



# PLANNING DEPARTMENT COUNTY OF TEHAMA

## STAFF REPORT

**DATE:** October 21, 2024

**TO:** Tehama County Planning Commission

**FROM:** Jessica Martinez Interim Director of Planning

**SUBJECT:** PUBLIC HEARING TO CONSIDER RECOMMENDING THE APPROVAL OF A COUNTYWIDE ORDINANCE AMENDING TITLE 9.06 OF THE TEHAMA COUNTY ZONING CODE REGULATING MARIJUANA CULTIVATION IN THE UNINCORPORATED AREAS OF TEHAMA.

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### BOARD OF SUPERVISORS DIRECTION:

At the January 30, 2024, Board of Supervisors meeting, the Board of Supervisors voted 5:0 to refer Chapter 9.06 Marijuana Cultivation back to the Planning Commission. The Board of Supervisors recommended the Planning Commission investigate for changes that support possible medical marijuana exemption, fiscal impact, and any other potential changes.

### BACKGROUND:

On March 21, 2024, the Planning Department conducted a workshop with the Planning Commission to discuss options on how to move forward with the Board of Supervisors request. The Planning Commission determined that an ad-hoc committee would be created that included the following two planning commissioners' Daniel King and Robert Halpin.

On April 22, 2024, the ad-hoc committee along with county counsel; Andrew Plett and Interim Planning Director; Jessica Martinez started meeting with several subject matter experts over the span of several weeks. The subject matter experts ranged from individuals, cannabis business owners, county departments, and state agencies. From the information gathered the Cannabis Ad-hoc committee created two different proposals.

### SUMMARY:

Proposal "A" (**Attachment A**) would amend the current Chapter 9.06 – Marijuana Cultivation making it consistent with SB 1186, the Medical Cannabis Patients' Right of Access Act (ACT). Beginning January 1, 2024, the Act impedes a county from adopting or enforcing any regulation that directly or indirectly prohibits retail delivery of medicinal cannabis to medicinal cannabis patients or primary caregivers within the county.

Under the Act, a county cannot adopt or enforce regulations that prohibits the retail sale by delivery of medicinal cannabis. This includes any regulation that has the effect of prohibiting medicinal cannabis patients within the county or their primary caregivers from purchasing, by delivery, sufficient medicinal cannabis to meet their demands in a timely and readily accessible manner. Examples of prohibited regulation include, but not limited to:

1. The number of medicinal cannabis business authorized to deliver medicinal cannabis in the county.
2. The operating hours of the medicinal cannabis business.
3. The number or frequency of sales by delivery of medicinal cannabis.
4. The types or quantities of medicinal cannabis authorized to be sold by delivery.
5. The establishment of a physical premises within the county.

A county may adopt or enforce reasonable restrictions on the retail delivery of medicinal cannabis in relation to the following without being prohibited under the Act:

1. Zoning requirements.
2. Security or public health and safety requirements.
3. Licensing requirements
4. The imposition, collection, and remittance of any applicable state or local taxes upon retail sales occurring within the local jurisdiction.
5. Regulations consistent with requirements or restriction imposed on cannabis by the California Department of Cannabis Control (DCC)

Proposal "B" (**Attachment B**) would create the Tehama County Cannabis Ordinance 17.09. Repealing Chapter 9.06 – Marijuana Cultivation and the current Chapter 17.09 – Marijuana Dispensaries. Proposal "B" would be compliant with state law but would allow for more types of cannabis activities/businesses than currently provided under the county code. The following sections have been added to Chapter 17.09. Section 17.09.050 would establish the cannabis cultivation for personal purposes. The personal and collective outdoor or mixed light cultivation of cannabis plants for adult and medical purposes shall be permitted in AG-1 through AG-4 and RE and R-1 Zoning Districts, provided that certain requirements are met.

Section 17.09.060 would establish cannabis cultivation for commercial purposes. The commercial outdoor or mixed light cultivation of cannabis plants for adult use and medicinal purposes, meeting the Cultivation License types defined in Section 26050 and 26061 of the Business and Professions Code shall be permitted in R-1-A, AG-1 through AG-4, PD M-1 and M-2 Zoning Districts, provided that certain requirements are met.

Section 17.09.070 Establishment of Cannabis Distribution and Retail Sales. Commercial distribution and retail sales of adult use and medicinal cannabis shall be permitted in C-1, C-2, PD, M-1 and M-2 Zoning Districts, provided that certain requirements are met.

Section 17.09.080 Establishment of Non-Volatile Cannabis Manufacturing and Testing Laboratories. Commercial manufacturing of non-volatile cannabis plant conversions for adult use and medical purposes and testing laboratories shall be permitted in a PD, M-1, or M-2 Zoning Districts, provided that certain requirements are met.

Section 17.09.090 Establishment of Volatile Cannabis Manufacturing. Commercial manufacturing of volatile marijuana plant conversation for adult use and medical purposes shall be permitted in a PD, M-1 or M-2 Zoning Districts, provided that certain requirements are met.

In addition to the above the following sections have been added:

- 17.09.100 Limitations on Outdoor Cannabis Cultivation, Distribution, and Sales.
- 17.09.110 Establishment of Indoor Cannabis Cultivation for Personal Purposes.
- 17.09.120 Establishment of Indoor Cannabis Cultivation for Commercial Purposes.

The enforcement portion of 17.09 – Tehama County Cannabis Ordinance would be similar to Chapter 9.06.085 – Alternative Procedure.

Proposal B could create an opportunity to open a cannabis division within Tehama County depending on the number of commercial cannabis applications the county receives. Counties like Trinity and Nevada County have separate cannabis divisions to review and process applications (**Attachment C**). However, jurisdictions like Humboldt County and the City of Redding process their commercial cannabis applications through their existing planning departments.

#### **ENVIRONMENTAL ASSESSMENT:**

Proposal A would bring the existing 9.06 Marijuana Cultivation into state compliance therefore proposed ordinance can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA and therefore also exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Proposal B would require an initial study to determine the type of CEQA document that would be required.

#### **PUBLIC NOTICE:**

A public hearing notice was published in the local newspaper on October 26, 2024.

#### **RECOMMENDATION:**

Staff recommends the Planning Commission take the following actions:

- A. Receive the information provided concerning the Countywide Cannabis Ordinance and open the Public Hearing, and**
- B. Review and discuss possible direction to staff regarding processing and next steps for the Countywide Cannabis Ordinance, and/or**

#### **ATTACHMENTS**

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| Attachment A | Clean Version of Draft Ordinance A; A Countywide Ordinance Amending Title 9.06 of the Tehama County Code- Regulating Marijuana Cultivation in the unincorporated Area of Tehama County |
| Attachment B | Clean Version of Draft Ordinance B; A Countywide Ordinance Creating Title 17.09 – Tehama County Cannabis Ordinance - Regulating Cannabis in the unincorporated Area of Tehama County   |
| Attachment C | Cannabis Division Annual Salary Range  |