



## Legislation Text

File #: 18-832, Version: 1

Public hearing to consider adoption of a 10 month and 15-day extension of an Interim Urgency Ordinance prohibiting temporary cannabis events in the unincorporated area of Solano County; Receive a staff presentation on Board options for allowing and/or regulating temporary cannabis events within the unincorporated area of Solano County; and Direct staff to return to the Board with a permanent ordinance

Published Notice Required? Yes X No      
Public Hearing Required? Yes X No    

### **DEPARTMENTAL RECOMMENDATION:**

The Department of Resource Management recommends that the Board of Supervisors:

1. Read the proposed ordinance by title only and waive further reading by majority vote;
2. Consider adopting an ordinance approving a 10 month and 15-day extension to the interim urgency ordinance prohibiting temporary cannabis events in Solano County adopted on November 6, 2018 (4/5 vote required); and
3. Receive a staff presentation of Board options for allowing and/or regulating temporary cannabis events in the unincorporated area of Solano County; and direct staff to return to the Board with a permanent ordinance.

### **SUMMARY:**

On October 2, 2018, the Board of Supervisors adopted Ordinance 2018-1799, which prohibited all commercial cannabis activities in the unincorporated areas of Solano County. Temporary Cannabis Events were not specifically addressed in that Ordinance. On October 23, Chair Vasquez asked staff to bring back an urgency ordinance addressing temporary cannabis events and other Board members concurred with his request. Because there is known interest in pursuing such temporary events in the County, and the State rulemaking continues to evolve, staff recommended the Board adopt an interim urgency ordinance establishing a 45-day moratorium on temporary cannabis events. On November 6, 2018, the Board approved the temporary ordinance for 45-days and this interim ordinance is set to expire on December 21, 2018.

Also, during the October 2, 2018 Board of Supervisors meeting and subsequent Board meeting on November 6, 2018, the Board requested staff to research possible options for regulating temporary cannabis events and bring those options with staff recommendations back to the Board for Board review and direction.

### **DISCUSSION:**

#### **Temporary Cannabis Events**

The Bureau of Cannabis Control (Bureau) currently allows two license types that addresses cannabis events: a "Cannabis Event Organizer License" and a "Temporary Cannabis Event License". Local approval is required for a temporary cannabis event license, but not for a cannabis event organizer license. An individual would apply for a cannabis event organizer license in order to operate a temporary cannabis event for up to four

days, which includes the consumption and sales of cannabis and cannabis goods. Initially, temporary cannabis events were limited to County Fairgrounds (Solano County Fair Association Fairgrounds) and Agricultural Association buildings (Dixon May Fair, which is not under the purview of the Board of Supervisors); however, Assembly Bill 2020, signed by Governor Brown in September of 2018, allows local jurisdictions to approve any site they deem appropriate as venues for temporary cannabis events. The approval of AB 2020 benefits some larger jurisdictions as they may have multiple event venues beyond fair buildings and ag association buildings and this will give them the opportunity to choose other possible sites for temporary cannabis events.

Staff research concluded that very few jurisdictions are specifically regulating temporary cannabis events at this time. This could be due to the very recent passage of AB 2020 which allows local jurisdictions more discretion as to where temporary cannabis events may be held. More jurisdictions may be addressing the issue in the future as State law does require written approval from local jurisdictions should the temporary cannabis event site want to allow on-site cannabis sales and consumption by persons older than 21. A brief summary of regulatory actions taken by some jurisdictions is included as Attachment B. Also attached (Attachment C) are the information fact sheets prepared by the Bureau of Cannabis Control which describes some of the rules and regulations pertaining to temporary cannabis events: "Cannabis Event Fact Sheet" and "Notice Regarding Temporary Cannabis Events". All temporary cannabis events must follow these standards to be in compliance with the state law. The Cannabis Event Fact Sheet breaks down how to obtain a state temporary event license. The Cannabis Event Fact Sheet addresses the on-site sales and consumption of cannabis goods at temporary cannabis events stating that only licensed retailers and microbusinesses can sell cannabis goods to retail customers at cannabis events. Also, that consumption should be restricted to persons 21 years of age or older and the area where consumption is taking place should be out of the view of the general public. The Cannabis Event Fact Sheet also states that no consumption of alcohol or tobacco shall be allowed in cannabis event premises.

In addition, in its October 19, 2018 changes to the proposed cannabis regulations, the Bureau of Cannabis Control is proposing to add another type of cannabis event identified as "Informational or Educational Cannabis Events". These "informational or 'educational' events are events where *no sales of cannabis goods or consumption of cannabis goods is occurring*. These "informational or educational cannabis events" are not required to be licensed by the Bureau. These proposed cannabis regulations are still under review at this time and have not been officially adopted by the Bureau.

