

**TAAG CANNABIS PROJECT REVIEW COMMITTEE (CPRC)
JULY 30, 2020 COMMITTEE MEETING MEMO
DRAFT RECOMMENDATIONS TO SLO COUNTY PROPOSED PHASE III CANNABIS
ORDINANCE
AMENDMENTS TO SLO COUNTY TITLE 22 SECTION 22.40 – CANNABIS ACTIVITIES**

The TAAG Cannabis Project Review Committee held a publicly noticed Zoom teleconference meeting on July 8th. During the July 16, 2020 TAAG Board meeting, the Committee advised the Board that a draft recommendation report will be submitted at the Board's scheduled August 13, 2020 for approval with recommendations to be submitted to the Board of Supervisors (BOS) for consideration.

The comments and suggested are Committee Cahir Murray Powell's personal comments.

SLO COUNTY CANNABIS ORDINANCE BACKGROUND INFORMATION

In response to the passage of California's 2016 Recreational Cannabis proposition, the County Board of Supervisors (BOS) adopted cannabis land use regulations on November 27, 2017. On June 19, 2018 during a cannabis program update, the Board directed staff to prepare amendments to the cannabis ordinance in two phases. Phase I amendments were adopted by the Board on December 10, 2018. On June 4, 2019, the Board of Supervisors adopted the Phase II Cannabis Activities Ordinance Amendments. The Phase III amendments that we are considering tonight were originally scheduled for approval during the Phase II June 4, 2019 hearing. On March 26, 2019, the BOS directed Planning to consider the eight possible ordinance amendments and submitted proposed amendments for review and approval. These amendments were scheduled to be heard and approved by the BOS during June 2019 but were not heard at that time. The following eight Phase III proposed amendments are discussed in a 12 page June 25, 2020 Planning Staff report. This report can be viewed at this County website link:

<https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/123064>

The proposed amendments are the following. I suggested that each of you read this report.

1. Establish enforcement related remedies for cannabis violations, including options and scenarios related to a "3-strike" policy
2. Increase buffer distance from schools and other sensitive receptors
3. Evaluate and analyze options to prohibit outdoor cultivation
4. Disallow the payment of water offset fees over the Paso Robles Groundwater Basin
5. Disallow re-permitting if an operation ceases or violation occurs (no "revolving door")
6. Require enclosed ventilation systems on indoor grows
7. Evaluate and analyze drying in hoop houses, and
8. Revise standards for ancillary nurseries to be encompassed in the overall cannabis cultivation area.

Planning also noticed an edit "redlined" draft of all proposed changes to the County Title 22 Chapter 22.40 – Cannabis Activities ordinances that incorporate the eight proposal indicated above and a number of other changes and proposed amendments not disclosed in 12 page Staff report. The edited "redlined" draft can be viewed at this County website link. This is a 106 page

48 attachment. The first 56 pages deal with Title 22 Chapter 22.40 that applies to the Templeton
49 and most of the North County area. Title 23 applies to County Coastal areas.
50 The proposed edited 53 page Chapter 22.40 “redlined” draft can be viewed at the following
51 County website link.

52 <https://www.slocounty.ca.gov/getattachment/c0b23def-9dfb-4ab5-99dc-01ddb573add3/Public-Review-Draft-Cannabis-Phase-3-Amendments.aspx>
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54 **SUGGESTED RECOMMENDATIONS OF THE EIGHT PROPOSED AMENDMENTS**
55 **DUSCUSSED IN THE 12 PAGE STAFF REPORT**
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57 **1. Establish enforcement related remedies for cannabis violations, including options**
58 **and scenarios related to a “3-strike” policy.**
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60 **I recommend approval of this amendment.** The Supervisors are concerned that there
61 were no defined limits to the number of violations that an approved permitted cannabis
62 project could incur before a project operating permit and business license is revoked and
63 the project is shutdown.
64

