

**From:** [Jacob Patterson](#)  
**To:** [Lemos, June](#); [Munoz, Cristal](#)  
**Cc:** [O'Neal, Chantell](#)  
**Subject:** Public Comment for Second Reading of Ordinance 966-2021 Updating Chp. 9.30 of the City's Municipal Code  
**Date:** Thursday, May 13, 2021 12:26:56 PM

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City Council,

Although I did not raise this in my comments concerning the first reading of Ordinance 966-2021, I am concerned that section 9.30.140 was included in this update to our Municipal Code rather than the ILUDC. In my opinion, a careful reading of 9.30.140 shows that the substance of this provision regarding commercial cannabis cultivation is more closely related to land use and zoning regulations in the ILUDC rather than the Municipal Code concerning cannabis business licenses and operational requirements (i.e., business regulations). A revision to a land use and zoning regulation is required to be reviewed by the Planning Commission prior to introduction or adoption by the City Council and this particular provision probably should be included along with the pending updates to the ILUDC. As such, I recommend that you remove this provision when Ordinance 966-2021 comes back for a second reading (which I believe would require the ordinance to come back again but there is time to do so, albeit a brief window). I should acknowledge that this particular language presents a bit of a gray area between what is and what is not a land use and zoning regulation.

More specifically, subdivisions (C) and (D) of section 9.30.140 seem like they are appropriately classified as business regulations rather than land use regulations (except perhaps the potential requirement to install solar panels) but subdivisions (A) and (B) arguably concern land use aspects of commercial cannabis regulations based on how they are worded. Subdivision (B) concerns CEQA review, which applies to discretionary development permits but it doesn't necessarily apply to a business license, which is normally considered a ministerial action rather than a decision that involves independent judgment calls and the exercise of discretionary decision-making. (That said, there is probably no harm in leaving subdivision (B) in section 9.30.140.) Subdivision (A), however, does not concern business operations or licensee characteristics that are relevant to a cannabis business license or regulations concerning avoiding nuisance conditions, it concerns the physical structure, space and location of a particular land use, commercial cannabis cultivation, regarding the proposed site layout and location of the land use relative to the public right of way. Other code provisions of this sort are found in the City's ILUDC and CLUDC. (9.30.140(A) reads "Commercial Cannabis shall be cultivated only in a Fully Enclosed and Secured Structure (FESS). Commercial cannabis cultivation that occurs within a greenhouse that meets the criteria for a FESS shall not be visible from any public right of way.")

Since the Planning Commission has to review and recommend adoption of the rest of the commercial cannabis ordinances (i.e., changes to the land use tables and other relevant provisions in the ILUDC), it seems appropriate to include at least subdivision (A) of section 9.30.140 in Title 18 rather than in Chp. 9.30 of Title 9. Regardless, even if this section remains in Chp. 9.30, because subdivision (A) appears to concern land use and zoning regulations rather than business regulations, it should probably be reviewed by the Planning Commission prior to adoption by the City Council. In fact, I object to it not being reviewed by the Planning Commission prior to adoption by the City Council and respectfully request that the City Council direct staff to present this to the Planning Commission along with the other proposed changes to our land use and zoning regulations that will be reviewed in the coming weeks.

Best regards,

--Jacob

## Lemos, June

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**From:** Jacob Patterson <jacob.patterson.esq@gmail.com>  
**Sent:** Monday, May 24, 2021 3:43 PM  
**To:** Munoz, Cristal  
**Cc:** Lemos, June  
**Subject:** Additional Public Comment -- 5/24/21 CC Mtg., Item No. 5B, Cannabis Ordinance

City Council,

Please see the below article from the Press Democrat about how the Sonoma County Board of Supervisors decided to prepare a CEQA review for their cannabis ordinances rather than continuing to try to adopt it prior to the expiration of the temporary statutory exemption and avoiding the usual environmental analysis. One of the major reasons for their decision cited in the article is concern about the additional stress of new cannabis business activities, including cultivation, on existing water supply issues in light of the current and expected future drought conditions that are impacting both of our counties specifically and the state in general. We may want to follow their lead and do the same based on our own very serious water supply concerns and a desire for informed decision-making rather than the perceived "benefits" of avoiding CEQA analysis.

On a separate note, I am somewhat concerned about the unintended consequences of trying to quickly adopt an ordinance potentially without carefully crafting the actual language in the proposed code. It is one thing to discuss policy direction in a work session about the potential ordinance but what actually matters is that the language accurately reflects the majority intent in a manner that is not ambiguous or open to interpretation that differs from the agreed-upon intent. Based on the earlier drafts that were made public, there was significant ambiguity and arguably inconsistent provisions that might not reflect your majority policy direction or that of the Planning Commission, which may differ from your own and/or depend on the details of how the ordinance language is written. Obviously, the public cannot know what the precise proposed language will be until the relevant agenda packets are published but that will be critical to making sure your intent is reflected accurately in the ordinance language that is eventually adopted. Moreover, I have yet to see the necessary content in the draft ordinances that would even justify trying to rely on the temporary statutory exemption, which is to require a site-specific environmental review for each relevant permit, which must be discretionary. The ordinance needs to include appropriate language to satisfy the requirements of the statutory exemption. That issue doesn't apply if the ordinance itself is subjected to a CEQA review rather than relying on a statutory exemption (or even a categorical exemption as is sometimes the case). One way to ensure compliance is to explicitly indicate that individual projects will not be eligible for categorical exemptions that might otherwise arguably apply to the project, which is different from just stating the basic truth that future permit reviews will be reviewed to determine "Compliance with the California Environmental Quality Act."

