



Sonoma County Planning Commission **STAFF REPORT**

Sonoma County Permit and Resource Management Department

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FILE: ORD15-0005
DATE: October 13, 2016
TIME: 1:05 p.m.
STAFF: Amy Lyle, Planner III

Board of Supervisors Hearing will be held at a later date and will be noticed at that time.

SUMMARY

Applicant: County of Sonoma

Location: The Medical Cannabis Land Use Ordinance will apply to agricultural, industrial, commercial, resource and residential zones within the unincorporated area of Sonoma County.

Subject: Medical Cannabis Land Use Ordinance

PROPOSAL: The County of Sonoma proposes to amend the Zoning Code to regulate cannabis uses consistent with the Medical Cannabis Regulation and Safety Act, including cultivation, nurseries, dispensaries, laboratories, manufacturing, distribution, and transportation. The proposed Medical Cannabis Land Use Ordinance would allow both personal and commercial cultivation of medical cannabis with certain limitations.

Environmental Determination: Based on the attached Initial Study, the proposed Medical Cannabis Land Use Ordinance, with associated standards, will not have a substantial adverse impact on the environment and a Negative Declaration is proposed.

General Plan: All, except Coastal Zone

RECOMMENDATION: Staff recommends that the Planning Commission hear the staff presentation and hold a public hearing. At the conclusion of the public input portion continue deliberations to Oct 27, 2016 for further discussion and straw votes on policy options, direct staff to return with any proposed Ordinance changes on November 3, 2016 for the Planning Commission's recommendation to the Board of Supervisors in December, 2016.

INTRODUCTION AND BACKGROUND

INTRODUCTION

On February 2, 2016, the Board adopted a Resolution of Intention directing staff to explore and develop comprehensive program for regulating the medical cannabis industry including cultivation, manufacturing, distribution, dispensaries, nurseries, testing and other related regulations. The primary goal of this policy initiative is to establish a comprehensive set of regulations consistent with new State laws that preserve our environmental resources, protect the health and safety of our communities, and ensure the industry contributes positively to the economic vitality of our County. This report provides an overview of the process and a summary of the proposed Medical Cannabis Land Use Ordinance (the Ordinance) that will permit a full range of medical cannabis land uses from “seed to sale”.

Goals of the Medical Cannabis Land Use Ordinance

The primary goals of the proposed Medical Cannabis Land Use Ordinance are:

- Provide protection of health, safety, and environmental resources while balancing the need to provide safe access to medicine for qualified patients.
- Provide regulatory path to daylight underground industry with emphasis on providing greater opportunity for small growers and agricultural diversification.
- Provide opportunity for smaller scale growers on agricultural and industrial lands.

BACKGROUND

The Medical Cannabis Regulation and Safety Act (“MCRSA”), consisting of AB 243 (Wood), AB 266 (Bonta) and SB 643 (McGuire), was signed into law by Governor Brown on October 9, 2015. This legislation established a comprehensive framework for the regulation of commercial cannabis, covering a broad array of topics including cultivation, nurseries, delivery, transportation, manufacturing, environmental standards and enforcement, general enforcement, advertising and labeling, employer/workplace restrictions, appellation/organic standards, fees and taxation, safety standards, criminal penalties, and tracking and tracing systems. MCRSA also establishes a dual licensing scheme under which anyone engaged in commercial cannabis activity must first obtain a local permit, and then a state license. The state law defers to local land use authority and local jurisdictions may ban cannabis uses altogether or further limit the allowances under state law.

While MCRSA took effect on January 1, 2016, the estimated start date for the new State licensing program is January 1, 2018. MCRSA requires local permits and commercial licenses for all commercial cannabis activities (except qualified patients and caregivers who cultivate up to a maximum of 100 square feet for each qualified patient, up to a maximum of 500 square feet for caregivers, on one parcel).

On November 8, 2016 California voters will consider whether to legalize nonmedical use of cannabis via Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA would allow local jurisdictions to decide whether to allow nonmedical cannabis uses, except for personal use and cultivation, which must be permitted indoors with reasonable regulations. The proposed Ordinance only pertains to medical cannabis, consistent with current state law under MCRSA. If AUMA passes, staff will seek direction from the Board on whether additional land use changes should be undertaken to address nonmedical cannabis.

With all of these considerations in mind, the County of Sonoma created the Marijuana Technical Advisory Committee (MTAC), which is comprised of representatives of the majority of county department and agency. The MTAC includes several working groups, including Agriculture and the Environment, Enforcement and Land Use, Taxation and Revenue, Economic Development and Jobs, and Health and

Human Services. Together these groups participated in public workshops held in each of the supervisorial districts and held numerous internal meetings to explore the many facets of the cannabis industry and its impacts on our community to develop staff recommendations informing a draft ordinance that will regulate the industry in Sonoma County.

Federal Oversight

State and federal law governing medical cannabis are in conflict. Cannabis remains a controlled substance under federal law, specifically classified as a “Schedule I” drug, which is characterized by the Controlled Substances Act, 21 USC section 812(c), as having a high potential for abuse and lacking any accepted medical use. This conflict creates a dilemma for local governments and their law enforcement agencies.

Due to its federal regulatory status, medical cannabis is not considered a food source or drug and is unregulated by the US Food and Drug Administration (FDA) and the California Food and Agricultural Code. This is problematic for cannabis edibles and other manufactured products being produced in non-food grade facilities that are not licensed through the local Health Department. The State will eventually regulate medical cannabis edibles and packaging. The County Department of Health Services is proposing to establish local permit requirements and standards for cannabis manufacturing and dispensaries to address the public health and safety issues related to cannabis manufacturing.

