



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9851 <http://mynevadacounty.com>

Sean Powers
Community Development Agency Director

Brian Foss
Planning Director

**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo**

MEETING DATE: May 14, 2019

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**
Craig Griesbach, Director of Building

SUBJECT: Approve a Resolution certifying the Final Environmental Impact Report for the Commercial Cannabis Cultivation Ordinance and adoption of an Urgency Ordinance adding Section L-II 3.30 to Article 3 of Chapter II and amending tables L-II 2.2.1.B, L-II 2.2.2.B, L-II 2.3.D, L-II 2.4.D, L-II 2.5.D, and L-II 2.6.F in Article 2 of Chapter II of the Nevada County Land Use and Development Code regarding Cannabis Cultivation. (4/5 affirmative vote required)

RECOMMENDATION:

1. Approve the Resolution certifying the adequacy of the Final Environmental Impact Report for the Nevada County Commercial Cannabis Ordinance and making certain findings concerning environmental impacts, mitigation measures and alternatives to the project and adopting a mitigation measure monitoring and reporting program and adopting a statement of overriding considerations.
2. Approve an Urgency Ordinance adding Section L-II 3.30 to Article 3 of Chapter II and amending Tables L-II 2.2.1.B, L-II 2.2.2.B, L-II 2.3.D, L-II 2.4.D, L-II 2.5.D, and L-II 2.6.F in Article 2 of Chapter II of the Nevada County Land Use and Development Code regarding Cannabis Cultivation. (4/5 affirmative vote required)

FUNDING: Drafting of the ordinance and environmental review is funded by the County Unassigned General Fund through the 2018/19 Cannabis Policy and Compliance budget.

Permit issuance and compliance in accordance with the adopted ordinance will be funded by permit fees.

ATTACHMENT:

1. Draft Resolution for EIR Certification and CEQA Findings of Fact
2. Draft Ordinance for Zoning Ordinance Section L-II 3.30 Commercial Cannabis Cultivation and associated Land Use Tables
3. Final EIR (Board of Supervisors only, available online at: <https://www.mynevadacounty.com/2188/Supporting-Documents>)

BACKGROUND: On May 7, 2019, the Board of Supervisors held a public workshop to review the Draft Cannabis Ordinance and Final Environmental Impact Report. After public testimony the Board of Supervisors directed staff to make changes to the draft ordinance and return to the Board on May 14, 2019, for Final EIR certification and Ordinance adoption. The following changes were made to the ordinance based on Board direction (changes underlined):

Financial Interests:

7. A maximum of three (3) Cultivation permits will be issued per person or entity for purpose of engaging in Commercial Cannabis Activities, exempt from this provision are Cannabis Cooperatives as defined by Business and Professions Code, Division 10, Chapter 22. No person or entity may have any financial interest in more than eight (8) Commercial Cannabis businesses and/or enterprises in Nevada County, exempt from this provision are Cannabis Cooperatives as defined by Business and Professions Code, Division 10, Chapter 22.

Support Area:

9. Cannabis Support Areas are limited to a maximum area equal to 90% of the allowed Canopy Area. The Support Area boundary shall be clearly identified on any plans that are submitted and on the Premises.

Financial Security:

- xxi. Provide proof of purchase of a Certificate of Deposit or Bond from a commercial banking institution approved by the Enforcing Officer in the amount of \$5,000.00 which may be accessed by County of Nevada.

Existing Accessory Structures:

- a. Setback Variances shall follow the requirements of Sec. L-II 5.7 of the Nevada County Land Use and Development Code. Setback Variances shall be limited to a minimum setback of 60ft to property lines. Existing structures permitted prior to May 1, 2019 shall be limited to a minimum setback of 30ft to property lines. Except as set forth in subsections below, no Setback Variance will be considered for any other provision of this Article including, but not limited to, Canopy Area, minimum parcel size, zoning

designations or methods of cultivation. The findings required for approval of a Setback Variance shall be those listed in Sec. L-II 5.7 in addition to the following finding:

Reduced Setbacks from State and Federal Parks:

d. The Permitting Authority has the discretion to authorize indoor, outdoor, or mixed light cultivation and/or support areas with a distance less than 1000 feet from a state and/or federal Park if the following criteria are met:

Transition Period:

5. Transition Period for Non-Cannabis Violations on the Premises.

The issuance of Cannabis Cultivation Permits, Administrative Development Permits, or Annual Cannabis Permits may be withheld if any violations of Nevada County Municipal Codes not related to Cannabis Activities exist on the Parcel or Premises upon which Commercial Cannabis Activities are proposed to be conducted. At the discretion of the Permitting Authority, applicants may be given up to two years from the date of the submission of the application for Cannabis Activity permits, including use and development permits, to bring existing building code and other violations not related to Cannabis Activities into compliance with local regulations. Minor grading that doesn't present a fire, life and/or safety hazard as determined by the enforcing officer may be included in the two-year transition period. For this section to apply, all required permits to correct code defects must be submitted and substantial progress toward compliance made during this transition period. Failure to correct said code violations by the initial expiration of an ACP may result in the ACP not being renewed. Nothing in this provision precludes the County from proceeding to seek revocation of land use permits for failure to correct code defects. This provision does not apply to any structure, other site improvements in which Cannabis Activities will be conducted which was not previously properly permitted, or to any code violations which adversely impact health and safety, including but not limited to electrical or fire hazards. Structures, grading, and utilities which will be used for Cannabis Activities must be in compliance with all local and state regulations prior to the commencement of Commercial Cannabis Activities unless said structures were previously properly permitted. This provision providing for a transition period expires two years from the date this Article is initially adopted, after which time, no CCP or ADP will be issued for Commercial Cannabis Activities unless the Parcel and/or Premises, and all improvements thereon, are fully compliant with the Nevada County Municipal Codes.

Summary: Staff recommends that the Board adopt the Resolution certifying the Final Environmental Impact Report and adopt the Ordinance.

Approved by: Brian Foss, Planning Director
Craig Griesbach, Director of Building