Regards,

--Jacob

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# Sonoma County supervisors pull back from revised cannabis cultivation ordinance

[GUY KOVNER](#)

THE PRESS DEMOCRAT

May 18, 2021, 1:57PM

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Sonoma County supervisors voted unanimously Tuesday to sideline a controversial measure aimed at easing the permit process for commercial cannabis cultivation while also calling for an environmental review that will take at least one year.

The Board of Supervisors pulled back from a revised policy that eased regulations for the cannabis industry's sake but prompted a revolt among rural residents adamantly against the prospect of pot farms dotting a wider swath of the county on larger footprints.

The board called for public workshops to consider revisions of the measure approved in April by the Planning Commission. The revised rules were more than two years in the making.

But board members acknowledged that Supervisor David Rabbitt was right in calling years ago for an assessment of the measure's impact by outside consultants.

"It is frustrating," Rabbitt said. "We have been spinning our wheels and haven't made much progress. The reality is we haven't done a good job."

Board Chair Lynda Hopkins candidly admitted the shortcoming. "I think the county does owe the community an apology," she said. "Going forward we need to better."

Supervisor Susan Gorin said the future discussion and the environmental assessment need to consider "neighborhood compatibility" of cannabis.

"We should have followed your lead," she told Rabbitt.

There was no discussion of the environmental study's cost, but county officials are exploring the possibility that a nearly \$1.16 million state grant might be available for it.

During a lengthy public hearing, rural residents reiterated complaints over the odor, water consumption and impact on property values from outdoor cannabis crops, while pushback came from people skeptical of their motives.

John LoBro characterized the objections as "a lot of scare tactics from people who hate cannabis."

Sam De La Paz of the Hessel Farmers Grange and a cannabis consultant, said the comments by some opponents sounded like "antiquated reefer madness rhetoric."

Jim Masters, a representative of the Sonoma County League of Women Voters, called for an environmental study because the proposed ordinance was "unclear on the water impact."

Joanna Cedar of the Sonoma County Growers Alliance said the county’s cannabis decisions “have been made in a vacuum.”

“I’m pro cannabis,” declared an unidentified resident of Pepper Lane near Petaluma, a hotbed of opposition to cultivation. “I’m concerned about my family and safety,” he said. “I don’t feel cannabis is appropriate for neighborhoods.”

Amber Baker of Petaluma called for “a robust regulated policy” on cultivation, with limits on it during a drought. Cannabis should be grown in commercial and industrial areas and “not near our schools,” she said.

Craig Harrison of Bennett Valley suggested the county should consider “just limiting the number of permits” issued to growers.

Richard Rudnansky, an attorney, said he was opposed to any extension of commercial cannabis. “Why would you even do an EIR (extensive study) in the face of the opposition?” he said.

“We have passions on both sides of the issue,” Gorin said following the public comments.

“Hitting reset is the best way to go forward,” Hopkins said, suggesting that removal of the cap on cultivation in industrial areas might help resolve the conflict.

Gorin expressed doubt the county has sufficient industrial area to accommodate all cannabis cultivation indoors.

“There are real impacts on people’s lives,” Supervisor James Gore said.

“I don’t know if we’ll ever get to the place where everybody’s going to agree,” Supervisor Chris Coursey, acknowledging that as a former Santa Rosa mayor this is his first time dealing with the cannabis issues outside cities.

The proposed ordinance, forwarded to the supervisors by the county Planning Commission, would have allowed plantings in 10% of any parcel of 10 acres or more, doing away with a current 1-acre cap on farms on land zoned for agriculture and development.

It would also have given the Agriculture Commissioner authority to approve some permits without public notice or a hearing.

The measure was approved by the commission last month on a 3-2 vote, with Commission Chairman Greg Carr — who cast one of the nay votes — saying that provision was getting closer to his goal of making cannabis a permitted use “in a very broad sense.”

But the proposed ordinance “isn’t the quickest way to do that,” he said.

Conducting a detailed environmental study will take a year to 18 months and would require more staff during that period, said Tennis Wick, director of Permit Sonoma.

The assessment would be more exhaustive than the analysis of the proposed ordinance by county staff.

Wick said he had no estimate of the cost, but Assistant County Administrator Christina Rivera said officials were pursuing the prospect of a \$1.16 million grant earmarked for the county in a \$100 million state Cannabis Local Jurisdiction Assistance Grant Program.

A statement by the Department of Cannabis Control said the funds would assist local governments in “more swiftly processing substantial workloads, including that related to environmental review.”

Rivera said the county would have to present a “carefully described work plan” in a grant application.

The county hopes to get more information in a meeting Thursday with Department of Finance officials, she said.

Nicole Elliott, an adviser to Gov. Gavin Newsom on cannabis issues, said the grant program must still be approved by the Legislature and “any applications from eligible jurisdictions would need to meet the intent of the program.”

County officials said any permit applications already in process will continue under the existing regulations.

Sonoma County has issued 184 cultivation permits since 2107 in a place that was once home to about 3,000 growers.

*You can reach Staff Writer Guy Kovner at 707-521-5457 or [guy.kovner@pressdemocrat.com](mailto:guy.kovner@pressdemocrat.com). On Twitter @guykovner.*