

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 2017

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. 2017 - _____

RESOLUTION DIRECTING STAFF REGARDING THE TEMPORARY ABEYANCE OF
ENFORCEMENT ACTIONS AGAINST APPROVED REGISTRANTS UNDER ORDINANCE NO. 3334
ON SPECIFIED CONDITIONS

The following resolution is hereby offered and read:

WHEREAS, on September 20, 2016, the San Luis Obispo County Board of Supervisors (“Board of Supervisors”) adopted an interim zoning/urgency ordinance, Ordinance No. 3334 (“Urgency Ordinance”), pursuant to Government Code Sections 25123, 25131 and 65858. The Urgency Ordinance temporarily prohibited the cultivation of cannabis in the unincorporated portions of San Luis Obispo County, except for certain exceptions, including existing nonconforming cultivation; and

WHEREAS, under the Urgency Ordinance, among other criteria, any person wanting to cultivate cannabis within the unincorporated areas of the County was required to register with the County Department of Planning and Building and demonstrate that the registrant had begun cultivation at the location address on or before August 23, 2016. One hundred and Forty-One registrations for cooperative or collective medicinal cannabis cultivations were ultimately approved by the County Department of Planning and Building Department under the Urgency Ordinance; and

WHEREAS, on _____, the Board of Supervisors adopted a permanent cannabis ordinance, Ordinance No. _____ (“Permanent Ordinance”). The Permanent Ordinance sets forth comprehensive regulations upon the cultivation of cannabis in the unincorporated area of San Luis Obispo, including land use permit requirements upon non-exempt cannabis cultivations; and

WHEREAS, applications for land use permits under the Permanent Ordinance will require discretionary review by the appropriate departments. It is anticipated that land use permits for cannabis cultivations will not start to be issued until sometime after the effective date of the Permanent Ordinance.

WHEREAS, Health and Safety Code section 11362.775 provides qualifying collectives or cooperatives with limited immunity from State criminal prosecution under certain identified statutes related to the cultivation of cannabis for medicinal purposes until one year after the Bureau of Cannabis Control posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business

and Professions Code).

WHEREAS, the Board of Supervisors desires to allow approved cooperative or collective registrants under the Urgency Ordinance to be able to continue their non-commercial medicinal cultivations operations provided they diligently apply for and pursue required land use permits under the Permanent Ordinance and whose operations appear willing and able to comply with the requirements for cultivation under the Permanent Ordinance.

WHEREAS, any interim operation provided for under this resolution is exempt from CEQA because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment (CEQA Guidelines §15061(b)(3)) and because it consists of the operation of existing facilities involving negligible or no expansion of use and regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of existing non-conforming cannabis cultivation (Class 1, Class 7 and Class 8, CEQA Guidelines §§15301, 15307, 15308).

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California as follows:

1. That the recitals set forth hereinabove are true, correct, valid and incorporated herein; and
2. That staff is hereby directed not to initiate enforcement actions against approved cooperative or collective registrants under the Urgency Ordinance under the following conditions:
 - a. Prior to May 1, 2018 the following shall be met:
 - i. The applicant has applied and received a written determination from the Planning and Building Department (“Department”) that the material submitted with the application is adequate for the Department to perform an initial application review.
 - ii. The applicant has provided any additional information as requested by the Department within 14 days of the request, unless a greater amount of time is granted by the Director for studies or documents that require specialized training to prepare.
 - iii. The application has not been deemed withdrawn by the Department.
 - b. Prior to June 30, 2018, the application for land use permit shall have been accepted for processing by the Department.
 - c. At any time between January 1, 2018 and July 1, 2018 where an application for land use permit is approved, the applicant shall conduct their cannabis cultivation operation in compliance with the approved use permit and any conditions attached thereto, or, should the request for a land use permit be denied, the applicant shall terminate all cannabis

cultivation activities upon final determination by the County. Until such approval or denial of the land use permit, the applicant shall conduct their medicinal cannabis cultivation operation in compliance with the requirements of Ordinance No. 3334 and the cannabis cultivation operation shall not expand beyond that which existed on or before August 23, 2016.

- d. On July 1, 2018, all cannabis cultivation operations that are not otherwise exempt under the Permanent Ordinance, shall require land use permit approval to continue operation.
3. This resolution does not apply to any approved cooperative or collective cultivation registrants under the Urgency Ordinance who do not meet applicable zoning, location and minimum site area standards under the Permanent Ordinance. Staff may initiate and pursue enforcement action against such operations immediately.
4. Nothing herein obligates the issuance of a land use permit for cannabis cultivation nor does this resolution create a vested right to continue a cannabis cultivation operation or to the granting of a land use permit for cannabis cultivation, medicinal or otherwise.
5. It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for commercial purposes without first obtaining all necessary state and local approvals. . This resolution does not constitute local approval for any operation to seek or obtain a (temporary or non-temporary) state license for commercial (medicinal or adult-use) cannabis cultivation.

BE IT FURTHER RESOLVED AND ORDERED that this resolution shall be effective on the same date as Ordinances _____, said date being _____, 2017.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to-wit:

AYES: Supervisors

NOES:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby adopted:

Chairperson of the Board of Supervisors
of the County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors,
County of San Luis Obispo,
State of California

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Assistant County Counsel

Dated: _____

UNOFFICIAL