

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, EXTENDING ORDINANCE NUMBER 6354 AMENDING THE CANNABIS LAND USE ORDINANCE TO PROHIBIT LARGE-SCALE MULTI-TENANT CANNABIS CULTIVATION PERMITS (URGENCY ORDINANCE: 4/5 VOTE REQUIRED)

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Authority and Findings. This Ordinance extends Urgency Ordinance Number 6354 and is adopted pursuant to California Government Code sections 25123, 25132, and 65858 and will take effect immediately upon its approval by at least four-fifth vote of the Board of Supervisors. The Board finds this Ordinance is necessary to protect the public safety, health, and welfare, and may be in conflict with future zoning ordinances governing cannabis cultivation, based on the following facts:

- a. On September 21, 2021, the Board of Supervisors adopted Urgency Ordinance Number 6354 making Sonoma County Code Section 26-88-254(f)(2) inoperative and thereby prohibiting issuance of all multi-tenant cannabis cultivation permits.
- b. Sonoma County Code Section 26-88-254(f)(2) authorized the Department of Agriculture/Weights and Measures and the Permit and Resource Management Department (“Departments”) to issue multiple zoning permits for cannabis cultivation to different applicants on the same parcel (“multi-tenant provision”).
- c. On December 20, 2016, the Board of Supervisors adopted the Cannabis Land Use Ordinance (Ordinance No. 6189), including the multi-tenant provision. The Cannabis Land Use Ordinance and multi-tenant provision were amended on October 16, 2018 (Ordinance No. 6245) (“Cannabis Ordinance”), though the amendments did not change the core function of the provision.
- d. The purpose of the existing multi-tenant provision was to reduce barriers to entry for small cannabis farmers by allowing a property owner to lease to multiple small-scale operators who could each obtain ministerial zoning permits.
- e. Current multi-tenant standards do not effectively distinguish truly multi-tenant operations that meet the intent of the multi-tenant provision. In several instances, the same multi-tenant applicants apply for zoning permits together on three or four separate, and in some cases contiguous, parcels.
- f. Under existing regulations, multi-tenant zoning permits can be issued for any agricultural parcel over 10 acres and as such there are numerous eligible parcels in the County, many of which are ecologically sensitive or where larger-scale cannabis uses without modification or condition may not be appropriate. Multi-tenant operations that undergo discretionary review can be conditioned to avoid detrimental effects to neighboring properties and the environment.

- g. Multiple ministerial permits are appropriate when there is a small amount of cultivation on a parcel, however, effective regulation of larger-scale cannabis land uses where there are multiple applicants on one parcel, regardless of the relationship between the applicants, is best accomplished through the issuance of a use permit.
- h. The Board of Supervisors has directed staff to develop a new zoning ordinance governing commercial cannabis uses and to prepare an environmental impact report studying such ordinance. This planning effort will research and analyze potential policies to reduce barriers to entry, streamline permitting, allow colocation, and other policies to support small cannabis farmers in the County while ensuring appropriate siting and adequate protection of the environment and natural resources.
- i. Continued issuance of additional multi-tenant permits for larger-scale cultivation operations prevents appropriate discretionary review and presents an immediate threat to the public safety, health, and welfare, and such permits are likely to be in conflict with a new zoning ordinance for commercial cannabis land uses.

Section II. Multi-tenant Provision ~~Repealed~~Amended. Sonoma County Code Section 26-88-254(f)(2) is amended to read as follows:

Multi-Tenant Operations. Multiple zoning permits may be issued ~~for multi-tenant operations~~ on a single parcel provided that the aggregate cultivation area does not ~~exceed the maximum area allowed for the cultivation type and parcel size in compliance with~~ require a use permit per Table 1A-D Allowed Cannabis Uses and Permit Requirements.

Section III. Current Multi-tenant Permittees. Where there are multiple active cannabis cultivation zoning permits on one parcel, the expiration date for each permit is extended to October 26, 2026. Permittees must continue to pay the monitoring and inspection fees authorized by Sonoma County Code Section 26-88-250(l). The County will conduct at least two inspections per year, plus follow up inspections at the County's discretion.

Section IV. CEQA. This Ordinance is not subject to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) ("CEQA") pursuant to CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) Section 15060(b) and (c), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and because it is not a project as defined in CEQA Guidelines section 15378, as it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally or alternatively, the Ordinance is exempt from CEQA under CEQA Guidelines sections 15307 and 15308 as an ordinance that will provide greater protection to natural resources and the environment because certain projects currently approved ministerially will require site-specific discretionary review; under CEQA Guidelines section 15301 because extending multi-tenant permits for five years and allowing existing cultivation uses to continue in the same manner constitutes authorizing existing private facilities with no expansion of use; and under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that this Ordinance or its implementation would have a significant effect on the environment.

Further, there is no reasonable possibility that the ordinance will cause a significant effect on the environment due to unusual circumstances.

Section V. ~~Severability~~Nonseverability. The provisions of this Ordinance are not severable. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, the entire Ordinance will be void. ~~such decision shall not affect the validity of the remaining portion 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. Effective Date and Term. This Ordinance is in full force and effect immediately upon its passage by a four-fifths (4/5) or greater vote. This Ordinance is in effect for a period of 22 months and 15 days from the date of adoption, unless earlier repealed by the Board.

Section VII. Publication. This Ordinance must be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, adopted this 26th day of October, 2021, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Rabbitt: Coursey: Gore: Hopkins:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors