



# MARIPOSA COUNTY

Planning • 209-966-5151



## ORDINANCE 2017-1129

MEETING: October 17, 2017  
TO: The Board of Supervisors  
FROM: Sarah Williams, Planning Director  
RE: Zoning Ordinance Amendments: Prohibit Commercial Marijuana Uses and Activities

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### RECOMMENDATION AND JUSTIFICATION:

Waive the second reading and adopt an Ordinance amending Title 17, the Zoning Ordinance to prohibit any uses or activities requiring a license from the State of California, pursuant to Division 10 of the Business and Professions Code, in accordance with the "Control, Regulate and Tax Adult Use of Marijuana Act" (Proposition 64).

On August 18, 2017 the Planning Commission considered information presented to the Board of Supervisors on March 11 and April 25 2017 and thereafter adopted Resolution 2017-11 recommending that the Board of Supervisors adopt amendments the Mariposa, Coulterville and Fish Camp Town Plans and the Zoning Ordinance to prohibit, within Mariposa County, any activity for which a license is required pursuant to CA Business and Professions Code, Division 10. This ordinance was introduced at the October 3, 2017, meeting of the Board of Supervisors.

This Ordinance will amend Mariposa County Code Title 17 - Zoning to prohibit activities for which a license is required pursuant to Division 10 of the Business and Professions Code. The activities to be prohibited relate to commercial cultivation, processing, manufacture, sale or public consumption of marijuana plants and any resulting or derivative product.

The amendments will not affect those aspects of Proposition 64 which allow limited personal possession, private cultivation and private use of marijuana.

The amendments will not affect existing County regulations related to medical marijuana.

The recommended amendment has been determined to be exempt from CEQA.

**Note:** The previous Minute Traq (MT) item 7488 General Plan Amendment is related to this item; therefore, the Background, History and Attachments for Item 7488 also apply to the subject item.

### BACKGROUND AND HISTORY OF BOARD ACTIONS:

## Ordinance 2017-1129

This ordinance was introduced at the October 3, 2017, Board of Supervisors meeting.

On April 25, 2017 the Board of Supervisors, in accordance with Mariposa County Code Section 17.128.020.B, adopted Resolution 2017-236 initiating General Plan and Zoning Ordinance Amendments to prohibit, within Mariposa County, any activity for which a license is required pursuant to California Business and Professions Code, Division 10.

On March 21, 2017 the Board of Supervisors adopted Ordinance 1122, and thereafter adopted Ordinance 1123 extending Interim Urgency Ordinance prohibiting operation of any activity for which a license is required pursuant to Division 10 of the Business and Professions Code. The Board of Supervisors considered public testimony and information referenced in the staff report dated April 25, 2017.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Alternative: Amend text to be processed.

Negative Action: Not processing the ordinance would not be consistent with Board direction on April 25, 2017.

### **FINANCIAL IMPACT:**

**There will be no financial impact on the General Fund resulting from the initiated amendments.**

### **ATTACHMENTS:**

171003.BOS.Ord (DOC)

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Merlin Jones, District II Supervisor

**SECONDER:** Kevin Cann, District IV Supervisor

**AYES:** Smallcombe, Jones, Long, Cann, Menetrey

**STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS**

**MARIPOSA COUNTY ORDINANCE NO. 1129**

**AN ORDINANCE AMENDING TITLE 17,  
ADDING SECTIONS 17.108.200.D AND 17.334.055.D**

**WHEREAS**, on March 21, 2017 the Board of Supervisors adopted Interim Urgency Ordinance 1122 prohibiting all commercial marijuana activities for 45 days and thereafter on April 25, 2017 adopted Ordinance 1123 extending Ordinance 1122 for an additional 10 months and 15 days; and

**WHEREAS**, Ordinance 1122 directed the preparation of necessary documents, including a resolution, ordinance and CEQA determination, to amend the Mariposa County General Plan and the Zoning Ordinance to prohibit, within Mariposa County, any activity for which a license is required pursuant to California Business and Professions Code, Division 10; and

**WHEREAS**, on April 25, 2017 the Board of Supervisors, in accordance with Mariposa County Code Section 17.128.020.B, adopted Resolution 2017-236 initiating General Plan/Zoning Ordinance Amendment No. 2017-048 to prohibit, within Mariposa County, any activity for which a license is required pursuant to California Business and Professions Code, Division 10; and

**WHEREAS**, on August 18, 2017 the Planning Commission adopted Resolution 2017-11 recommending that the Board of Supervisors approve General Plan/Zoning Ordinance Amendment No. 2017-048 to prohibit, within Mariposa County, any activity for which a license is required pursuant to California Business and Professions Code, Division 10; and

**WHEREAS**, the amendments are intended to prohibit any activity and use within Mariposa County that may be authorized by license pursuant the Adult Use Of Marijuana Act, including commercial, or not for profit, cultivation, processing, manufacture, wholesale or retail sale or public consumption; and

**WHEREAS**, it has been found that the project is exempt from the California Environmental Quality Act, and a Notice of Exemption has been filed for the project.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY**, a political subdivision of the State of California, does ordain as follows:

**Section I:**

Zoning Ordinance Section 17.108.200 shall be amended to add subsection D. as follows:

17.108.200 Uses prohibited in all zones.

The following land uses are prohibited in all zoning districts:

- A. Medical marijuana dispensaries;
- B. The collective or cooperative cultivation of marijuana;
- C. The cultivation of marijuana for medical purposes by person(s) not residing on the property on a permanent basis.

D. Any activity and use within Mariposa County for which a license is required pursuant to California Business and Professions Code, Division 10, as it may be amended, including activities requiring a license pursuant to the Adult Use Of Marijuana Act, including commercial, or not for profit, cultivation, processing, manufacture, wholesale or retail sale or public consumption.

**Section II:**

Zoning Ordinance Section 17.334.055 shall be amended to add subsection D. as follows

17.334.055 Uses prohibited in all zones.

The following land uses are prohibited in all zoning districts:

- A. Medical marijuana dispensaries;
- B. The collective or cooperative cultivation of marijuana;
- C. The cultivation of marijuana for medical purposes by person(s) not residing on the property on a permanent basis.
- D. Any activity and use within the Town of Mariposa, Mariposa County for which a license is required pursuant to California Business and Professions Code, Division 10, as it may be amended, including activities requiring a license pursuant the Adult Use Of Marijuana Act, including commercial, or not for profit, cultivation, processing, manufacture, wholesale or retail sale or public consumption.

**Section III:** If any provision of this ordinance is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

**Section IV:** This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

**PASSED AND ADOPTED** on this 17th day of October, 2017, by the following vote:

AYES: SMALLCOMBE, JONES, LONG, CANN, MENETREY  
 NOES: NONE  
 ABSTAINED: NONE  
 EXCUSED: NONE

  
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 Marshall Long, Chairman  
 Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 René LaRoche, Clerk of the Board

  
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 Steven W. Dahlem, County Counsel

The foregoing instrument is a correct copy of the original on file in this office.

ATTEST November 20, 2017  
RENE' LA ROCHE

Clerk of the Board of Supervisors of the County of Mariposa, State of California

by Tracy Dautler Deputy