



## Legislation Text

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**File #:** 16-0209, **Version:** 4

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Ad Hoc Medical Marijuana Committee in coordination with the Chief Administrative Office recommend the Board approve **Final Passage** (Second Reading) of Ordinance **5067** amending Ordinance Code, Chapter 09.02 - Code Enforcement, and Chapter 130.14.260 - Outdoor Medical Marijuana, to implement civil enforcement procedures for outdoor medical marijuana. (Cont. 10/24/17, Item 29)

**FUNDING:** N/A

### **DEPARTMENT RECOMMENDATION**

Ad Hoc Medical Marijuana Committee in coordination with the Chief Administrative Office recommending the Board approve the First Reading of amendments to County Ordinance Code, Chapter 09.02 - Code Enforcement, and Chapter 130.14.260 - Outdoor Medical Marijuana, to civil enforcement procedures for outdoor medical marijuana. (Cont. 1/10/17, Item 21). These changes are recommended after County departments studied different civil compliance procedures in multiple counties.

During the first reading of the proposed amendments to Chapters 130.14 and 9.02, the Board voted to remove the proposed registration requirement from Chapter 130.14 and reconsider whether such a requirement is necessary in one year. The proposed registration requirement in section 130.14.260 (2)(G) has been removed in its entirety. In addition, the reference to the County's ability to decline to accept registration has been removed from section 130.14.260(2)(1)(3). In the proposed amendments for the second reading of the ordinances, there is no registration requirement.

### **DISCUSSION / BACKGROUND**

At their meeting of October 24, 2017 (Item 29) the Board approved Ordinance 5067 and set for Final Passage (Second Reading) on November 7, 2017.

At their January 10, 2017 meeting (Item 21), the Board approved studying changes to Ordinance Code, Chapter 09.02 - Code Enforcement, and Chapter 130.14.260 - Outdoor Medical Marijuana, to implement civil enforcement procedures for outdoor medical marijuana.

Through a series of meetings with the Ad Hoc Medical Marijuana Advisory Committee and with County departments, it became apparent that enforcement of medical marijuana laws in many counties and cities in the State had changed to more of a civil/code compliance process for many medical marijuana cultivation violations. This process, in many localities, includes complaints going to a code compliance division, which coordinates with other departments (e.g. Sheriff's Department, Agriculture, etc.) to check on possible cultivation violations. If violations are found, corrective actions are required by the property owner/renter with deadlines for compliance with the ordinance(s). In many localities, a hearing officer is used to hear any appeals of violations that are disputed. If the violations are upheld and are not corrected, possible fines, reimbursement of county costs and liens or special assessments are imposed if the fines and county costs are not paid.

After the Board of Supervisors conceptually approved the ordinance code changes, staff worked on researching the procedures that other counties use that have transitioned to a civil enforcement process. With the research, staff from the Board of Supervisors; Sheriff's Office; District Attorney; County Counsel; Planning and Building; Environmental Management; Agriculture, Weights and Measures; Treasurer-Tax Collector; Air Quality Management District; and Chief Administrative Office met to evaluate the steps required for a civil enforcement process that allows for individuals to grow marijuana for their medical needs while also protecting the safety and environment of County neighborhoods.

The proposed new civil enforcement process will be initiated by a complaint about a marijuana grow (to see a chart on the process please see Attachment X and to see the revised ordinances please see Attachment X and Attachment X). Following the complaint, County staff will investigate to determine if a code violation exists. During and/or after the investigation has been completed, staff will go through steps to communicate with the property owners of the violation and their need to correct the violation. The process allows for the property owner to request a hearing with a hearing officer if he/she does not agree with the proposed violation. If the property owner is found to have a violation and does not come into compliance possible fines, reimbursement of county costs and liens or special assessments are imposed if the fines and county cost are not paid. The goal of the civil process is not to impose fines, liens or special assessments. The goal of the civil process is to bring marijuana grows into compliance so medically eligible individuals can obtain medical marijuana while also protecting the safety and environment of County neighborhoods.

The proposed amendments to Chapters 9.02 and 130.14 are not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonably foreseeable indirect physical change to the environment; Section 15060(c)(3) because the activity is not a "Project" as defined in Section 15378 since the amendments have no potential for resulting in physical change to the environment, directly or indirectly; and Section 15308 because the proposed amendments are intended to protect the environment.

#### Background Information on the Medical Marijuana Advisory Committee

The El Dorado County Board of Supervisors created the ad hoc advisory committee at its March 15, 2016 special meeting regarding medical marijuana. During the special meeting, the Board of Supervisors received an overview on the current medical marijuana laws and reports from County departments, stakeholder groups and the public on how medical marijuana policy decisions could affect them. At the conclusion of the meeting, the Board of Supervisors created the Ad Hoc Medical Marijuana Advisory Committee to collect more information on different medical marijuana topics (e.g. cultivation, dispensaries, compliance, etc.).

The County did not conduct meetings regarding medical marijuana in 2015 due to the major statutory overhauls undertaken by the State of California that resulted in the Medical Marijuana Regulation and Safety Act (MMRSA), signed in October 2015 and amended in February 2016. The County decided to wait before pursuing updated medical marijuana ordinances to ensure that any updates were consistent with the new State laws and regulations.

To date, the Medical Marijuana Advisory Committee has met on eight occasions: May 2nd meeting was on the structure of the future meetings, June 20, 2016 meeting was on cultivation, June 27, 2016 meeting was on niche medical marijuana businesses (e.g. dispensaries, nurseries, etc.), August 22,

2016 meeting was on compliance procedures regarding medical marijuana rules, September 19, 2016 meeting was on taxation and fees for medical marijuana, December 12, 2016 meeting was on conceptual changes to the medical marijuana enforcement procedures (e.g. moving towards more of a civil enforcement process), and March 27, 2017 meeting was to discuss the County's administrative decisions for Proposition 64, and October 12, 2017 meeting was on the recommended code enforcement and outdoor medical marijuana ordinance procedures for a civil compliance process.

During the first reading of the proposed amendments to Chapters 130.14 and 9.02, the Board voted to remove the proposed registration requirement from Chapter 130.14 and reconsider whether such a requirement is necessary in one year. The proposed registration requirement in section 130.14.260 (2)(G) has been removed in its entirety. In addition, the reference to the County's ability to decline to accept registration has been removed from section 130.14.260(2)(I)(3). In the proposed amendments for the second reading of the ordinances, there is no registration requirement.

### **ALTERNATIVES**

The Board could choose not to approve this recommendation, which would result in no change to the current ordinances. The enforcement of illegal marijuana cultivation would be enforced as in the past.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Sheriff's Office; District Attorney; County Counsel; Community Development Services; Agriculture, Weights and Measures; Treasurer-Tax Collector; and Air Quality Management District.

### **CAO RECOMMENDATION**

It is recommended that the Board approve this item.

### **FINANCIAL IMPACT**

No financial impact is available at this time. An assessment will need to take place during the budget development process or after the first year of operating under the revised ordinances to determine the need for an increased level of staff. If the County is able to wait until after the first year of operations, the experience will allow for more of an informed recommendation on the need for increased staffing.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

N/A

### **STRATEGIC PLAN COMPONENT**

Public Safety  
Healthy Community  
Good Governance

### **CONTACT**

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