Because cannabis cultivation and related uses remain illegal under federal law, greater security concerns and potential for criminal penalties remain. Cannabis’ regulatory status prevents operators from financing their enterprises in ways other businesses are permitted, forcing cannabis operators to function on a cash basis. The potential for cash to be stored at cannabis facilities presents additional security concerns that will be addressed in the permitting process.

COMMUNITY ENGAGEMENT AND FEEDBACK

The Board of Supervisors Ad Hoc Committee on Cannabis (Ad Hoc Committee) and staff have conducted extensive community outreach including the establishment of a website, email listserve, project-dedicated email, online survey, town hall meetings in each supervisorial district, and meetings with various stakeholder interest groups. An estimated 600 people attended the town hall meetings and over 1,100 people responded to the online survey.

Through these efforts, the Ad Hoc Committee and staff have received feedback that many Sonoma County residents support a regulatory framework that legalizes commercial medical cannabis, supports safe and affordable access to medicine, and provides opportunities for existing local cannabis operations to come into compliance. Many residents also expressed concern about crime, public safety, odor and nuisance, and other associated environmental impacts of the cannabis industry. Many concerns were particularly heightened for residential neighborhoods and relate most often to cultivation.

Prior to the Planning Commission hearing, the Ad Hoc Committee will host a public workshop on October 6th at from 5:30 pm to 7:30 pm at the Glaser Center in Santa Rosa to provide an overview of the proposed Ordinance and the process for public review, adoption and implementation. An additional public workshop will be held on December 2, 2016 prior to the Board of Supervisors’ hearings.

PROJECT SCHEDULE

The proposed Ordinance is the first step in the process intended to open the door and provide a pathway to legalization of the industry, primarily for existing local businesses engaged in the cannabis industry. It is anticipated that Phase II will be initiated by the Board to re-evaluate the permitting structure and possibly expand the opportunities in the near future when the state regulations are released. A major driver of the policy options being developed in this Phase I, is environmental mitigation. Under the California Environmental Quality Act (CEQA), the County must ensure mitigation of potential

environmental impacts through its regulatory requirements and permit standards. Given the newness of the industry, the initial recommendations will have more restrictive standards, and further opportunities will be provided once additional data, mitigation measures and best practices, are developed. For the Phase I, the schedule includes a presentation of the proposed Ordinance and a public hearing on October 13th, then continued discussion on October 27th to review the policy options and begin deliberations. The Commission will be asked to make a final recommendation on November 3rd so the proposed ordinance and the Planning Commission's recommendation can be heard by the Board of Supervisors in December and adopted before the end of the year.

Companion efforts are being developed including the development of permit requirements and regulations for dispensaries and manufacturing of edibles by the Department of Health Services. The Agricultural Commissioner has also developed Best Management Practices that parallel the North Coast Regional Water Quality Control Board's regulations for cultivators. The County Administrator's Office is assessing tax revenue options to ensure adequate resources are available to implement the regulations.

KEY ISSUES

Sonoma County is situated in a unique position due to proximity to a primary cannabis growing region along the north coast, major population centers to the south and east, an ideal climate for cultivation, and an abundance of informed local business owners already familiar with the state licensing scheme. The cannabis industry is already a contributor to the economy and Sonoma County has been identified as a significant exporter of cannabis. As the cannabis industry increasingly integrates with the traditional economy, Sonoma County has an opportunity to significantly increase beneficial economic impact with through the proposed Ordinance.

The land use implications of allowing legalization and expansion of commercial medical cannabis land uses are analyzed within this staff report and discussion papers. There is a tendency for land uses to convert to the highest and best use over time, which means commercial cannabis uses have great potential to change the land use, rural aesthetic, economic, and environmental fabric of Sonoma County. The addition of cannabis as a new land use also increases pressure on an already tight housing and commercial real estate market. Major considerations include the environmental effects of the unregulated industry on our environmental resources, sensitive habitats, public safety and security issues (of particular concern in residential areas), water availability, wastewater disposal, access and fire hazards in remote areas, the public health and safety impacts (especially as they relate to the normalization of cannabis use and access by children), and the long term potential for increases in land values and conversion of land uses that may impact other sectors of the economy.

PROPOSED ORDINANCE

The proposed Ordinance would amend the Sonoma County Zoning Code to regulate cannabis land uses consistent with MCRSA, including cultivation, nurseries, dispensaries, laboratories, manufacturing, distribution, and transportation. The staff recommendation is based on feedback from public outreach efforts, direction from the Ad Hoc Committee, the MTAC, numerous hours of research, and cannabis operation site visits. Permit thresholds are defined to match the state licensing types for the size of the cultivation area. A summary of the permit requirements and allowed uses for each zoning district is provided in the attached Land Use Table. The proposed Ordinance is provided as Exhibits A-E. The Initial Study of potential environmental impacts and proposed Negative Declaration are also attached. A series of Discussion Papers will be provided to the Commission on October 6th which will provide an array of policy options for the proposed Ordinance.

The proposed Ordinance includes optional "inclusion" and "exclusion" zoning districts which would allow flexibility for the Commission and Board of Supervisors to either restrict or allow certain cannabis uses in distinct communities.

The proposed Ordinance also includes requirements of operators that they have been a resident of Sonoma County for at least the last two years, and a requirement that the operator must own at least 51% of the business.

A major driver of the policy options being developed in the first phase of this policy initiative is environmental mitigation. Under CEQA, the County must ensure mitigation of potential environmental impacts through its regulatory requirements and permit standards. Given the newness of the industry, the initial recommendations will have more restrictive standards at first, with further opportunities afforded to industry operators once data is collected and additional mitigation measures and best practices are developed based on that data.

Small scale commercial cultivation would be allowed with a ministerial zoning permit, subject to standards, in agricultural and industrial zones. For purposes of this Ordinance “small scale” is considered the cottage, specialty and small license types up to 10,000 square feet for outdoor, and the cottage license type up to 2,500 square feet mixed light/greenhouses, and 500 square feet for indoor cultivation. All other cannabis support uses and larger cultivation operations would be subject to a use permit and further CEQA analysis. All permits would include an annual renewal requirement that provides an opportunity for site inspections for condition compliance and regulatory flexibility as this newly regulated industry grows.

The proposed Ordinance defines cannabis as an agricultural product separately from other agricultural crops or commodities due its unique nature as a controlled substance with increased security measures and the use of artificial lights and indoor growing environments. Cannabis cultivation structures, unlike traditional agricultural structures, would be subject to design review. As such, all land use regulations that apply to cannabis uses are grouped together separately from other agricultural uses in the special use regulations of the zoning code. Cannabis would not be protected under the “Right to Farm” Ordinance, which is intended to protect agricultural operations from being considered a nuisance by requiring a public disclosure to surrounding residential uses of potential incompatibility impacts such as noise, odor, or chemical use.

Cannabis operations are not currently listed as an allowed use in the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (“Uniform Rules”). A proposed companion amendment to the Uniform Rules would allow cannabis cultivation on land within an Agricultural Preserve under a Land Conservation Act contract as a compatible use, subject to the limits of 15% up to 5 acres for all compatible uses on the site. Cannabis would not be considered a “qualifying agricultural use” for a reduction in property taxes under the Uniform Rules for Agricultural Preserves and would not receive tax breaks for the area under cultivation. Under the proposed amendment to the Uniform Rules, cannabis would be considered a “compatible use” for lands under a Land Conservation Act contract, which would enable farmers to supplement their farm income with cannabis cultivation and retain their tax benefits on the balance of the agricultural land.

Personal Cultivation

The proposed Ordinance includes a staff recommendation to allow personal cultivation for qualified patients and caregivers as a “use by right” in most zones (excluding urban residential zones). Residents would be allowed to cultivate 6 plants total, with the limit of 3 plants outdoors, per parcel. Cultivation could occur indoors within an accessory structure or garage subject to the Cultivation Standards (Exhibit B to the Ordinance). Staff’s recommendation seeks to find a compromise between enabling safe and affordable access for patients with the need to mitigate impacts on neighbors, which can be more pronounced with outdoor cultivation and cultivation within dense residential zones. The proposed Ordinance would supersede the Board of Supervisors’ prior Resolution 06-0846 providing cultivation guidelines as a defense to prosecution.

Commercial Cultivation

The proposed Ordinance would define cannabis cultivation as: *“any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MCRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.”*

The proposed ordinance would allow a single entity to obtain multiple cultivation permits, but the total canopy cannot exceed one acre within Sonoma County. The Ordinance would also allow a single property owner to lease to multiple small-scale operators with ministerial zoning permits provided that the minimum lot size is met and the total area does not exceed the maximum allowed.

Outdoor Cannabis Cultivation

Outdoor cultivation is similar to other types of row crops in that it is planted in the ground or in pots above ground, in open air subject to natural elements. Cannabis grown outdoors uses no artificial light but may have associated accessory structures for cannabis support uses such as growing immature plants, drying, storing, or trimming. Outdoor cultivation is generally fenced or visibly screened for safety purposes.

Outdoor cultivation would be allowed with a ministerial zoning permit in agricultural zones up to 10,000 square feet of canopy size subject to minimum lot size requirements, Cultivation Standards, and the Agricultural Commissioner’s Best Management Practices (Attachment B to the Negative Declaration). Larger outdoor cultivation operations, up to 43,560 square feet of canopy, would be allowed, subject to a use permit, in agricultural, and resource zones. “Cottage” cultivation would be allowed with a minor use permit in Rural Residential zones.

Indoor Cannabis Cultivation

Indoor cannabis cultivation occurs completely indoors within permanent non-residential structures and there is typically no outside indication of cannabis cultivation. Indoor cultivation allows for greater control of the growing cycle by using artificial light to simulate sunlight. Indoor cultivation structures require air filtration systems and increased energy use compared to outdoor cultivation. Indoor cultivation operations may use water filtration systems.

Indoor cultivation would be allowed in agricultural and industrial zones with a zoning permit up to 500 square feet. “Specialty indoor” operations from 501-5,000 square feet on agricultural land would be restricted to existing structures. Larger indoor operations would be allowed with a use permit or minor use permit within industrial zones.

Mixed Light (Greenhouse) Cannabis Cultivation

The proposed Ordinance would define mixed light cannabis cultivation as *“Cultivation using any combination of natural and supplemental artificial lighting. Includes greenhouses, hoop houses, hot houses and similar structures or light deprivation systems.”*

Mixed light cultivation operations are typically within greenhouses, membrane, shade or “hoop house” structures which can be darkened with tarps and lighted with artificial lights during part of the growing cycle. The proposed Ordinance would apply the same standards for mixed light cultivation to “hoop houses” or greenhouse structures. Mixed light operations would be allowed in agricultural areas up to 2,500 square feet with a zoning permit, and in the resource and rural residential zones with a minor use permit, subject to standards. Larger operations would be allowed with a use permit in agricultural and resource zones.

The proposed Ordinance would also provide clarity on where greenhouses (for both agriculture and cannabis uses) may be constructed within the County.

Commercial Cannabis Support Uses

Cannabis Nurseries

A Cannabis nursery would be defined in the Ordinance as *“a licensee that produces only clones, immature plants, seeds, and other agricultural products for wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.”*

The proposed Ordinance would allow wholesale cannabis nurseries, with a conditional use permit, in agricultural, resource, and industrial zones. Cannabis nurseries would be allowed only for wholesale distribution. Retail distribution of cannabis clones and starter plants would be allowed only through a cannabis dispensary. Indoor/greenhouse nurseries within the Land Intensive Agriculture (LIA) zoning district would be limited to existing legally established structures to avoid conversion of land. Indoor cannabis nurseries would also be allowed within industrial zones.

Testing/Laboratories

Cannabis laboratories are defined as “a facility for testing, analysis, and/or research.” Similar types of lab uses include medical labs, soils, materials testing labs, and forensic labs. Laboratories are a necessary component of the cannabis licensing scheme because testing is required to be done on each cannabis crop to determine constituents such as cannabinoids (CBD’s), tetrahydrocannabinol (THC), pesticide residuals, mold, and fungus. The proposed Ordinance would limit cannabis laboratories to industrial zones with a conditional use permit, which is consistent with where other laboratories are allowed.

Manufacturing

The proposed Ordinance would allow manufacturing of cannabis products, including oils, tinctures and edibles using nonvolatile solvents within industrial areas subject to a use permit and would prohibit manufacturing with volatile solvents. Prohibited volatile solvents are defined to include butane, ether, isopropanol, ethanol, acetone, pentane, Hexanes, n-Heptane, and Naphtha. Manufacturing of cannabis with carbon dioxide, among other nonvolatile solvents, would be allowed.

Dispensaries

After a period of moratorium the Board of Supervisors adopted Ordinance No. 5715 on March 20, 2007 establishing land use regulations for medical cannabis dispensaries, now codified in Sonoma County Code Section 26-88-126. The Board amended this in 2012 to establish a cap of nine dispensaries. There are currently five permitted dispensaries and two in the application process.

The proposed Ordinance would continue to allow dispensaries with the cap of nine facilities, but would modify the existing dispensary regulations to reduce the separation criteria from sensitive uses from 1,000 feet to 600 feet (consistent with MCRSA), remove the Level I/Level II distinction, allow deliveries (only from permitted brick and mortar dispensaries), and allow the sale of vaporizing devices, clones and starter plants, and edible products subject to the permit requirements and regulations of the Sonoma County Department of Health Services.

Distribution Facilities

Distribution facilities are responsible for receiving cannabis from cultivators, sending cannabis to quality assurance and batch testing, distributing to and from manufacturing operations, and then distributing cannabis to a licensed dispensary. No retail sales can take place from a distribution facility. The proposed

Ordinance would allow distribution facilities within industrial areas subject to a use permit, which is consistent with where other similar uses are allowed.

Transportation Facilities

A cannabis transportation facility transports cannabis crops from the cultivation site to a distribution location, then to testing and manufacturing, and finally to dispensaries. No retail sales of cannabis can take place from a transportation facility. The proposed Ordinance would allow transportation facilities within industrial areas subject to a use permit, which is consistent with where other similar uses are allowed.

Enforcement

Currently, enforcement of unlawful cannabis land uses is subject to an administrative abatement process, pursuant to Sonoma County Code, as well as other civil legal tools. The Ordinance would provide for increased civil penalties of \$500 for the first violation, \$750 for a second violation within twelve months of the first violation, and \$1000 for each additional violation within twelve months of the first violation. Additionally, the Ordinance provides for administrative citations for any violations of the proposed Ordinance.

Cannabis Data and Projected Permit Activity

The California Department of Food and Agriculture (CDFA) is the responsible state agency for licensing of cannabis cultivation permits beginning in 2018. In August 2016, the CDFA released a statewide survey of potential commercial cannabis license applicants. The survey indicated the number of applicants for each category of cannabis license types by county. Based on this survey data and the maximum size of allowable canopy for each license type, staff compiled a projection of potential acreage and square footage of potential demand for cannabis uses.

The survey indicates that there are 791 potential applicants interested in establishing cannabis operations in Sonoma County, including 431 cultivation permits, 54 nurseries, 93 manufacturing, 11 testing laboratories, 51 dispensaries, 65 distributors and 86 transporters. It should be noted that some applicants may hold two license types at the same location. For example, a cultivation licensee may also hold a manufacturing license at the same location.

Based on the CDFA survey results and using the maximum canopy size allowed for each cultivation license type, staff has estimated a potential demand for 8,790,040 square feet of canopy area including 168 acres (7,318,080 square feet) of outdoor cultivation and 1,475,000 square feet of indoor cultivation.