65 **The proposed amendment wording is:**

66 Previous violations. Any site proposing cannabis activities where there have been verified
67 violations of a County ordinance or other laws relating to cannabis within the last twenty-
68 four (24) months shall require a Conditional Use Permit approval. **Any site proposing**
69 **cannabis activities which has had three (3) or more verified violations of County ordinance**
70 **or other laws relating to cannabis within the last twenty-four (24) months shall be ineligible**
71 **to apply for land use permit approval for any cannabis activity for a period of five (5) years**
72 **from the date of the last verified violation.**
73

74 **2. Increase buffer distance from schools and other sensitive receptors.**

75 I generally agree with this recommendation that extends Chapter 22.40 defined “sensitive
76 receptors (sites) buffer distances from generally 1,000 feet to 1,500 feet between
77 cannabis site a sensitive site. Distance is measured from property line on the cannabis
78 site to the property line of the sensitive site. I prefer a larger buffer distance of 2,500 feet.
79 However this amendment is a step in right direction. The proposed amendment applies to
80 various cannabis activities addressed in the ordinances. For example the amendment for
81 cannabis cultivation states that **“Cannabis cultivation shall not be located within one**
82 **thousand five hundred (1,500) feet** from any pre-school, elementary school, junior high
83 school, high school, library, park, playground, recreation or youth center, licensed drug or
84 alcohol recovery facility, or licensed sober living facility. Distance shall be measured from
85 the nearest point of the property line of the site that contains the cannabis cultivation to the
86 nearest point of the property line of the enumerated use using a direct straight-line
87 measurement.

88 Another related sensitive site issue is the County’s refusal to add residences as a defined
89 sensitive site to the cannabis ordinances. You will note that the most of sensitive sites
90 defined above relate to sites visited and attended by minors. Minors spend more hours a
91 day at their homes than at any of the defined sensitive sites. The public has been
92 demanding this change since 2018. This issue was not addressed in the June 25 ,2020

93 Staff report except for one minor comment. However the edit “redlined” ordinance draft
94 (page 14 of 53) added the following proposed amendment:

95 “Outdoor cannabis cultivation shall be setback a minimum of 300 feet from the property
96 lines of the site or public right-of-way, whichever is closer, **and one thousand five**
97 **hundred (1,500) feet from any existing offsite residence under separate ownership.”**

98 At first glance this sounds OK. It is a step in the right direction but fails to apply to all of
99 the ordinance cannabis activities that the defined sensitive site restrictions apply to. This
100 proposed amendment also fails to define the measurement guideline that should be
101 applied to determine the 1,500 buffer distance. As noted above, sensitive site buffer
102 distances are measured “ from the nearest point of the property line of the site that
103 contains the cannabis cultivation to the nearest point of the property line of the
104 enumerated use using a direct straight-line measurement.” The proposed amendment
105 wording appears to say that the measurement is from the outdoor cultivation area
106 boundary to the actual offsite residential structure rather than from property line to
107 property.

108 **3. Evaluate and analyze options to prohibit outdoor cultivation**

109 The Planning Staff report opposes this proposed amendment. The intent of this proposed
110 amendment is the result of the County’s existing ordinance provision that “prohibits the
111 detection of cannabis nuisance odor offsite.” Existing County cannabis ordinances require
112 a standard 300 foot minimum setback distance of outdoor cannabis plants from a
113 cannabis site’s property lines. This setback distance was established with the original
114 2017 County cannabis ordinances without any supporting data of other reasonable basis
115 for supporting the 300 foot distance as an effective odor mitigating factor that would
116 prevent offsite odor detection. Offsite is defined as beyond a cannabis site’s property lines.

117 There are no known effective available outdoor cannabis odor mitigation systems in
118 existence, that I am aware of, that have been proposed for any County outdoor cannabis
119 project applications to my knowledge. Discussion with Planning staff and County Code
120 Enforcement staff indicates that a substantial majority of cannabis code violations involve
121 odor complaints. Undisputed evidence experienced in SLO County, Santa Barbara
122 County and other areas within and outside of California have confirmed beyond a
123 reasonable doubt that the 300 foot setback is effective. Odor has been detected,
124 depending on weather and wind conditions for more than a mile from cannabis sites.

125 My opinion is that the 300 foot setback requirement should be amended to increase the
126 setback distance to some known effective distances. I recommend approval of this
127 amendment or consideration of a moratorium on outdoor cultivation until reasonable odor
128 mitigating setback distances can be determined and are incorporated in the County
129 cannabis ordinances.

130 **4. Disallow the payment of water offset fees over the Paso Robles Groundwater Basin**

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132 This is an easy one. County Water Basin Regulations in impacted basin areas such as
133 the Paso Robles Water Basin requires that 1:1 or 2:1 water offsets are required for all
134 newly established cultivation activities in the impacted Basins. A 2:1 offset is required in
135 basin area that are identified as Severe Overdraft areas. We have several projects that
136 require these setbacks. There was a period of time that one-time cash offset fee

137 payments were allowed to comply with the offset requirements. These cash payments are
138 no longer allowed, I believe, by the Water Basin regulations. The purpose of this
139 amendment is to clarify that the Basin requirements apply to Cannabis projects. I
140 recommend approval. I recommend approval of this amendment.
141

142 **5. Disallow re-permitting if an operation ceases or violation occurs (no “revolving**
143 **door”)**
144

145 Presently, existing County cannabis ordinances limit the number of permitted
146 CULTIVATION sites to 141. This amendment intends to lock in first applications that fill
147 the 141 project limit. Then any of the 141 applications that are denied, withdrawn or
148 revoked will reduce the 141 limit by 1. In other words future applications will not be
149 accepted. I think the logic behind this proposal is that the 141 project number was
150 intended to allow existing local County cannabis operations that existed as of the August
151 26, 2016 effective date of the California Cannabis Proposition to apply for County cannabis
152 project Land Use Permits. The 141 limit was not intended to be an ongoing opportunity for
153 new applications to take over the original 141 cultivation slots.
154

155 I recommend approval of this amendment.
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157 **6. Require enclosed ventilation systems on indoor grows**
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159 This proposed amendment is related to the offsite odor problems discussed in 3. above.
160 SLO County, Santa Barbara County, and other areas of California and beyond are
161 experiencing significant cannabis odor problems offsite. Indoor greenhouse and other
162 indoor facilities are presently subject to the County cannabis ordinances that prohibit the
163 detection of nuisance cannabis odor offsite. The County Title 22 ordinances define
164 greenhouses as ‘fully enclosed structures’. However the term fully enclosed is not defined
165 and existing indoor cannabis operations are venting odor laden air in the outdoor
166 environment. The County ordinances require that “carbon scrubber” (undefined)
167 equipment be used to mitigate outdoor odor. There are also odor mitigating or masking
168 systems that are intended to neutralize cannabis odor as it exits indoor facilities.
169 Experience has confirmed that these systems are somewhat in effective. Indoor odor is
170 also a large source of County Code Enforcement complaints. The proposed amendment
171 follows:
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173 Nuisance Odors. All structures utilized for indoor cannabis nursery cultivation and
174 ancillary transport where immature plants are held awaiting removal from the site shall be
175 equipped and/or maintained with sufficient ventilation controls (e.g. carbon scrubbers) to ,
176 in concert with carbon filtration or other equivalent or superior method(s) of filtration, in a
177 manner that results in the controlled exchange of air and eliminates nuisance odor
178 emissions from being detected outside the structure offsite.
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180 This proposed amendment is intended to prohibit indoor cannabis odor from being vented to
181 the exterior environment. I recommend approval of this amendment.
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183 **7. Evaluate and analyze drying in hoop houses**
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185 This is another easy one to recommend. Existing County ordinances and building codes
186 prohibit any activities with hoop houses used on all crops other than cultivation of crops.
187 According to the Building Department, drying is considered part of processing, which
188 would be classified as an F occupancy and require a permitted building. The reason hoop
189 houses are currently exempt from obtaining a building permit is because they are limited
190 to crop protection; they are not intended to be used as a processing facility where
191 employees would be present on a regular basis conducting work. No labor activities are
192 allowed with hoop houses. No electrical, plumbing (except crop irrigation lines), lighting or
193 other equipment is permitted.

