

BACKGROUND

Interim Ordinance

In response to the Medical Marijuana Regulation and Safety Act (August 2015), and to effect greater local control, the Board of Supervisors adopted the Marijuana Cultivation Ordinance (ordinance or interim licensing ordinance) in **March 2016**, which added Chapter 20 to Title 5 of the Yolo County Code. This ordinance was originally adopted as an interim measure to address community concerns and limit harmful environmental impacts while ensuring protection for patient access to medical marijuana.

Initially, the ordinance restricted the cultivation of medical marijuana in the unincorporated area with the implementation of the following provisions:

- Allow for personal cultivation of cannabis (up to six plants per household), with outdoor cultivation prohibited within specified buffer areas
- Allow for commercial cultivation of medical marijuana up to 1 acre of garden canopy per license
- Require 1,000-foot buffer between cultivation sites and youth-oriented facilities, schools, school bus stops, churches, community parks, and residential treatment facilities
- Require 75-foot buffer between cultivation sites and residences
- Require background checks of cultivators and property owners
- Establish a local track and trace program
- Establish enforcement provisions for violations of the ordinance
- Establish that odor cannot cause a nuisance
- Require lighting restrictions for mixed-light cultivation

The ordinance was amended several times to modify the program by:

- Limiting those who could obtain a license to cultivate in the unincorporated area of the County to only those who submitted a complete Notice of Intent to the Central Valley Regional Water Quality Control Board by October 11, 2016 (**October 2016**)
- Establishing a deadline of December 31, 2017, for the submittal of an initial cultivation license by those who had successfully completed a Notice of Intent, but had not yet submitted an initial cannabis cultivation license application to the County, limiting the number of eligible licensees to approximately 78 (**November 2017**)
- Establishing a pilot program for the licensing of a limited number of regional-serving nursery and processing facilities¹; adding a sunset provision that would automatically repeal the ordinance unless a tax measure was approved by voters (**November 2017**)
- Allowing for the commercial cultivation of recreational marijuana in addition to medical marijuana (existing licensees) in response to the passage of Prop 64, the Adult Use of Marijuana Act; adopting the Early Implementation Development Agreement Policy² (**July 2018**)

¹ The County released a request for proposals in November 2017 to solicit applications for nursery and processing facility operations as a pilot program and received multiple proposals. At this time, only one pilot program applicant (Green Coast Industries) is moving forward with a nursery proposal under the Early Implementation Development Agreement (DA) Policy adopted by the Board in March 2018.

² At the release of the Draft EIR, the County was processing 9 Development Agreement applications under the policy, 8 of which were existing licensed cultivators and 2 of the 8 applicants under the nursery/processing facility pilot

- Allowing distribution licenses for existing licensed cultivators to distribute their own product and broadening penalties for violations (**March 2019**)

Licenses

In **2016**, the County issued approximately **41 licenses** to cannabis cultivators. That number rose in **2017** to upwards of **70± issued licenses**, including renewals. The next few years would see a downward trend – **66 annual licenses issued/renewed in 2018, 54 in 2019, and 49 in 2020** (all approximate). **In 2021, approximately 48 licenses** were renewed and **42 renewed in 2022**. *Please note number of annual licenses and renewals are approximate and may not reflect actual counts.*

Ministerial vs Discretionary/License vs Permit

Because the ordinance was ministerial (no public process) and the annual licensing renewal process was met with objections by concerned community members, the Board of Supervisors directed staff to **draft a Cannabis Land Use Ordinance (CLUO) in October 2017**, which would create a conditional use permit process for determining where cannabis cultivation and related activities should appropriately be located. The CLUO would be distinguished from the interim licensing ordinance by establishing a robust discretionary (public) review process for issuing permits under new zoning regulations drafted to control cannabis operations. Standards would include stricter buffer and setback requirements as well as remedies for reducing overconcentration.

The use permit requirement would be in addition to the annual licensing requirements. If a use permit is issued, it would run with the land (cannabis site) subject to several conditions that must be met/maintained for compliance. Conversely, a license is issued to the operator and requires an annual renewal process.

CLUO

Several preliminary public outreach meetings were held to obtain feedback on the contents of the CLUO, resulting in a **Draft CLUO approved by the Board in April 2018**, for the purposes of initiating a new round of public outreach. Numerous public outreach meetings were held in various locations within the County, including at the Planning Commission, to obtain public input on the Draft CLUO from residents, property owners, and cultivators before a final Draft was prepared for review under the California Environmental Quality Act.

Issues surrounding cannabis uses in the County ranged from whether to allow the continuation of cannabis cultivation and related uses to what level of intensity of cannabis uses would be appropriate and where.

The County issued a **Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the CLUO in August 2018** to solicit comments from interested agencies, organizations, and individuals and received numerous comments that would assist the County on the scope and content of the environmental analysis.

program. The Early Implementation DA Policy would allow a licensed cultivator to vest existing and proposed cannabis uses without the need for a use permit under an adopted CLUO.

The following summarizes some of the NOP comments:

- Concerns related to criminal activities and use of guard dogs; cannabis not compatible with County's rural community character
- Waste of prime farmland and concern that cannabis uses will diminish agricultural capacity of the land; prime farmland should be reserved for production of food and fiber only
- Buffers should be increased from all residences; 1,000-foot buffer ineffective for controlling nuisances
- Lighting control
- Odor and impacts on public health
- Economic impacts on properties adjacent to cannabis uses
- Overconcentration of cannabis uses, particularly in the Capay Valley
- Increased traffic on County roadways, noise and dust
- Social impacts on youth
- Impacts to biological resources
- Recommendations for reduced number of licenses and allowed cannabis uses
- Restrict cannabis uses to indoor activities only; greenhouses belong in industrial areas and not on farmland resulting in loss of agricultural soils
- Not enough resident Sheriff Deputies to patrol cultivation sites
- Fire Protection Districts not equipped to handle hazards resulting from manufacturing operations
- Neighboring farming operations should not be compromised because of adjacent cannabis operations

The **Draft EIR was released for public review in October 2019**, which analyzed five alternative variations of the proposed Draft CLUO. The EIR found that the proposed CLUO mitigates most impacts, but that aesthetics (visual character) and odor impacts remain significant and unavoidable, particularly in the overconcentrated areas.

On **September 14, 2021, the Board adopted the CLUO**, certified the Final EIR, and amended the General Plan and Zoning Regulations to comport to the CLUO. The CLUO includes regulatory requirements for permitting cannabis activities through land use, zoning, and development standards, and addresses assumed numbers of operational activities, allowed locations based on zoning, controls on overconcentration, and required buffers from sensitive land uses.

Summary

Adoption of the CLUO formally establishes an increased set of regulatory standards (in addition to state regulations) requiring an expensive and rigorous discretionary permitting process that may result in denial of a permit and/or could be cost prohibitive. One anticipated outcome to the local program is a drastic reduction in the number of licensees seeking a permit under the CLUO, particularly if standards (buffers, setbacks, concentration) cannot be met at current locations.

The CLUO establishes timelines for existing licensees to submit a complete application and reduces the number of cultivators operating in the Capay Valley to mitigate overconcentration.