Estimates provided by the Sonoma County Growers Alliance indicate that there may be as many as 10,000 existing cultivation areas in Sonoma County, 70 percent of which are less than 2,000 square feet of canopy area. Using an average of 1,000 square feet per site, staff approximates 160 acres of existing cultivation area devoted to small or cottage size cultivation and an additional 340 acres of larger operations estimated at 5,000 square feet each. The Sonoma County Growers Alliance estimates that 60 percent of the existing cultivation sites are within the resource zone (RRD) and 40 percent are located in the rural residential zones (AR and RR).

In addition, staff also evaluated the number of parcels within Groundwater Availability zones 1, 2, and 3 that meet the minimum parcel size requirements for cannabis cultivation under the proposed Ordinance to determine the feasibility and availability of land and the potential cumulative impacts. Assuming 5% of the eligible parcels apply for both zoning and use permits, staff approximates that 479 acres of combined (indoor and outdoor) cannabis cultivation could be permitted, with over 1,100 separate applications. Assuming 5% of eligible parcels apply for the ministerial zoning permits enabled by the Ordinance, staff approximates that 170 to 200 combined total (indoor and outdoor) acres of cultivation could be permitted (within groundwater availability zones 1, 2, and 3), with an anticipated 180 permit applications.

General Plan Consistency

To amend the Zoning Code the Planning Commission is required to make findings that the new land use is consistent with the Sonoma County General Plan (GP 2020). GP 2020 was adopted in 2008 and provides a policy framework to guide decisions on land use, future growth, development, and conservation of resources within Sonoma County. Cannabis cultivation and associated operations were not specifically envisioned at the time of the 2008 adoption and is currently not permitted under the Sonoma County Zoning Code, yet Sonoma County is home to a large unregulated cannabis industry.

Cannabis cultivation and related land uses are in many ways similar to other agricultural, commercial and industrial land uses. However, cannabis remains illegal under federal law. As such, banking institutions cannot accommodate the cannabis industry and commercial cannabis transactions are conducted primarily on a cash basis. As a federally controlled substance, many landowners that receive federal grant assistance cannot participate in federally illegal activities. The high value of cannabis and cash basis of the industry attracts crime and heightens security concerns. For these reasons, the proposed Ordinance classifies cannabis separately from other land uses.

Although cannabis uses are classified separately, they can be found consistent with the General Plan's overall goals, objectives, policies and programs as similar to other general types of land use that are allowed in each land use category and related zoning district. Staff has evaluated the characteristics of each of the cannabis uses described above and recommends adding them to the appropriate zoning districts where similar uses are allowed under the General Plan Land Use Element. In addition to the Land Use Element, the proposed amendment must be found consistent with the other applicable goals, objectives and policies of the General Plan including the Agricultural Resources, Open Space and Resource and Conservation, and the Water Resources Elements. Specific use standards incorporated into the proposed Ordinance ensure consistency with the adopted General Plan policies. The various General Plan goals and policies applicable to the proposed medical cannabis uses are noted below:

Goal AR-1: *Promote a healthy and competitive agricultural industry whose products are recognized as being produced in Sonoma County.*

Policy AR-4a: *The primary use of any parcel within the three agricultural land use categories shall be agricultural production and related processing, support services, and visitor serving uses. Residential uses in these areas shall recognize that the primary use of the land may create traffic and agricultural nuisance situations, such as flies, noise, odors, and spraying of chemicals.*

Policy AR-4f: *Anticipated conflicts between a proposed new agricultural use and existing agricultural activities shall be mitigated by the newer use or application.*

Policy AR-5b: *Consider allowing the processing of non viticultural agricultural products where the processing is demonstrated to support projected or new agricultural production, provided that the processing use is proportional to the new production on site or in the local area.*

Policy AR-8h: *To the extent feasible, foster agricultural diversity by providing information to the agricultural industry through the Economic Development Board, UC Cooperative Extension, Agricultural Commissioner, Farm Bureau, and other agricultural organizations.*

Objective OSRC-7.1: *Identify and protect native vegetation and wildlife, particularly occurrences of special status species, wetlands, sensitive natural communities, woodlands, and areas of essential habitat connectivity.*

Objective OSRC-7.2: *Designate important Biotic Habitat Areas and update designations periodically using credible data sources.*

Objective OSRC-7.3: *Establish development guidelines to protect designated Biotic Habitat Areas and assure that the quality of these natural resources is maintained.*

Objective OSRC-7.4: *Where appropriate, support regulatory efforts by other agencies to protect biotic habitat.*

Objective OSRC-7.5: *Maintain connectivity between natural habitat areas.*

Objective OSRC-7.6: *Establish standards and programs to protect native trees and plant communities*

Objective OSRC-8.2: *Provide standards for land use and development in streamside conservation areas that protect riparian vegetation, water resources and habitat values while considering the needs of residents, agriculture, businesses and other land users.*

Objective OSRC-14.4: *Reduce greenhouse gas emissions by 25 percent below 1990 levels by 2015.*

Policy OSRC-14e: *Develop energy conservation and efficiency design standards for new development.*

Policy OSRC-15c: *Encourage and promote the use of renewable energy and distributed energy generation systems and facilities that are integral to and contained within existing and new development (e.g., solar thermal installations to provide space and water heating or solar electric installations for small commercial buildings or residences in rural areas, small wind energy systems to provide electricity to agricultural accessory structures, etc.).*