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195 I recommend approval of this amendment.

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197 **8. Revise standards for ancillary nurseries to be encompassed in the overall cannabis**
198 **cultivation area.**

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200 Existing County cannabis ordinance allow a 25% area known as “Ancillary Nursery” areas
201 as an addition to the maximum allowed mature cannabis plant cultivation areas. Ancillary
202 nurseries are limited to cultivation “immature cannabis plants” only. This amendment is
203 intended to eliminate the additional 25% nursery areas of a project. This would ensure the
204 total cannabis canopy of project does not exceed 3 acres, whether immature or mature
205 plants. I recommend approval of this amendment.

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207 **OTHER PROPOSED AMENDMENTS INDICATED IN THE 53 PAGE EDITED “REDLINED”**
208 **TITLE 22 CHAPTER 22.40**
209 **(page references are to the 53 page “redlined draft”)**

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211 **1.** Page 4 of 53. A. Application requirements. 1. Site plan, floor plans, and a general
212 description of the nature, square-footage, and type of cannabis activities being requested
213 shall be submitted with the land use permit application. 2. An application for a project that
214 includes indoor cultivation, indoor ancillary nursery or indoor commercial nursery shall
215 include the following: a. A detailed inventory of energy demand prepared by a Certified
216 Energy Analyst. The inventory shall include an estimate of total energy demand from all
217 sources associated with all proposed cannabis cultivation activities including, but not
218 limited to, lighting, odor management, processing, manufacturing and climate control
219 equipment.
- 220
221 **2.** Page 5 of 53 . Evidence the applicant has submitted a business license application to the
222 County Tax Collector and obtained background check approval from the Sheriff’s Office.
- 223
224 **3.** Pages 8 and 9. R. Application of Ordinance Amendments. Except as otherwise provided
225 in this Chapter, land use permit applications for cannabis activities will be subject to
226 ordinance requirements in effect on the date of final review and approval or disapproval of
227 the land use permit application. Except as otherwise provided in this Chapter, applications
228 for renewal or modification of approved land use permit applications for cannabis activities
229 will be subject to ordinance requirements in effect on the date of final review and approval
230 or disapproval of the land use permit renewal or modification application.
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4. Page 13 b. No cannabis cultivation site shall be located within one thousand five hundred (1,500) feet of another cannabis cultivation site or cannabis nursery. Distances shall be measured from the closest property line of the existing cannabis cultivation site, to the closest property line of the property containing the proposed cannabis cultivation site.
 5. Page 16. b. Fencing materials shall be solid, such as wood, masonry or chain-link with security slats. All fencing and/or walls shall be made from material that blends into the surrounding terrain and shall minimize any visual impacts. Tarpaulins, scarp material, dust guard fencing, privacy netting, or woven or non-woven polyethylene plastic, hedges, or bushes are not considered as fencing.
 6. Page 18. 11. Interior Lighting. All facilities shall prevent interior lighting from being detected outside the facilities between the period of 1 hour before dusk and 1 hour after dawn. All Facilities employing artificial lighting techniques shall include shielding and/or blackout tarps that are engaged between the period of 1 hour before dusk and 1 hour after dawn and prevent all light from escaping.
 7. Page 21 b. No cannabis nursery shall be located within one thousand five hundred (1,500) feet of another cannabis cultivation site or cannabis nursery. Distances shall be measured from the closest property line of the existing cannabis cultivation site, to the closest property line of the property containing the proposed cannabis cultivation site. This location standard can be modified through Minor Use Permit approval when a Conditional Use Permit is not otherwise required.
 8. Page 21. c. No industrial hemp cultivation may occur on a cannabis nursery site unless the review authority first finds that specifically identified characteristics of the site or site vicinity would make the prohibition of industrial hemp cultivation unnecessary and would not result in nuisance odors from being detected offsite. The existence of or potential for industrial hemp being cultivated on surrounding sites shall not be grounds for allowing industrial hemp cultivation on a cannabis cultivation site.
 9. Page 23. 3. Setbacks. a. Indoor Cannabis nurseries shall be setback as set forth in Section 22.30.310. Outdoor cannabis nurseries shall be setback a minimum of 300 feet from the property lines of the site or public right-of-way, whichever is closer.
 10. Page 24. b. Fencing materials shall be solid, such as wood, masonry or chain-link with security slats, all fencing and/or walls shall be made from material that blends into the surrounding terrain and shall minimize any visual impacts. Tarpaulins, scarp material, dust guard fencing, privacy netting, or woven or non-woven polyethylene plastic, hedges, or bushes are not considered as fencing.
 11. Page 29. Nuisance Odor. All cannabis processing shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite. All structures utilized for processing shall be equipped and/or maintained with sufficient ventilation controls, in concert with carbon filtration or other equivalent or superior method(s) of filtration, in a manner (e.g. carbon scrubbers) to that results in the controlled exchange of air and eliminates nuisance odor emissions from being detected outside the structure offsite.