### **Urgency Ordinance Prohibiting Temporary Cannabis Events:**

Staff is recommending that the Board extend the interim ordinance prohibiting temporary cannabis events for 10 months and 15-days. However, as an alternative, should the Board choose to allow one temporary cannabis event during the moratorium, staff believes the Solano County Fairgrounds may be the most appropriate location for such a one-time event. The Solano County Fairgrounds has existing structures, parking, and signage that could accommodate such an event. Also, the City of Vallejo has existing retail operations and is considering other commercial cannabis businesses. The City of Benicia is in the process of reviewing proposals for a cannabis retail business. Overall, the incorporated areas of that portion of Solano County are favorable to commercial cannabis activities.

For this one-time event, the Solano County Fairgrounds would follow the current state laws established for temporary cannabis events as described in the Cannabis Event Fact Sheet and rules and regulations found in the California Code including the Health and Safety Code and Business and Professions Code. This includes the prohibition of the consumption of alcohol and tobacco on the same premises of the cannabis event. According to Solano County's Smoke-Free Facilities Policy, the Solano County Fairgrounds has a designated smoking area with the flexibility to have other designated smoking areas based on a per event basis. The Board of Supervisors may wish to restrict the smoking or vaping of cannabis during temporary cannabis events and only allow other methods of consumption such as the use of tinctures, creams, oils, and edibles,

etc. in the designated consumption area of the cannabis event.

### **Options for Regulating Temporary Cannabis Events:**

Should the Board wish to regulate temporary cannabis events in the unincorporated area of Solano County; staff has researched and prepared three regulatory approaches for Board consideration.

**Option 1:** Ban temporary cannabis events by amending Chapter 28 Zoning Regulations to add temporary cannabis events to the list of prohibited commercial cannabis activities including the Solano County Fairgrounds.

This option would involve adding temporary cannabis events to the list of prohibited commercial cannabis activities defined in Chapter 28 Section 28.01 of the Solano County Code. Currently, Commercial Cannabis Activities is defined as:

*“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 retail 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 the purposes of this definition, Commercial Cannabis Activities do not include a temporary cannabis event, as defined in the California Code of Regulations, Title 16, Division 42, Chapter 5, sections 5601-5603, as may be amended.”*

Should the Board choose Option 1, staff would return to the Board with a draft ordinance adding temporary cannabis events to the list of prohibited commercial activities as defined in Chapter 28 Section 28.01 of the Solano County Code. This has been staff's initial recommendation and staff believes it is the most straightforward approach for the foreseeable future based upon previous Board action and direction.

**Option 2:** Designate the Solano County Fairgrounds as the only venue for temporary cannabis events in the unincorporated area with further oversight by the Board of Supervisors.

Chapter 3 of the Solano County Code regulates amusements such as circuses, rodeos, public dances, outdoor festivals with other miscellaneous regulations associated with amusements. Activities at the Solano County Fair Association Fairgrounds is included in Chapter 3. Chapter 3 is included as Attachment D. Among other possible County owned facilities that could be considered as venues for Temporary Cannabis Events are the County Event Center and the Nut Tree Airport. The County Event Center cannot be considered an option due to its close proximity to Armijo High School (about 500'); the state requires a setback of at least 600' from cannabis activities and schools, youth centers, day care centers, etc. The Nut Tree Airport could be considered a possible venue though hosting a cannabis event at an airport does not seem consistent with airport uses. Staff does not believe the Nut Tree Airport to be a suitable venue. The Solano County Fairgrounds is the most reasonable venue as there are buildings and parking already established, the fairgrounds are located in Vallejo, a city that allows cannabis retailers and is working through the process of establishing commercial cannabis businesses. Also, the state recognized fairgrounds as being one of the suitable venues for temporary cannabis events.

Should the Board choose Option 2, staff would return to the Board with a draft ordinance amending Chapter 3 of the Solano County Code to designate the Solano County Association Fairgrounds as the *only* location in unincorporated Solano County that would be allowed to host temporary cannabis events.

The Solano County Fair Association would follow the state laws established for temporary cannabis events. In addition to state laws, the Solano County Fair Association Board of Directors have been working with their Counsel to develop a Cannabis Event Policy which would address how temporary cannabis events held at the Solano County Fairgrounds would be further regulated.

The Board could also direct staff to require additional permitting through Chapter 28 Zoning Regulations. For example, requiring approval of a minor use permit from the Solano County Zoning Administrator or approval of a use permit from the Solano County Planning Commission for temporary cannabis events. Either permit could include health and safety standards for holding such events. Both of these types of use permits are subject to a public notice requirement and a public hearing.

