

Discussion on Outdoor Cannabis Cultivation for Personal and Commercial Purposes

Medical Cannabis Policy Subcommittee

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1. Cannabis legislation timeline
2. Local Jurisdiction Allowances
3. Current Local regulations related to Commercial cultivation
4. Community Impacts
5. Mitigation strategies identified
6. Decision points for discussion
7. Potential implementation approaches
8. Discussion/Feedback

Cannabis Regulation Development

Compassionate
Use Act (CUA)

- 1996

Medical
Cannabis
Regulation
and Safety
Act
(MCRSA)

- 2015

Santa Rosa
Local
Cannabis
Regulations

- 2016/2017

Medical
Marijuana
Program
Act
(MMPA)

- 2003

Adult Use
of
Marijuana
Act
(AUMA)

- 2016

Personal Cultivation Laws

Compassionate Use Act (CUA) - **Proposition 215**

- Approved by voters in November 1996.
- Allows patients with a physician's recommendation and their primary caregivers to possess and cultivate cannabis for patient's personal medical use.

Medical Marijuana Program Act (MMPA) - **SB 420**

- Passed by legislature in 2003.
- Clarified scope and application of CUA and established immunity from state criminal laws for cultivation up to 12 immature or 6 mature cannabis plants (or more if specifically authorized by physician) for a qualified patient.



Personal Cultivation Laws Continued

Medical Cannabis Regulation and Safety Act (**MCRSA**) Sept. 2015

- Established state licensing framework for commercial medical cannabis activity. The following persons may cultivate cannabis without a state or local license:
 - A. Qualified patients – may cultivate up to 100 sq. ft. of aggregate vegetative area on single premises for personal medical use only.
 - B. Primary caregivers – may cultivate up to 500 sq. ft. of aggregate vegetative area on single premises for up to five qualified patients.

Personal Cultivation Laws Continued

Adult Use of Marijuana Act (AUMA) – **Proposition 64**

Nov. 2016

- Allows persons 21 years and older to cultivate up to six cannabis plants and possess the cannabis produced by the plants.
- No more than six plants per private residence regardless of number of adults.

Local Jurisdiction Allowances

The CA Ct. of Appeals has held that **CUA and MMPA do not limit a locality's ability to prohibit all forms of cannabis cultivation**, including cultivation by a qualified patient at a private residence and caregiver grows.

- **MCRSA:** Localities have broad authority to regulate or ban all medical cannabis cultivation, including by qualified patients and caregivers.
- **AUMA:** Localities may regulate or prohibit outdoor non-medical cannabis cultivation by adults and commercial entities, however:
 - Local jurisdictions may not preclude cultivation inside a private residence or inside a secure and enclosed accessory structure (greenhouse) on grounds of a private residence.
 - Localities that ban cultivation, including outdoor personal cultivation, are ineligible for funding from a portion of retail cannabis excise tax revenue administered by the State.

