

ORDINANCE NO. 2018 - 1799

**AN ORDINANCE AMENDING CHAPTER 28 OF THE SOLANO COUNTY CODE
TO PROHIBIT ALL COMMERCIAL CANNABIS ACTIVITIES IN UNINCORPORATED SOLANO COUNTY**

The Board of Supervisors of Solano County do hereby ordain as follows:

SECTION I. Findings

- A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess cannabis, whether for medical or recreational purposes.
- B. In 1996, the voters of the State of California approved Proposition 215, the Compassionate Use Act (Health and Safety Code Section 11362.5), which was intended to provide a defense to criminal charges for the cultivation and possession of medical cannabis by a seriously ill patient, or the patient's primary caregiver.
- C. In 2016, the Medical Marijuana Regulation and Safety Act (SB 643, AB 266, and AB 243) came into effect, instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis. Cities and counties retained local regulatory authority over medical cannabis.
- D. On November 8, 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was enacted by the voters to decriminalize and regulate commercial and non-commercial recreational cannabis. AUMA also provided that cities and counties retained local regulatory control over commercial recreational cannabis.
- E. In order to preserve the status quo pending the creation and adoption of state and local regulations in response to MCRSA and AUMA, the Solano County Board of Supervisors on December 6, 2016 adopted interim urgency ordinance number 2016-1781 prohibiting all commercial cannabis activities and outdoor cultivation of personal use cannabis. The Board extended urgency ordinance on January 10, 2017 and November 14, 2017 and it is set to expire on December 6, 2018.
- F. The Board of Supervisors created an ad hoc committee on December 16, 2016 to study commercial cannabis activities, which included attending tours of cannabis manufacturing facilities, cultivators, testing laboratories, and other commercial cannabis activities.
- G. On June 27, 2017, as part of budget trailer legislation (SB 94), the state enacted the Medicinal and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA), which was intended to synthesize the medical and recreational cannabis laws. MAUCRSA allows cities and counties to retain local land use regulatory control over recreational and medicinal cannabis.
- H. On October 24, 2017, the Board of Supervisors adopted a non-commercial cannabis cultivation ordinance to allow cultivation of cannabis by caregivers, patients, and recreational users in conformance with state law.
- I. After the passage of MAUCRSA, the three state agencies tasked with drafting regulations for commercial cannabis activities - the Departments of Consumer Affairs, Food and Agriculture, and Public Health - withdrew their draft regulations. Emergency regulations were released in November 2017 and re-adopted in June 2018. The agencies are currently going through their rule-making processes, but permanent regulations have yet to be adopted.
- J. The state began issuing licenses for commercial cannabis activities on January 1, 2018.
- K. During the 2017-2018 legislative session, dozens of bills that would impact the cannabis regulatory system were introduced and a small handful have been presented to the Governor for signing.

- L. Health and Safety Code section 11362.83 and Business and Professions Code section 26200 preserve the authority of local governments to enact ordinances allowing or prohibiting commercial cannabis activities. Under Business and Professions Code section 26055, state licensing authorities are precluded from approving a state commercial cannabis activities license if the applicant is not in compliance with all applicable local ordinances and regulations.
- M. The Solano County ad hoc cannabis committee reported on its work and its recommendation on commercial cannabis activities to the entire Board of Supervisors on November 14, 2017. A majority of the Board of Supervisors directed staff to prepare an ordinance prohibiting all commercial cannabis activities in the unincorporated County. The primary reasons for this direction were that the county lacks the necessary water, wastewater, and road infrastructure necessary for most commercial and industrial uses; concerns over trespass and related crime, as well as changes in neighborhood character if commercial cannabis cultivation were permitted; uncertainty over the "in-progress" state regulatory process and potential federal responses; and that most of the cities in Solano County, as well as near-by counties, have approved commercial cannabis activities, including delivery-only retailers, thereby ensuring cannabis' availability to Solano County residents. The Board also made the cannabis ad hoc committee a standing committee in order to monitor the roll-out of medicinal and adult-use cannabis both state-wide and locally, and to make further recommendations on commercial cannabis activities to the Board as needed.
- N. The Board of Supervisors finds and declares that the adoption of this Ordinance is necessary and desirable to ensure the public health, safety, environmental, and nuisance factors related to commercial cannabis activities are adequately addressed.

SECTION II.

"Medical Marijuana Dispensary" of Section 28.01 entitled "Definitions" in the Solano County Code is repealed.

"Commercial Cannabis Activities" is added to Section 28.01 "Definitions" to read:

Commercial Cannabis Activities. Cannabis uses that require a state license or are otherwise regulated by the state, including, but not limited to cannabis testing laboratory, distributor, transporter, storefront retailer, non-storefront retailer, microbusiness, collective, cooperative, cultivator, nursery, manufacturer, or processor, regardless of whether for-profit or not, as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, sections 26000 to 26231.2) and its regulations, as they may be amended. For purposes of this definition, cannabis and cannabis products may be delivered by a commercial cannabis licensee that possesses all requisite cannabis delivery licenses to any zoning district within the jurisdiction of Solano County. For purposes of this definition, Commercial Cannabis Activities do not include a temporary cannabis event, as defined in California Code of Regulations, Title 16, Division 42, Chapter 5, sections 5601 – 5603, as may be amended. Personal and Primary Caregiver Cannabis Cultivation, as defined in Section 28.82 of this Code, shall be excluded from this definition of Commercial Cannabis Activities.

Section 28.70.20, subsection C, "Land Uses Prohibited in All Zoning Districts" is amended to read:

C. Land Uses Prohibited in All Zoning Districts

1. *Commercial cannabis activities.*

SECTION III.

The Board of Supervisors repeals Ordinance 2016-1781 as that temporary prohibition on commercial cannabis activities is superseded by the enactment of this ordinance.

SECTION IV.

In accordance with the California Environmental Quality Act (CEQA), it has been determined that this project is exempt from further environmental review under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment. The Director of Resource Management is directed to file a Notice of Exemption in accordance with CEQA.

SECTION V.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion(s) 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.

This Ordinance and all amendments to the Solano County Code as set forth herein shall take effect thirty (30) days after the date of Board adoption.

SECTION VII.

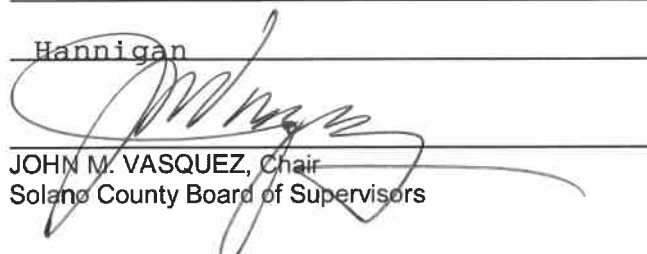
A summary of this Ordinance will be published in the Fairfield Daily Republic, a newspaper of general circulation in Solano County, within fifteen (15) days after its adoption.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on Oct. 2, 2018 by the following vote:

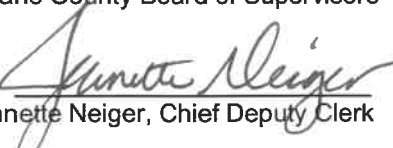
AYES: Supervisors Spering, Thomson
and Chair Vasquez

NOES: Supervisors Brown

EXCUSED: Supervisors Hannigan


JOHN M. VASQUEZ, Chair
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: 
Jeanette Neiger, Chief Deputy Clerk