

# COMMERICAL CANNABIS REGULATION TOPICS

Planning Commission, Sept. 21, 2017

## LAND USE DESIGNATIONS

Agriculture – cultivation, nursery, distribution, manufacturing, retail, microbusiness

Commercial – testing, retail

Industrial – cultivation, nursery, distribution, testing, manufacturing, retail, microbusiness

Industrial Park – cultivation, nursery, distribution, testing, manufacturing, retail, microbusiness

Mixed Use – retail (allow distribution, manufacturing, or testing in Antelope Valley via area plan policy)

- Except for the manufacturing of edibles, distribution, manufacturing and testing do not generally seem to apply to the uses listed in the MU designation.

Service Commercial – distribution, manufacturing, retail

## MENU OF POTENTIAL REGULATIONS

**Setbacks**

**Visual Screening**

**Odor and Air Quality**

**Security**

**Other**

### **Setbacks:**

- I. Facility property setback options:
  1. Setbacks per Land Use Designation
  2. Increased setbacks
    - a. Setbacks for Indoor operations
      - 1) All cannabis cultivation shall be setback 100' from any existing offsite residence, swimming pool, patio, or other living area of separate ownership (San Luis Obispo Co.)
    - b. Setbacks for Outdoor operations
      - 1) 25' from all property lines (Tuolumne Co.)
      - 2) 50' from all property lines (Mariposa Co.)
      - 3) 50' from the upland extent of riparian vegetation of any watercourse (San Luis Obispo Co.)
      - 4) 100' from an occupied residential structure on an adjacent parcel (Butte & Sonoma Co.)<sup>1</sup>
      - 5) 300' from the property lines of the site (San Luis Obispo Co.)
      - 6) Setbacks based on parcel size
        - a) (Tehama Co.) If the premises is twenty (20) acres in size or less, each cultivation building or area shall be set back at least 100 feet from all boundaries of the premises, unless the enforcing officer or the Board of Supervisors reduces or waives this requirement based upon a finding of unusual hardship.

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<sup>1</sup> Mono County regulations currently require 50' from the top of streambed

- If the premises is greater than twenty (20) acres in size but less than one hundred and sixty (160) acres in size, each cultivation building or area shall be set back at least 300 feet from all boundaries of the premises.
    - If the premises is one hundred and sixty (160) acres or greater in size, each cultivation building or area shall be set back at least 1,000 feet from all boundaries of the premises.
  - b) (Butte Co.) If the premises is one-half (0.5) of an acre in size or less, each detached structure shall be set back at least 15' from all boundaries of the premises; greater than 0.5 acre but less than 5 acres, each detached structure or outdoor area shall be set back at least 50' from all boundaries; premises equal to or greater than 5 acres but less than 10 acres = 75'; 10 acres or greater = 150' from all boundaries. The Director of the Department may waive or reduce the requirement based upon a finding of unusual hardship for that parcel.
- 7) Setbacks based on cultivation size/area
- 8) Allow for submittal of alternative plans: criteria or enhance
  - a) Meet security needs
  - b) Meet or enhance visual mitigation
  - c) Meet distance from existing buildings of separate ownership (100')

## Visual Screening

- I. Fencing (outdoor cultivation)
  - a. Not required
  - b. Require fencing for parcels less than 5 acres (Sonoma and Butte Co.)
  - c. Fence design
    1. Opaque fence
    2. At least 6' in height
    3. Or a height sufficient to conceal the cannabis from view
    4. Adequately secure to prevent unauthorized entry<sup>2</sup>
    5. The fence must include a lockable gate(s) that is locked at all times
    6. Use of brushes or hedgerows shall: 1.) be allowed as a fence to mitigate visual of fence and odor (on parcels 5 acres or more), 2.) in addition to a fence, or 3.) not allowed as a fence substitute.
- II. "Cannabis plants shall not be easily visible from offsite. Fencing around the cultivation should be solid wood or masonry not taller than 6'6". Will allow cyclone type fencing or hog wire with fabric screening on the inside to prevent the cultivation from being seen. The gate must be locking. Plants must not be visible from outside the fence. They should be covered with shade cloth." (San Luis Obispo Co.)
- III. "Area where cannabis is cultivated shall be screened from public view adjacent to the premises by fencing, structures or vegetation." (El Dorado Co.)
- IV. Screening. Outdoor cultivation areas shall not be visible from a public street, public park, public school, or other public area, except where topographic conditions prevent reasonable screening.

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<sup>2</sup> Features designed to maim or injure shall not be allowed per California Building Code

Maximum plant height shall not exceed eight feet above ground level at the base of the plant(s).  
(TOML)

V. Lighting

- a. All lighting must comply with Chapter 23 “Dark Sky Regulations” – there is a choice of extending this to Antelope Valley for cannabis activities
- b. All/do not allow artificial lighting for outdoor cultivation
- c. Options for greenhouse lighting:
  1. Outdoor lights not to exceed a maximum of 600 watts of lighting capacity per 100 sq. ft. of growing area.
  2. All lighting shall be shielded and downcast
  3. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise
  4. Require blackout treatments from sunset to sunrise to prevent fugitive light emissions and “glow” at night.

