



# County of Sonoma

## State of California

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Date: May 18, 2021

Item Number: \_\_\_\_\_

Resolution Number: \_\_\_\_\_

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4/5 Vote Required

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**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,  
Finding the Ordinance Adding Chapter 38 to the Sonoma County Code to Expand Ministerial  
Cannabis Cultivation Permitting in the Agricultural and Resource Zones and Amending  
Chapter 26 to Expand Cannabis Cultivation Use Permits and Align with Chapter 38 Consistent  
with the Sonoma County General Plan 2020**

**Whereas**, this Resolution is adopted concurrently with and in support of Ordinance No. \_\_\_\_\_ Adding Chapter 38 to the Sonoma County Code to Expand Ministerial Cannabis Cultivation Permitting in the Agricultural and Resource Zones and Amending Chapter 26 to Expand Cannabis Cultivation Use Permits and Align with Chapter 38 (“Ordinance”);

**Whereas**, since the adoption of the Cannabis Land Use Ordinance, Sonoma County Code Section 26-88-250 et seq. (established by Ordinance No. 6189 (2016) and amended by Ordinance No. 6245), the Board of Supervisors has considered cannabis a non-agricultural use under the Sonoma County General Plan 2020 (“General Plan”) and found that cannabis uses, and specifically cannabis cultivation, are compatible with agricultural production on land designated for agricultural use and consistent with the overall intent, goals, objectives, and policies of the General Plan;

**Whereas**, on October 16, 2018, in support of Ordinance No. 6245 amending the Cannabis Land Use Ordinance, the Board adopted Resolution No. 18-0442 making specific findings for why the Cannabis Land Use Ordinance was consistent with the General Plan;

**Whereas**, since the Board has adopted land use ordinances governing cannabis and the County has begun issuing permits, the Board has consistently defined cannabis as an agricultural product and found that cannabis cultivation in agricultural zoning designations is uniquely compatible with traditional agricultural uses because of its similarities;

**Whereas**, the Board desires to expand and streamline cannabis cultivation permitting while maintaining strict protections for the environment and ensuring consistency with and furthering of General Plan goals;

**Whereas**, the Ordinance, when proposed by staff, was accompanied by a proposed general plan amendment to include cannabis within the definition of agriculture within the General Plan and specifically the Agricultural Resources Element;

**Whereas**, on April 15, 2021, the Planning Commission voted to recommend disapproval of the general plan amendment and on March 18, 2021, the Board of Supervisors concurred with the Planning Commission and voted to disapprove the general plan amendment and conclusively state that cannabis cultivation and cannabis-related uses are non-agricultural for purposes of interpreting and implementing the General Plan;

**Whereas**, as a result of and in conjunction with the disapproval of the general plan amendment, the following changes were made to the proposed Ordinance:

- a. Prohibit ministerial permitting for cultivation that proposes groundwater use in marginal and low groundwater availability zones;
- b. Prohibit tree removal without a use permit, except under limited circumstances related to health and safety;
- c. Limit hoop houses to one acre per parcel for ministerial permits;
- d. Prohibit hoop houses within the scenic corridor setback for ministerial permits;
- e. Require that outdoor and hoop house cultivation be setback 400 feet from residentially zoned parcels.
- f. Limit total development under a ministerial permit to 10% per parcel.
- g. Require applicants to acknowledge that neighboring farming practices may be detrimental to cannabis cultivation.
- h. Require applicants to demonstrate that traditional agricultural production remains the primary use of the parcel.
- i. Limit development of structures and impervious surfaces to previously developed areas.