Outdoor Commercial Cultivation

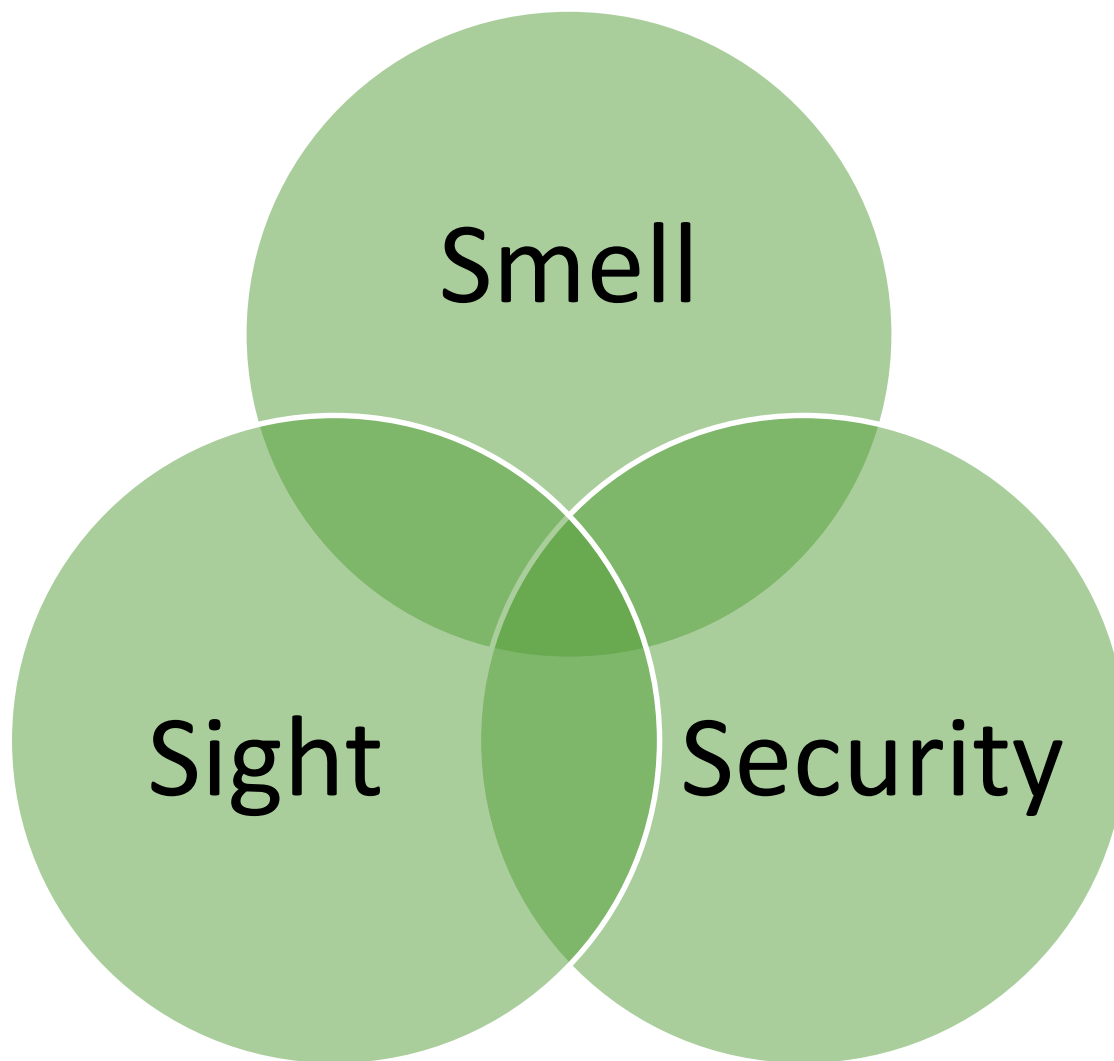
These and other cities prohibit outdoor commercial cultivation:

- City of Richmond (also prohibits personal-use outdoor cultivation)
- City of Gonzales (also prohibits personal-use outdoor cultivation)
- City of Coachella
- California City (also prohibits personal-use outdoor cultivation)
- City of Adelanto
- City of Sacramento (also prohibits personal-use outdoor cultivation)
- City of San Jose
- City of Riverbank
- City of Watsonville

Current Local Commercial Cultivation Regulations

- City Code currently regulates the commercial cultivation of medical cannabis, limiting such cultivation to the City's industrial zones and requiring a use permit for all operations
- City Code does not preclude a commercial cultivator from applying for a use permit for outdoor cultivation for medical purposes.
- City Code precludes commercial cultivation (whether indoor or outdoor) for non-medicinal use.

Outdoor Cultivation Concerns and Impacts



Issues and Mitigation Strategies

Smell

- Odor strong in the weeks prior to harvest and during processing.
- Common odor mitigation strategies:

Indoor/Greenhouse cultivation:

- Carbon filters on exhaust points
- Standalone carbon scrubbers
- Other air filtration/purification
- Sealed greenhouse
- Exhaust out roof of 2+ story building
- Odor neutralizers

Outdoor cultivation:

- Reduction in number of plants
- Regulations regarding odor control and environmental protection
- Zoning restrictions
- Minimum mitigations available prior to & during harvest

Issues and Mitigation Strategies Continued

Security & Visibility from Public Right-of-Way

- Potential mitigation strategies:
 - Limit cultivation to an accessory structure, like a greenhouse
 - Privacy Fences/walls blocking cultivation from public sight
 - Secured gates/doors
 - Set back from property lines, public right-of-way, schools, parks, and residential property lines
 - Minimum property size for outdoor cultivation

Questions for Discussion

Should the City allow outdoor cultivation of any kind?

If yes:

Commercial Medical:

1. Should the City allow outdoor commercial medical cannabis cultivation subject to reasonable restrictions?

Personal Medical:

2. Should the City allow subject to reasonable restrictions:
 - a) outdoor personal medical cannabis cultivation
 - b) medical caregiver cultivation of 500 sq. ft. or less for medical use on behalf of no more than five qualified patient

Personal Non-Medical:

3. Should the City allow outdoor cultivation for non-medical use of 6 plants or less subject to reasonable restrictions

Potential Implementation Approaches

Recommend Interim Urgency Ordinance

Timeline: Immediate action by City Council

Pros: Addresses current growing season

Cons: Limited City resources available to enforce

Incorporate direction and mitigations into comprehensive ordinance

Timeline: Action by Planning Commission/Council in the June/August timeframe

Pros: resource plan and mitigation strategy developed

Cons: does not provide direction for 4 months



Questions/Discussion