



# HUMBOLDT COUNTY GROWERS ALLIANCE

November 6, 2023

Dear Supervisors and Staff,

On behalf of the Humboldt County Growers Alliance, we appreciate the opportunity to comment on Item G3 on tomorrow's agenda.

As expressed in our letter to the Board on October 2, HCGA supports giving voters an alternative to Measure A on the March 5, 2024, ballot through a competing ballot measure that specifically caps new large-scale cultivation (Option E).

If such a measure includes an overall permit cap, we support setting that cap at a level 10% greater than the number of existing permits and applications. We also strongly encourage the Board to preserve the ability to pursue future amendments to the measure by ordinance.

Measure A was misleadingly circulated to the public with a title that advertised "Large-Scale Commercial Cannabis Cultivation Restrictions," and this misleading title will appear in the ballot guide should Measure A come to an election in March. An alternative ballot measure would give voters the option to address the issue of new, large-scale cultivation without affecting the ability for existing cultivators to operate a viable legal business, as described in the Planning Department's analysis of Measure A.

While we conceptually support an alternative ballot measure along these lines, we also urge the Board to exercise considerable caution in constructing the details of any such measure. Below, we provide specific suggestions for ensuring that an alternative ballot measure will promote a functional cannabis program and prevent unintended outcomes.

### **Set Permit and Acreage Caps at a Level Slightly Higher than the Number of Existing Permits and Applications**

The staff report poses a question with respect to a permit cap: *"The question is whether to draw the line at the level of the existing approved permits, the approved permits and applications or make it slightly higher or slightly lower."*

If the Board believes it's important to cap the number, and not just the size, of cultivation permits, we encourage a global and watershed permit and total acreage cap at an amount 10% greater than the combination of existing and applied-for permits. This would still result in a dramatically more restrictive permit cap than the status quo - from the current permit cap of 3,500, to a new cap of 1,736 - while keeping the door open for new small cultivators to enter the legal market.



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The proposed text of the measure included with the staff report would set permit and acreage caps, both globally and by watershed, well below the current number of existing and applied-for permits in each watershed, thereby risking an effective cap on both permits and acreage throughout the county at current levels.

As expressed in our October 2 letter, we do not support a blanket moratorium on new cultivation that would preclude new, small-scale cultivators from entering the legal cannabis market. We also do not support a blanket prohibition on expansion for farms under one acre in size.

Small farmers who are seeking to comply in good faith should have the ability to become legal operators or engage in limited expansion, and we do not believe there is significant public support for a blanket restriction on these activities. Shutting the door on new small cultivators would also contradict the Board's [action in 2020](#) to provide an expedited, low barrier to entry permitting pathway for small cultivators under 2,000 square feet.

We understand from the staff report that the rationale for a more restrictive cap is due to 1) an expectation that some existing interim permits will not achieve fully permitted status, and 2) an expectation of attrition among existing full permits. However, we strongly disagree with setting policy on the basis of estimated attrition, and are concerned this is likely to result in an effective prohibition on new permits for small-scale cultivation and incremental expansion of existing small farms.

### **Any Ballot Measure Should Preserve Board Flexibility on Cannabis Policy**

We strongly encourage the Board to ensure that any measure retains the ability for the Board of Supervisors to make future amendments to the measure without a vote of the people. The proposed measure text provided with the staff report only allows the Board to amend certain sections of the measure related to the number of overall permits, while appearing to permanently prohibit the Board from amending watershed acreage caps or the maximum size of cultivation per parcel.

We're concerned that permanently prohibiting the Board from amending aspects of the measure is likely to create future negative consequences, for several reasons.

- Continual changes to market, environmental, and legal conditions are likely over the coming years and decades, particularly with the potential for reforms to federal cannabis policy. The Board cannot fully predict these changes, and should reserve flexibility to adapt to them.
- Without a pathway to pursue specific policy changes through the normal legislative process, members of the public who are seeking changes to cannabis policy will be incentivized to pursue ballot initiatives as their only option. This risks creating a cycle



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where cannabis policy becomes subject to successive ballot initiatives, not due to inherent public interest in prioritizing cannabis policy discussions, but due to the lack of an alternative path to affect policy change.

- Finally, establishing Board flexibility mitigates the inherent risk of drafting errors, which may risk non-functional policy or litigation if not addressed.

We understand that the proponents of Measure A have at times argued that inflexibility is a positive aspect of the measure. We would simply say that we disagree, and that we believe it's reasonable for voters to have a choice on the level of flexibility they would like to afford to a future Board.

If the Board feels it's important to accommodate the proponents' concerns by making a measure more difficult to alter, we encourage consideration of the following guardrails rather than a total restriction on Board amendments:

- Requiring an analysis to demonstrate that a proposed amendment will not have a detrimental effect on watersheds. This mechanism is proposed in the current draft, but is currently only applied to certain policies.
- Prohibiting the Board from making amendments for a limited period of time (e.g. five years).
- Requiring a 4/5ths supermajority vote of the Board to make amendments.

### **Remove Cap Exemption for MG-Zoned Properties**

As written, the proposed text of the measure appears to retain an existing exemption for MG-zoned properties from the permit cap. To the extent that other zoning districts are subject to new caps, we do not support providing MG-zoned properties with an exemption from these caps.

Thank you for your consideration,

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