Policy WR-1g: *Minimize deposition and discharge of sediment, debris, waste and other pollutants into surface runoff, drainage systems, surface water bodies, and groundwater.*

Policy WR-1h: *Require grading plans to include measures to avoid soil erosion and consider upgrading requirements as needed to avoid sedimentation in stormwater to the maximum extent practicable.*

Policy WR-1o: *Require that commercial and industrial uses reduce and pretreat wastes prior to their entering sewer systems.*

Policy WR-2e (formerly RC-3h): *Require proof of groundwater with a sufficient yield and quality to support proposed uses in Class 3 and 4 water areas. Require test wells or the establishment of community water systems in Class 4 water areas. Test wells may be required in Class 3 areas. Deny discretionary applications in Class 3 and 4 areas unless a hydrogeologic report establishes that groundwater quality and quantity are adequate and will not be adversely impacted by the cumulative amount of development and uses allowed in the area, so that the proposed use will not cause or exacerbate an overdraft condition in a groundwater basin or subbasin. Procedures for proving adequate groundwater should consider groundwater overdraft, land subsidence, saltwater intrusion, and the expense of such study in relation to the water needs of the project.*

Policy WR-4b: *Use water effectively and reduce water demand by developing programs to:*

- (1) Increase water conserving design and equipment in new construction, including the use of design and technologies based on green building principles,*
- (2) Educate water users on water conserving landscaping and other conservation measures,*
- (3) Encourage retrofitting with water conserving devices,*
- (4) Design wastewater collection systems to minimize inflow and infiltration, and*

(5) *Reduce impervious surfaces to minimize runoff and increase groundwater recharge.*

Policy WR-4h: *Encourage and support conservation for agricultural activities that increase the efficiency of water use for crop irrigation, frost protection and livestock. Work with RWQCB and DWR to promote stormwater impoundments for agricultural uses.*

Policy WR-4k: *Where consistent with water quality regulations, encourage graywater systems, roof catchment of rainwater and other methods of re-using water and minimizing the need to use potable surface water or groundwater.*

Policy WR-4l: *Establish a program to revise County Codes to increase, where appropriate, the use of recycled water for new commercial, residential, and agricultural development.*

In summary, the key policy questions for the Commission are where commercial cannabis, and related support businesses should be permitted, and at what scale and intensity.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission hear the staff presentation and hold a public hearing. At the conclusion of the public input portion continue deliberation to Oct 27, 2016 for further discussion and straw votes on policy options, direct staff to return with any proposed Ordinance changes on November 3, 2016 for the Planning Commission's recommendation to the Board of Supervisors for consideration in December, 2016.

LIST OF ATTACHMENTS

DRAFT ORDINANCE

- Exhibit A: Definitions
- Exhibit B: Allowed Land Uses and Specific Use Standards
- Exhibit C: Dispensary Regulations
- Exhibit D: Exclusion Combining Zone
- Exhibit E: Inclusion Combining Zone

Attachment A: SUMMARY LAND USE TABLE

Separate Attachment for Commissioners: Negative Declaration with Attachments

ORDINANCE NO. _____

An Ordinance Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Adopting a Negative Declaration and Amending Text Of Chapter 26 (Zoning Ordinance) Of The Sonoma County Code To Allow Cultivation of Cannabis and Related Land Uses in Various Zoning Districts, Adopting New Definitions and Establishing Special Use Regulations.

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

SECTION I. Findings. The Board finds and declares that the adoption of this Ordinance is necessary and desirable to foster a healthy, diverse and economically viable cannabis industry in the County that contributes to the local economy and helps retain the use of agricultural lands for agricultural production and ensures that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.

- A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. There is no federal exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
- B. In 1996, the voters of the State of California approved Proposition 215, “The Compassionate Use Act” (codified as Health and Safety Code Section 11362.5), which was intended to decriminalize cultivation and possession of medical marijuana by a seriously ill patient, or the patient’s primary caregiver, for the patient’s personal use, and to create a limited defense to the crimes of possessing or cultivating cannabis. The Compassionate Use Act further provided that nothing in it shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for non-medical purposes.
- C. The State enacted SB 420 in 2004 (known as the “Medical Marijuana Program Act”, codified as Health and Safety Code Section 11362.7 et seq.) to expand and clarify the scope of The Compassionate Use Act of 1996 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering medical cannabis, as well as limiting the amount of medical cannabis a qualified individual may possess.

- D. The Medical Marijuana Program Act defines a “primary caregiver” as an individual who is designated by a qualified patient or by a person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person and is further defined in the California Supreme Court decision *People v. Mentch* (2008) 45 Cal.4th 274.
- E. Sonoma County Board of Supervisors adopted Medical Marijuana Possession and Cultivation Guidelines on September 26, 2006 by Resolution 06-0846. The Guidelines provide a defense to prosecution or other sanction and are available to someone who possesses or cultivates marijuana for personal medical use. These Guidelines are not zoning code regulations, and they do not allow and do not regulate any manner of cultivation, growing, or delivery of marijuana.
- F. The State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on September 11, 2015 (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis through numerous changes and additions to the Business & Professions Code and the Health and Safety Code. MMRSA legalizes and regulates for-profit commercial activity related to medical marijuana in California. MMRSA provides that cities and counties retain local regulatory authority over medical cannabis.
- G. On June 16, 2016 the state legislature passed SB 837 which was signed by the Governor on June 27, 2016 changing the term marijuana to cannabis and renaming the Medical Cannabis Regulation and Safety Act (Cannabis Act).
- H. The state’s adoption of a comprehensive statewide licensing and enforcement scheme for medical cannabis operations will facilitate local jurisdictions to regulate medical cannabis at the local level, and permit fees will help pay for additional enforcement staff.
- I. Although Sonoma County’s zoning ordinance does not permit cannabis cultivation or other medical cannabis activities besides dispensaries within the unincorporated area of the county, there are an estimated several thousand unregulated cannabis cultivation sites within the County which are unlawful under principles of permissive zoning and County Code. The County has long had insufficient resources to bring code enforcement or nuisance actions against the vast majority of these cultivation sites.
- J. On February 2, 2016, the Board of Supervisors, at an open public meeting, directed staff to bring forward a zoning ordinance allowing but regulating cannabis cultivation and related commercial support uses involving cannabis within the jurisdictional boundaries of Sonoma County.