Should the Board choose Option 2, staff would return to the Board with a draft ordinance with amendments to Chapters 3 and 28 requiring additional permitting for temporary cannabis events held at the Solano County Fairgrounds. A potential concern with this option, is it would limit the choice of venues for temporary cannabis events in the unincorporated area to one location, and such limits could be viewed as giving an unfair advantage to one location only.

**Option 3:** Allow temporary cannabis events at the Solano County Fairgrounds, Agricultural Association Buildings, and other locations as deemed appropriate by the Board within the unincorporated areas of Solano County with additional permitting and regulatory oversight by amending Chapter 28 Zoning Regulations of the Solano County Code.

Option 3 would include amending Chapter 28 Zoning Regulations to allow temporary cannabis events in other zoning districts that allow special event facilities or special events. The current definition of Special Events or Special Events facility in Section 28.01 is:

*“A facility offered for use by third parties for hire for the conduct of social gatherings or similar types of events. A special event facility may be either a single-purpose facility or a secondary use of another type of facility, such as an agricultural processing facility or a winery. When special events are a secondary use, events conducted by the facility operator as part of the primary use of the facility and that are directly related to products sourced from that operation such as a marketing or promotional events, are not special events conducted as a secondary use of the facility.”*

Currently “special events” are allowed with agricultural processing facilities and wineries in the Agricultural zone districts (A-20, A-40, A-80, A-160, A-SM-Suisun Marsh and A-SV-Suisun Valley). A Special Event Facility other than a winery or agricultural processing facility is allowed in the Agricultural zone districts (A-20, A-40, A-80 and A-160). The level of permitting depends on the number of events and attendees. For example, a staff level Administrative Permit is required for 6 events with a maximum of 150 persons per event, to a Planning Commission Use Permit for more than 12 events per year with more than 150 persons per event.

Per state law, no temporary cannabis event may occur on premises licensed for the sale of alcohol or tobacco, which would preclude most wineries from hosting such events. Nonetheless, Option 3 could open up rural areas of the county for hosting temporary cannabis events.

Should the Board choose Option 3, staff would return to the Board with a draft ordinance addressing temporary cannabis events and establishing standards for such events. In addition to the state law, the requirements could include additional setbacks, limits on hours, number of events and attendees, limiting events to be held indoors, with access directly to a public road.

### **Staff Recommendation**

#### **Interim Ordinance**

Staff recommends that the Board approve the 10 month 15-day extension of the interim ordinance to ensure

there is no confusion about where the County stands in regards to temporary cannabis events. The interim ordinance would terminate sooner than the 10 months and 15-days should the Board approve a permanent ordinance regulating temporary cannabis events.

#### **Permanent Ordinance**

After researching the possible regulatory options for temporary cannabis events, staff is recommending that the Board consider Option 1 - prohibiting temporary cannabis events or Option 2 - allowing temporary cannabis events to be held only at the Solano County Fairgrounds where there are existing buildings, parking, and a surrounding community that is supportive of commercial cannabis activities. The combination of state laws and the development of a Cannabis Event Policy by the Solano County Fair Board would provide regulatory oversight to such events. For these same reasons, staff is not recommending Option 3. The Solano County Fairgrounds is the optimum site for hosting temporary cannabis events.

Staff continues to monitor what is happening with cannabis regulations both locally and across the state. An update is included as Attachment E.

#### **Environmental Analysis**

In accordance with the California Environmental Quality Act (CEQA), it has been determined that extending the temporary urgency ordinance 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.

#### **Public Notice Requirement**

Consistent with Government Code Section 63858, a public hearing notice was published in the Fairfield Daily Republic, Dixon Tribune, Vacaville Reporter, Winters Express, Vallejo Times Herald, Rio Vista River News Herald and Benicia Herald at least 10 days prior to the public hearing. (Attachment F - Notice of Public Hearing).

#### **FINANCIAL IMPACT:**

The costs to analyze County options for regulating cannabis is included in the Department of Resource Management's Planning Services budget. The costs associated with preparing the agenda item are nominal and absorbed by the Department's FY2018/19 Adopted Budget.

#### **ALTERNATIVES:**

The Board may choose to:

1. Not adopt the Ordinance extending the urgency ordinance for 10 months and 15-days. This alternative is not recommended as it is important to preserve the status quo pending the development and adoption of an ordinance regulating temporary cannabis events; or
2. Consider adopting an ordinance approving a 10 month and 15-day extension to the urgency ordinance with the exception of the inclusion of one smokeless temporary cannabis event to be held at the Solano County Fairgrounds in 2019 or while the urgency ordinance remains in effect.

#### **OTHER AGENCY INVOLVEMENT:**

Resource Management staff has consulted with County Counsel in the process of preparing the proposed ordinance extension and Board options.

#### **CAO RECOMMENDATION:**

## APPROVE DEPARTMENTAL RECOMMENDATION