**Odor and Air Quality**

Indoor Operations

- I. All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming, manufacturing, and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold.
- II. “All cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis odors from being detected offsite. All structures utilized for indoor cannabis cultivation shall be equipped and/or maintained with sufficient ventilation controls to eliminate or significantly reduce nuisance odor emissions.” (San Luis Obispo)
- III. “The cultivation shall not adversely affect the health, safety, or enjoyment of property of persons residing near the property on which medical marijuana is cultivated due to dust, noise, smoke, odors which are disturbing to people of normal sensitivity.” (El Dorado Co.)
- IV. “The structure shall be designed to restrict smell, odor, smoke, or other airborne odors and smells related to marijuana from being transmitted to an adjoining property or public areas.” (Tulare Co.)
- V. All commercial cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities per Great Basin Unified Air Pollution Control District and Mono County grading ordinance (General Plan, Conservation/Open Space Element Goal 23, 5-03)

**Security Plan**

- I. Certified by the Sheriff’s Department
- II. Require background checks
- III. Firearms: Prohibit or not, require approval by Mono County Sheriff Department
- IV. (Town of Mammoth Lakes) “A security plan outlining the proposed arrangements for ensuring the safety of persons and for protecting the premises from theft. The plan shall include, as a minimum, installation of security cameras, continuous operation of a robbery and burglary alarm system monitored by a state-licensed operator, and an annual written security assessment of the site by a qualified professional. The security plan must also include a lighting plan showing exterior and interior lighting that will be implemented to provide adequate security and comply with all town standards regarding lighting design and installation.”

#### Security and Lighting Plan.

1. A medical marijuana cooperative shall provide adequate security and lighting on-site to ensure safety of persons, protect the premises from theft at all times, and to ensure that the surrounding neighborhood and businesses are not negatively impacted by nuisance activity such as loitering and crime. In addition, a medical marijuana cooperative shall prepare and implement a security plan, as reviewed and approved by the chief of police, which shall include the use of recorded video monitors for security, both within and outside the premises.
  2. All security guards employed by medical marijuana cooperatives shall be duly licensed by the State of California, Department of Consumer Affairs, and possess a security guard card at all times, in a manner compliant with applicable state and local laws, rules and regulations. Security guards shall not possess firearms or tasers.
  3. A medical marijuana cooperative must ensure that all marijuana is securely stored. In addition, a reliable, commercial burglary, and robbery alarm system must be installed and maintained in a manner compliant with the town of Mammoth Lakes Municipal Code.
  4. The dispensing of medical marijuana shall not be visible from the exterior of the business. This may be accomplished through obstructing the windows with curtains or tinting, dividing the business operations to have a lobby that is visible from the exterior with medical marijuana being dispensed in enclosed rooms not visible from the exterior, or other method as approved by the town.
- V. (Desert Hot Springs)- A security plan that addresses how the following measures shall be implemented or complied with:
1. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the city manager or designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Sheriff or designee.
  2. The cannabis facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Sheriff or designee that is operated and monitored by a recognized security company, deemed acceptable by the Sheriff or designee. Any change in the security company shall be subject to the approval of the city manager or his designee. All current contact information regarding the medical marijuana facility's security company shall be provided to the Sheriff or designee.
  3. Entrance to the dispensing or cultivation areas and any storage areas shall be locked at all times, and under the control of medical marijuana facility staff.
  4. All cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the cannabis is secured.

5. A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the cannabis facility during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid Security Guard Card and Firearms Permit issued by the California Department of Consumer Affairs.
- VI. (LA County) Dispensaries shall provide security as follows: an adequate and operable security systems that includes security cameras and alarms to the satisfaction of the Director or Regional Planning; and at least one licensed security guard present at the dispensary at all times during business hours. All security guards must be licensed by the proper authorities and must possess a valid Security Guard identification card issued by the Department of Consumer Affairs at all times.

## **PERSONAL USE AND CULTIVATION**

### **State Regulations**

- 21 years of age or older may consume cannabis
  - Possession: May possess, process, transport, purchase, obtain or give away 28.5 grams of non-medical cannabis or 8 grams of concentrated cannabis product
  - No smoking in a public place
  - No smoking where smoking tobacco is prohibited
  - No smoking within 1,000' of a school, day care center or youth center
  - No smoking while driving or riding in a vehicle
  - Cultivation: may possess, plant, cultivate, harvest, dry or process up to 6 plants per residence for personal use. (No manufacturing)
    - Local governments may “reasonably regulate” but not prohibit personal indoor cultivation within a private residence, including within a greenhouse or other structure on the same parcel, provided it is not visible from a public space
    - Local governments may regulate or prohibit personal outdoor cultivation
- I. Do not regulate personal cultivation further
  - II. Add additional regulations
    - a. Require permit
    - b. Require registration

### **Building Permit Regulations: Required by State**

- Any electrical upgrades require an Over The Counter building permit
- Any interior remodel requires a Minor building permit.
- Any construction of an accessory structure greater than 120 sq. ft. requires a Major building permit.
- All Major building permits are routed to County departments for review and sign-off
- New construction must adhere to the most current California Building Code requirements
- Agriculture structures (green houses, hoop houses), pending LUD, are permitted outright unless the structure has considerable engineering.

- A greenhouse or similar structure containing lighting, heating, or ventilation elements requires a building permit.
- Regulations for “Efficiency Dwelling Unit” (minimum primary dwelling use)