- K. Children (minors under the age of 18) are particularly vulnerable to the effects of marijuana use and the presence of marijuana plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children (including schools, parks, and other similar locations).
- L. The unregulated cultivation of cannabis in the unincorporated area of Sonoma County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for cannabis cultivation, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated cannabis cultivation.
- M. Comprehensive regulation of premises used for cannabis cultivation or commercial activities related to cannabis is proper and necessary to address the risks and adverse impacts as stated herein.
- N. Outdoor cannabis cultivation, especially within the remote hillside areas, is creating devastating impacts to California's surface and groundwater resources. The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board and the Department of Fish and Wildlife have seen a dramatic increase in the number of cannabis cultivation operations, and corresponding increases in impacts to water supply and water quality, including the discharges into water of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste. The sources of these impacts result from unpermitted and unregulated timber clearing, road development, stream diversion for irrigation, land grading, erosion of disturbed surfaces and stream banks, and temporary human occupancy without proper sanitary facilities.
- O. The defense to prosecution provided to qualified patients and their primary caregivers under State law to cultivate cannabis plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter in coordination with MCRSA, the County intends to minimize the risks and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated cultivation of cannabis in the unincorporated area of Sonoma County.
- P. Nothing in this Chapter shall be construed to allow the use of cannabis or allow any activity relating to the cultivation or consumption of cannabis that is otherwise illegal under State law.

SECTION II. Amendments to Definitions. Section 26-02-140 (Definitions) of Chapter 26 of the Sonoma County Code is amended to replace and add the following definitions as shown in Exhibit A attached hereto.

SECTION III. The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

- Section 26-04-010 (n) – LIA Land Intensive Agriculture District
- Section 26-06-010 (r) – LEA Land Extensive Agriculture District
- Section 26-08-010 (q) – DA Diverse Agriculture District
- Section 26-10-010 (kk) – RRD Rural and Resource Development District
- Section 26-16-010 (ff) – AR Agriculture and Residential District
- Section 26-18-010 (bb) – RR Rural Residential
- Section 26-20-010 (z) – R1 Low Density Residential District
- Section 26-26-010 (h) (8) – PC Planned Community

to read as follows:

“Cannabis cultivation and related land uses in compliance with Section 26-88-250-256”

SECTION IV. The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

- Section 26-04-010 (d) – LIA Land Intensive Agriculture District
- Section 26-06-010 (d) – LEA Land Extensive Agriculture District
- Section 26-08-010 (d) – DA Diverse Agriculture District
- Section 26-10-010 (d) – RRD Rural and Resource Development District
- Section 26-16-010 (h) – AR Agriculture and Residential District
- Section 26-18-010 (e) – RR Rural Residential

to read as follows:

“Outdoor crop production for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops, including wholesale nurseries, conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone;”

SECTION V. The following Subsections of Chapter 26 of the Sonoma County Code are added for Permitted Uses:

- Section 26-04-010 (n) – LIA Land Intensive Agriculture District
- Section 26-06-010 (s) – LEA Land Extensive Agriculture District
- Section 26-08-010 (r) – DA Diverse Agriculture District

to read as follows:

“Indoor crop production for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops in greenhouses or similar structures less than twenty five hundred (2,500) square feet”;

SECTION VI. The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses:

- Section 26-10-010 (e) – RRD Rural and Resource Development District
- Section 26-16-010 (i) – AR Agriculture and Residential District
- Section 26-18-010 (g) – RR Rural Residential

to read as follows:

“Indoor crop production for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops in greenhouse or similar structures less than eight hundred (800) square feet;”

SECTION VII. The following Subsections of Chapter 26 of the Sonoma County Code are added for Uses Permitted with a Use Permit:

- Section 26-04-020 (r) – LIA Land Intensive Agriculture
- Section 26-06-020 (t) – LEA Land Extensive Agriculture
- Section 26-08-020 (t) – DA Diverse Agriculture
- Section 26-10-020 (tt) – RRD Rural and Resource Development
- Section 26-16-020 (z) – AR Agriculture and Residential
- Section 26-18-020 (y) – RR Rural Residential
- Section 26-44-020 (q) – MP Industrial Park
- Section 26-46-020 (aa) – M1 Limited Urban Industrial

Section 26-48-020 (z) – M2 Heavy Industrial
Section 26-50-020 (aa) – M3 Limited Rural Industrial

to read as follows:

“Cannabis cultivation and related land uses in compliance with Section 26-88-250 through 256”

SECTION VIII. The following Subsections of Chapter 26 of the Sonoma County Code are amended for Uses Permitted with a Use Permit:

Section 26-16-020 (d) – AR Agriculture and Residential

to read as follows:

“Indoor crop production for growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops, in greenhouses or similar structures of eight hundred (800) square feet or more;”

SECTION V. Article 88 of Chapter 26 of the County Code is hereby amended to add Subsection 26-88-250 – 256 (Cannabis Cultivation and Related Land Uses) as shown in Exhibit B attached hereto.

