



**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: September 24, 2019

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: Adopt Urgency Ordinance Amending Section L-II 3.30 Cannabis Cultivation by adding subsection L-II 3.30(C)(34.1) Processing definition and Subsection L-II 3.30(D)(12) adding offsite processing to Chapter II Zoning Regulations, Article 3 Specific Land Uses (4/5ths affirmative vote required).

RECOMMENDATION: Adopt the attached Urgency Ordinance.

FUNDING: Drafting of the ordinance and environmental review is funded by the County Unassigned General Fund through the 2019/20 Cannabis Policy and Compliance budget. Permit issuance and compliance in accordance with the adopted ordinance will be funded by permit fees.

ATTACHMENT:

1. Draft Urgency Ordinance
2. CEQA Notice of Exemption

BACKGROUND: On May 14, 2019 the Board of Supervisors adopted Ordinance 2467 that established land use regulations and permitting requirements for commercial cannabis cultivation. The Ordinance was adopted to allow cultivation of commercial cannabis for medical purposes in the unincorporated area of Nevada County. The Ordinance was adopted to be consistent with State Laws including Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") and emergency regulations that became effective January 1, 2018, pertaining to Commercial Cannabis Activities in the State of California which allowed for those seeking to enter the business to obtain temporary licenses for commercial cannabis activities.

The County of Nevada's current ordinance does not allow for any offsite processing of cannabis product. The current ordinance allows for the processing of cannabis product grown onsite, however, cannabis product cannot be transported to another cultivation location to be processed. Therefore, some cultivators may not be able to process their cannabis product due to lack of employees, space or equipment necessary for these activities. This would thereby preclude Nevada County cannabis cultivators from properly processing cultivated cannabis product and engaging in the commercial cannabis market during the upcoming harvest season. If left unregulated for another harvest season, it is likely that Nevada County will continue to encounter increasing numbers of cultivation and processing sites which are located and operated in ways that create the public nuisances the ordinance seeks to avoid.

In recent months, the cannabis community has expressed concern about the lack of offsite processing facilities within the County and the need for a location that a cultivator can bring their harvested product to for proper processing. The Board has expressed its concern and support for a regulated cannabis industry and the urgent need to immediately create a path toward compliance for those who wish to enter the regulated market. Due to the need for offsite processing of cannabis product at a properly permitted and equipped facility it is necessary that the County act immediately to include for the allowance of offsite processing in the current ordinance. Therefore, due to the impending start of the current harvest season there is an immediate need to provide certainty and guidance to those who choose to cultivate and process cannabis legally in Nevada County and to address the immediate threat to the health, safety and welfare of Nevada County residents if the proper processing of cannabis remains limited.

PROPOSED ORDINANCE AMENDMENTS:

The proposed amendments to the ordinance would include adding a definition of “processing” to the ordinance and criteria for “offsite processing”. The offsite processing would be limited to five permits county-wide only and activities would be limited to daytime hours and 6 vehicle trips per day in order to be compatible with surrounding residential and agricultural land uses. Furthermore, all offsite processing would be required to meet all of the current ordinance standards. The proposed additional language is as follows:

“Processing - any method used to prepare cannabis for commercial sale, including but not limited to: drying, cleaning, curing, grading, trimming, and packaging of cannabis and nonmanufactured cannabis products.”

“Offsite Processing: The processing of permitted and licensed cannabis product grown offsite may occur at a local and State licensed and permitted cultivation premises subject to all limitations and requirements contained within the provisions of this Section, including but not limited to: noise standards, odor controls, sanitation requirements, accessory structure requirements, support area size limitations, setbacks, and parcel sizes, etc.

- a. *Offsite processing facilities shall meet commercial occupancy requirements and be specifically described in commercial cannabis cultivation permit applications including the number of employees and the areas for offsite processing shall be delineated on the site plan.*
- b. *Traffic associated with offsite processing activities shall be limited to 8 a.m. to 5 p.m. Monday through Saturday. No more than 6 vehicle trips (round trips) shall be allowed for offsite processing activities per day.*
- c. *A maximum of five permits for offsite processing shall be allowed within the unincorporated area.*
- d. *Offsite processing shall only be permitted and in effect until December 31, 2020.”*

CEQA: The proposed project only adds a definition of “processing” cannabis product to an existing ordinance and allows for limited offsite processing for cannabis product grown offsite. The amendments would allow five permits only and the offsite product processing location would be required to meet all of the existing ordinance requirements including cultivation sizes, parcel sizes, support areas sizes, zoning, setbacks, odor control, and noise restrictions. The proposed amendments would include a limitation in the hours of operation for offsite processing and a limitation of 6 vehicle trips per day. There would be no new disturbance created as a result of the proposed amendments since all cannabis operations including offsite processing would be required to be located within the defined size restrictions in the existing ordinance and would be required to meet existing setback requirements. Furthermore, a maximum of five locations throughout the unincorporated area of the County would be allowed to conduct offsite processing activities, therefore significantly limiting any potential cumulative impacts.

As the County has done with prior iterations of these cannabis regulations, the proposed urgency ordinance includes findings to support use of CEQA exemptions for this ordinance. The Board would specifically find that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c) (2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b) (3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15301 (permitting, leasing and minor alterations to existing facilities), 15303 (construction and location of new, small structures), 15304 (minor alterations to land), 15307 (actions taken as authorized by local ordinance to assure protection of natural resources), 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement). A copy of the Notice of Exemption which more fully sets forth the substantial evidence to support these exemptions is included with this agenda packet.

URGENCY FINDINGS: The proposed ordinance is an urgency measure which, if adopted by a 4/5ths vote, will become effective immediately. Government Code section 25123(d) authorizes the Board to adopt an urgency ordinance “for the immediate

preservation of the public peace, health, or safety.” If processing at a centralized location is not allowed for the harvest season, it is possible that Nevada County will encounter increasing numbers of processing sites which are located and operated in ways that create the public nuisances this ordinance seeks to avoid. In recent weeks, the growing community has expressed concern about the lack of processing facilities for the upcoming harvest season. The Board has expressed its concern and support for a regulated cannabis industry and the urgent need to immediately create a path toward compliance for those who wish to enter the regulated market. In short, due to the impending start of the current cannabis harvest season there is an immediate need to provide processing options to those who choose to cultivate cannabis legally in Nevada County and to address the immediate threat to the health, safety and welfare of Nevada County residents if the processing of cannabis product at a location other than where it is grown is not allowed by the ordinance.

SUMMARY: The proposed ordinance amendments would allow limited offsite processing of cannabis product with the County. This has been identified as an urgent need of the cannabis community for this harvest season so that all legal cultivators can process their product efficiently and enter the legal market. As proposed, the amendments would be minor and the impacts of offsite processing would be minimal and likely unnoticed on permitted cannabis cultivation sites throughout the County.

Approved by: Brian Foss, Planning Director