan will not be implemented.

ATTACHMENTS

Exhibit A - Preliminary Cannabis Regulatory Framework 11-14-17 clean version

Attachment 1 to Exhibit A-Preliminary Maps

Attachment 2 to Exhibit A - Report from Health Services

Exhibit B - Preliminary Cannabis Regulatory Framework 11-14-17 compared to 10-24-17

Exhibit C- Draft Public Outreach

Exhibit D - Comparison of State Limits on Cannabis Transactions