



Department of Development Services

Tim Snellings, Director
Pete Calarco, Assistant

7 County Center Drive
Oroville, California 95965

T: 530.538.7601
F: 530.538.7785

buttecounty.net/dds

MEMORANDUM

TO: Board of Supervisors

FROM: Tim Snellings, Director – Department of Development Services

RE: 2015 Medical Marijuana Cultivation Regulation Code Enforcement Program Annual Report

DATE: January 12, 2016

Recommendation

Accept the 2015 Medical Marijuana Cultivation Regulation Code Enforcement Program Annual Report for Information

Background

On February 11, 2014, the Board of Supervisors approved an ordinance amending Butte County Code Chapter 34A, Restrictions on Cultivation of Medical Marijuana, to change the regulations for growing medical marijuana. This change, from a plant count to an “area allowed,” greatly reduced the amount of medical marijuana that could be legally grown in the unincorporated area of Butte County. Another key change in the ordinance allowed for anonymous complaints. The ordinance was challenged via a referendum, which placed it on the November 2014 ballot. The voters affirmed the Board’s ordinance with over 60% voting in support, thus providing the mandate to implement the more restrictive County ordinance related to growing medical marijuana.

The Department of Development Services coordinated with several County Departments including the Butte County Sheriff’s Office (BCSO), the District Attorney’s Office, and County Counsel to develop an enforcement program to combat medical marijuana cultivation, which was grown in violation of the new ordinance. The Board approved a budget adjustment for Development Services on December 09, 2014, to provide funds for enforcement of the new restrictions on medical marijuana cultivation during the 2015 growing season. Development Services began implementing the enforcement program on January 8, 2015.

Public Outreach

The goal of the enforcement program was to garner compliance from those growing medical marijuana, so Development Services conducted many public outreach activities in the beginning of 2015 to help people learn the facts about the new ordinance. The department established a campaign called, Stay in the Box, in reference to the change from number of plants allowed to

area allowed for growing. The new growing restrictions were listed on the department's website and in brochures. Code Enforcement provided brochures to local businesses selling cultivation supplies and community groups interested in cultivation. The Stay in the Box message was also included in public service announcements and on billboards.

Code Enforcement provided over 21 public outreach events to communities throughout Butte County to educate community members about the new restrictions on cultivation of medical marijuana. The meetings typically included a presentation along with distribution of handouts; some handouts were translated to Spanish. Public outreach events were held when requested by community members.

Code Enforcement staff also went door-to-door in the Thermalito neighborhood, which is an area where a large number of complaints were received in 2014, to distribute brochures and educate residents about the new restrictions on cultivation. Code Enforcement Officers visited 65 residences and made contact with 43 people to provide information about the new restrictions for medical marijuana cultivation prior to the growing season.

Program Implementation

The enforcement program was implemented by Code Enforcement using a complaint-driven response model. In January 2015, Development Services hired six (6) Extra Help Code Enforcement Officers to respond to complaints of violations to the ordinance. Additionally, two (2) Extra Help administrative staff were hired to assist the officers. Each Code Enforcement Officer underwent a three week training course on the ordinance and the enforcement procedures.

Complaints: Code Enforcement received 1,489 complaints about medical marijuana cultivation and 994 of the cases, 67%, were closed because they were either found to be compliant with the ordinance or became compliant after an investigation. Growers predominantly became compliant by removing plants growing outside the area allowable by the ordinance.

As a note: Other types of code violations were identified by Code Enforcement Officers while investigating medical marijuana complaints, which resulted in an increase in code cases generally for the department. Non-marijuana code cases increased by 60% between 2014 and 2015.

Citations: Code Enforcement Officers issued over 894 citations for growers in violation of the ordinance. Citations issued to growers totaled \$2,934,400 of which \$171,075 was collected. The outstanding citations are in various stages of collection. Most of the citations may go uncollected because growers have left the area or are unresponsive to demands for payment.

Nuisance Abatement Hearings: Code Enforcement compiled 105 cases for County Counsel to prepare for hearing and 25 achieved compliance with the ordinance prior to the hearing date. Nineteen cases were heard and the County prevailed in 18 of those cases. The remaining 61 cases were not taken to a Nuisance Abatement Hearing because staff anticipated a judgement would not be made in time to abate the nuisance.

County Department Coordination: Enforcement of the ordinance required participation and coordination from many County Departments including Administration, County Counsel, the District Attorney's Office, Public Health, Public Works, and BCSO. Each department provided support to Code Enforcement during implementation of the enforcement program. Butte County Sheriff's Deputies and District Attorney Investigators provided armed protection for Code Enforcement Officers in the field. Code Enforcement also utilized the BCSO helicopter to perform

29 medical marijuana flight inspections, which assisted with investigation of hundreds of complaints.