281 **ADDITIONAL AMENDMENT RELATED ISSUES TO BE DISCUSSED.**

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1. Establish minimum setback and buffer distances not subject to reduction modifications.
2. For setback and buffer modifications requiring specific conditions. Specify the exact conditions allowed to be considered for possible modifications.
3. County Cannabis Code Enforcement under staffing. – Currently four (4) Code Enforcement Officers are on staff to enforce both legally permitted and illegal cannabis operations throughout SLO County. Code enforcement is “overwhelmed”.
4. Prohibit public access to cannabis permitted properties. Certain approved and pending cannabis projects are licensed by the County to operate licensed vacation rentals, B&B’s, wine tasting operations and temporary events such as wedding venues that are obviously open to the public. Cannabis Land Use Permit Conditions of Approval generally include a comment such as **“Throughout the life of the project, no minors or unauthorized personnel shall be permitted inside any restricted access areas, including the cultivation areas”**. Existing cannabis ordinances require that all cannabis activities permitted in accordance with Title 22 Chapter 22.40 require **“adequate measures that address enforcement priorities for cannabis activities including restricting access to minors** and ensuring that cannabis and cannabis products are not supplied to unlicensed or unpermitted persons within the State and not distributed out of state.” These provisions fail to provide guidelines defining what “enforcement priorities” consist of; specifically identifying “areas restricted to access by minors or unauthorized personnel; and what physical and operational security measures are required to prevent access to “restricted cannabis areas”.
5. Restrict Cannabis Manufacturing operations to County designated Industrial (IND) zones. Cannabis manufacturing operations involved high risk operations involving technical high pressure (5,000 psi) extraction equipment, use of ethanol and high pressure CO2 gas. These processes are a danger to the public and to the operation’s employees. Misuse of high pressure extraction equipment may cause explosions. Ethanol is a volatile flammable liquid or gas that has the potential to explode in poorly ventilated interior areas. Compressed CO2 leaks in poorly ventilation areas may cause serious injury or death in poorly ventilated areas. Cannabis manufacturing has resulted in serious and deadly explosions and fires. Many approved and proposed cannabis manufacturing facilities are located in SLO County AG zones that are. in many instances, in rem05-434-0707ote areas of the County not immediately accessible by emergency fire and medical services. Many AG areas are located in SLO County designated High Fire Severity Zones. County Planning recommended prohibiting cannabis manufacturing in High Fire Severity Zones. During a previous BOS cannabis hearing. **The BOS ignored this recommended High Fire Severity Zones restriction.**
6. Revise cannabis project noticing to include physical mailing addresses located within required noticing areas. Chapter 22.40 requires that public notices be issued pursuant to existing Sections 22.40.040 P1. and P.2. Noticing is required to property owners. Many do not occupy their properties

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