**Now, Therefore, Be It Resolved** the Board finds and determines that Ordinance No. \_\_\_\_\_ is compatible and consistent with the overall goals, objective, policies, and programs of the General Plan and its implementing specific plans. Without limiting this general finding, the Board makes the following findings in support of this determination:

1. Agricultural Resources Element. The Ordinance is substantially consistent with the goals, objectives, and policies of the Agricultural Resources Element of the General Plan, as follows:
  - a. *Goal AR-3 and related objectives and policies*. Goal AR-3 is to “[m]aintain the maximum amount of land in parcel sizes that a farmer would be willing to lease or buy for agricultural purposes.” The Ordinance will not impact existing parcel sizes in areas designated for agriculture and agricultural production, and will not promote parcelization. This is because the Ordinance sets a minimum parcel size of 10 acres and allows up to 10% of the parcel to be used for cannabis development. By basing the allowable

cannabis cultivation on a percentage of the parcel instead of limiting all parcels to one acre, there is no incentive for parcelization, and by limiting the size of cannabis development the majority of each parcel is available for agricultural purposes. Objective AR-3.1 further provides that the County should “avoid the conversion of agricultural lands to residential or nonagricultural uses.” The Ordinance standards avoid the conversion of agricultural lands to cannabis uses because, in addition to the size limit discussed above, cannabis structures must be sited outside important farmlands and only in previously developed areas. This means no agricultural production will be removed and no farmland will be converted as a result of such development. Further, by limiting the overall building development associated with the cannabis use instead of just the indoor or mixed light cultivation area or canopy, the Ordinance ensures an outer limit on building development associated with all components of the use.

- b. *Goal AR-4 and related objectives and policies.* Goal AR-4 provides that it is desirable to “[a]llow farmers to manage their operations in an efficient, economic manner with minimal conflict with nonagricultural uses.” To aid in achieving this goal, Policy AR-4a provides that “[t]he primary use of [agricultural parcels] shall be agricultural production and related processing, support services, and visitor serving uses. Residential uses in these areas shall recognize that the primary use of the land may create traffic and agricultural nuisance situations, such as flies, noise, odors, and spraying of chemicals.” First, cannabis cultivation is uniquely compatible with agricultural production because it employs similar farming practices and infrastructure and thus does not frustrate the goal of efficient farm management. Further, the allowed size of a cannabis operation remains small relative to the size of the parcel and each applicant must show that the primary use of the parcel is agricultural production. To the extent that agricultural production may be detrimental to cannabis operations because of the high standards for cannabis related to pesticides and fertilizers, applicants for ministerial permits would also be required to sign a declaration acknowledging the use of these practices on neighboring properties.
- c. *Goal AR-8 and related objectives and policies.* Objective AR-8.3 is to “[e]ncourage formulation of programs and evaluate alternative funding sources which offer financial incentives to the farm owner to reduce reliance on subdivision and sale of land to raise operating capital.” Allowing farmers to diversify their operations to include cannabis or lease a portion of their property to a cannabis business provides for an alternative funding source that offers farming operations financial stability and reduces the need or incentive for subdivision or sale.

2. Land Use Element. The Ordinance is substantially consistent with the goals, objectives, and policies of the Land Use Element of the General Plan, as follows:

- a. *Goal LU-1 and related objectives and policies.* Goal LU-1 provides that “[t]he County shall continue to use the following selected Specific Plans and Area Plans to implement this plan.” These plans include the Bennet Valley Area Plan, Penngrove Area Plan, and the Franz Valley Area Plan, discussed below.
  - i. The *Bennet Valley Area Plan* goals are to retain the rural character of the area and reflect the environmental and economic constraints, suitability, and sensitivities of the area. The Ordinance requires that all commercial cannabis cultivation is subject to restrictive design standards or discretionary design review, which will address new structures, lighting, fencing, and visibility. Environmental constraints of a site are addressed through strict environmental standards, and potential cannabis development is limited to a small portion of the parcel.
  - ii. The *Penngrove Area Plan* reflects the goal of accommodating a variety of rural living environments while protecting agriculture and recognizing septic and water constraints. The Ordinance provides robust farmland protections and strict environmental standards for managing excess irrigation water or effluent from cultivation activities and requires that these be discharged to a septic system with proven adequate capacity. Under the Ordinance, ministerial permits would no longer be available for groundwater use on sites with marginal or low groundwater availability, and applications located in a priority groundwater basin would be subject to a hydrogeologic report showing the use would not result in negative environmental impacts.
  - iii. The *Franz Valley Area Plan* reinforces the County’s policy of protecting agriculture. As discussed above, the Ordinance contains robust farmland protections and strictly limits the size of cannabis development, so that the Ordinance ensures the primary use of each parcel remains agricultural production and related uses, consistent with the Area Plan’s goal to keep options open for resource development and conservation by not permitting uses which preclude the best use of the land. The Area Plan further provides that “[w]ithin groundwater recharge areas, construction activities, creation of impervious surfaces, and changes in drainage should be avoided through discretionary action.” For ministerial permits, addition of structures and impervious surfaces are limited to previously developed areas and all sites require storm water management plans and erosion control plans. Any applications that do not meet these strict standards must undergo discretionary review.
- b. *Goal LU-7 and related objectives and policies.* Goal LU-7 is to “[p]revent unnecessary exposure of people and property to environmental risks and hazards. Limit development on lands that are especially vulnerable or

sensitive to environmental damage.” The standards for both ministerial and discretionary permits are highly protective of the environment and ensure that cannabis cultivation permits are issued only in appropriate locations that are not environmentally sensitive. For example, standards require rigorous review of water supply and biotic resources, limit tree removal, require setbacks from riparian corridors and wetlands, and prohibit development on slopes greater than 15 percent.

- c. *Goal LU-8 and related objectives and policies.* Goal LU-8 provides that the County should “[p]rotect Sonoma County’s water resources on a sustainable yield basis that avoid long term declines in available surface and groundwater resources or water quality.” The Ordinance requires an on-site water supply source to meet all on site uses on a sustainable basis. Groundwater use in marginal and low groundwater availability zones would require a discretionary permit and either net zero water use or a hydrogeologic report showing no negative environmental impacts. Groundwater use in priority basins would similarly require a hydrogeologic report. The Ordinance also requires compliance with standards related to waste management, storm water management, and erosion control, and requires compliance with the State Water Resources Control Board discharge requirements. These, and other, stringent standards in the Ordinance protect water resources and avoid long term declines in water availability or quality. For these reasons the Ordinance is also consistent with the goals of the Water Resources Element, including Goals WR-1 and WR-2 to protect water quality and manage groundwater supply.
- d. *Goal LU-9 and related objectives and policies.* Goal LU-9 states that the County should “[p]rotect lands currently in agricultural production and lands with soils and other characteristics that make them potentially suitable for agricultural use. Retain large parcel sizes and avoid incompatible non agricultural uses.” As stated above, cannabis cultivation is uniquely compatible with agricultural production. Ordinance standards ensure cannabis development remains limited, that it is secondary to a primary agricultural use, and that cannabis-related development does not convert important farmlands or undeveloped areas.
- e. *Goal LU-10 and related objectives and policies.* Goal LU-10 provides that “[t]he uses and intensities of any land development shall be consistent with preservation of important biotic resource areas and scenic features.” The Ordinance requires that all applicants submit a biotic assessment demonstrating that the operation will not impact sensitive or special status species. The Ordinance provides siting, fencing, lighting and other standards that ensure consistency with the rural character of the County’s scenic vistas. New structures are subject either to design standards or design review to ensure no negative scenic impacts and must be screened from public rights of way. Further, no more than one acre of hoop houses is allowed per parcel

Resolution #21-

Date:

Page 6

and hoop houses are prohibited within the scenic corridor setback, further protecting scenic resources.

**Be It Further Resolved** that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

Gorin:

Rabbitt:

Coursey:

Gore:

Hopkins:

Ayes:

Noes:

Absent:

Abstain:

**So Ordered.**