Enforcement Sweeps: Code Enforcement conducted two enforcement sweeps in two areas which received a large number of complaints in the 2014 growing season: Thermalito and Palermo-Honcut-Bangor. In Thermalito, Code Enforcement Officers visited 38 residences and issued 28 citations for violations to the County’s ordinance. Ten residences were brought into compliance immediately by removing or cutting their plants. In the Palermo-Honcut-Bangor area, Code Enforcement Officers visited 53 residences and issued 19 citations for violations to the ordinance. Five residences were brought into compliance immediately by removing or cutting their plants.

Enforcement Program Budget

The Board of Supervisors approved a budget adjustment in the amount of \$446,500 on December 9, 2015 to fund implementation of the enforcement program for FY 2014-15. Code Enforcement expended \$231,328 in FY 2014-15, 52% of the budget appropriation, to setup the enforcement program and begin enforcing the restrictions on medical marijuana cultivation. A budget appropriation of \$211,846 for the enforcement program was approved in the Development Services FY 2015-16 budget. The department has expended \$217,885 on the enforcement program so far this fiscal year. No revenue was budgeted in either fiscal year for the program. The program realized \$171,075 in unanticipated revenue from citations. In total for the 2015 growing season, the Board approved budget appropriations of \$658,346 and the department expended \$449,213, which is 68% of the budget for the program. The department collected \$171,075 in unanticipated revenue, which makes the net program expenses \$278,138.

	FY 2014-15 Budget	FY 2014-15 Actual	FY 2015-16 Budget*	FY 2015-16 Actual*
Revenues	\$0	\$39,180	\$0	\$131,895
Expenditures	\$446,500	\$231,328	\$211,846	\$217,885

*Actual revenue and expenditures are to-date; the budget appropriation is through June 30, 2016.

Additional Actions and Duties

While conducting parcel inspections, Code Enforcement worked with BCSO, Fish and Wildlife, California Highway Patrol, the District Attorney’s Office, Environmental Health, Animal Control and PG&E. In the performance of site inspections of medical marijuana complaints, staff encountered additional items that should be noted:

Miscellaneous Activities Associated with Site Inspections	
11	Total number of arrests in relation to an MM parcel visit by BCSO/District Attorney's Office.
3	Total number of butane honey oil labs discovered while conducting parcel inspections.
34,456	Total number of MM plants destroyed due to MM Code Enforcement inspection and Compliance.
11	Total number of warrant arrests due to an MM inspection.

2015 Key Successes

The following accomplishments were achieved during the first year implementing the ordinance restricting cultivation of medical marijuana in Butte County.

- The enforcement efforts by Code Enforcement staff led to the destruction of 34,556 marijuana plants.
- There was excellent inter-departmental coordination to prioritize resources and implement the program. This also included the provision of security for Code Enforcement field staff by Sheriff's Deputies and District Attorney Investigators.
- There was a significant increase in workload enforcing the new ordinance as Code Enforcement Officers received 1,489 complaint code cases compared with 189 cases in 2014.
- County staff held 21 community meetings to educate the public on program requirements.
- The County received \$171,075 of unanticipated revenue from citations which was used to restore some of the funds from the General Fund that were allocated to the program.
- The BCSO provided their helicopter for air inspections that provided access to areas that would have otherwise been difficult to access, which helped to facilitate an efficient inspection warrant process.

2015 Key Hurdles

The following hurdles were identified during enforcement of the County's new ordinance restricting cultivation of medical marijuana.

- The abatement process was lengthened due to the requirement for separate citation and Nuisance Abatement notices.
- The provisions in the ordinance that allow for the imposition of administrative civil penalties (Section 34A-16(a) and (b)), were subject to different interpretations by different hearing officers, which lead to inconsistent results; some hearing officers refused to award any penalties, some hearing officers only awarded penalties at the rate of \$500 per day, and some hearing officers awarded the full amount of penalties sought by the County.
- Code Enforcement Officers are not armed, but the nature of enforcing medical marijuana complaints requires the officers be provided security by armed personnel during site inspections. Identifying adequate armed personnel to accompany officers to site inspections presented a challenge for Code Enforcement.
- There was confusion about the language in the ordinance for the size of grow allowed on parcels less than half an acre.
- Hiring Code Enforcement Officers and administrative staff in an Extra help capacity made it difficult to achieve consistency within the program.