SECTION VI. Article 88 of Chapter 26 of the County Code is hereby amended to delete Subsection 26-88-126 Medical Cannabis Dispensary in its entirety.

SECTION VII. Article 88 of Chapter 26 of the County Code is hereby amended to add Subsection 26-88-256 Medical Cannabis Dispensary to read as shown in Exhibit C attached hereto.

SECTION VIII. The following Subsections of Chapter 26 of the Sonoma County Code are amended

Section 26-30-020 (z) – C1 Neighborhood Commercial
Section 26-32-020 (ee) – C2 Retail Business and Service
~~Section 26-34-020 (jj) – C3 General Commercial~~
Section 26-36-020 (oo) – LC Limited Commercial

to read as follows:

“Cannabis Dispensary - Medical in compliance with Section 26-88-250 and 256”

The following Subsections are deleted in their entirety

Section 26-32-020 (ff) – C2 Retail Business and Service

Section 26-36-020 (pp) – LC Limited Commercial

SECTION VI. Environmental Determination. An Initial Study and Negative Declaration were prepared and circulated to the public for a 30-day period from September 27 to October 27, 2016. The Negative Declaration has been reviewed and considered, together with comments received during the public review process, in accordance with the California Environmental Quality Act (CEQA) and County CEQA Guidelines. The Board finds on the basis of the whole record before it that the Negative Declaration reflects the independent judgment and analysis of the Board and that there is no substantial evidence that the project will have a significant effect on the environment. The Director of Permit and Resource Management Department is directed to file a Notice of Determination in accordance with CEQA.

~~SECTION VII. Stay of Enforcement:~~

~~All zoning enforcement actions related to existing cannabis operations which do not have prior authorization under Chapter 26 of the Sonoma County Code shall be stayed for a period of 180 days from the effective date of this ordinance provided that the operator has submitted a complete application to the Permit and Resource Management Department to obtain all necessary permits within 30 days of the effective date of the ordinance and the permit process is pursued with diligence by the operator, the stay shall remain in effect until final approval or denial of the application by the County.~~

~~The Permit and Resource Management Department cannot stay enforcement of state accessibility regulations and any accessibility complaint received must be abated in accordance with state law. Voluntary disclosure and permit applications to legalize existing cannabis related uses shall not be considered an accessibility complaint and shall not be referred to code enforcement provided that all required applications are submitted within the 30 day period.~~

SECTION VII. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion(s) of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION ~~IX~~VIII. Effective Date. This Ordinance and all amendments to the Sonoma County Code as set forth within shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of Board adoption. This Ordinance shall be published once before the expiration of fifteen (15) days after adoption, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

SECTION IX. Custodian of Documents. The Clerk of the Board of Supervisors shall be the custodian of the documents and other materials which constitute the record of the proceedings upon which the Board’s decision is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

IN REGULAR SESSION of the Board of Supervisors of the County of Sonoma, introduced, passed, and adopted this ___ day of _____, 2016, on regular roll call of the members of said Board by the following vote:

Supervisors:

Gorin:	Rabbit:	Zane:	Gore:	Carrillo:
Ayes:	Noes:	Absent:	Abstain: 0	

So Ordered.

WHEREUPON, the Chair declared the above foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton
Clerk of the Board of Supervisors

ATTACHMENTS

Exhibit A – Definitions Section 26-02-140

Exhibit B – Cannabis cultivation and related land uses Section 26-88-250 through 255

Exhibit C – Cannabis Dispensary – Medical Section 26-88-256

Amendments to Definitions in Section 26-02-140

The following lists definitions with changes to existing definitions shown with deletions in ~~strikeout~~ and additions underlined.

Section 26-02-140 Definitions of the Sonoma County Code is amended to delete or replace certain definitions and add definitions in alphabetical order to read as shown below:

The following definitions shall be replaced to read as follows:

Agricultural crop means any cultivated crop grown and harvested for commercial purposes, except for cannabis and other controlled substances, which are defined and classified separately.

Agricultural cultivation means the act of preparing the soil for the raising of agricultural crops, as defined herein.

Cannabis Dispensary - Medical means a facility operated in accordance with state law, where medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis or medical cannabis products as part of a retail sale.

The following definitions are added in their alphabetical order:

Cannabis means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

Cannabis Cultivation means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MCRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

Cannabis Cultivation Area means the sum of the area(s) of cannabis cultivation as measured around the perimeter of canopy for each discrete area of cannabis cultivation on a single premises, as defined herein. Area of cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, the exterior dimensions of hoop houses or green houses, and the total area of canopy at maturity for each of the pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises.

Cannabis Cultivation Site means the premises, leased area, property, location or facility where medical cannabis is planted, grown, harvested, dried, cured, graded, trimmed, or that does all or any combination of those activities.

Cannabis Cultivation - Indoor means indoor cultivation of cannabis using exclusively artificial lighting.

Cannabis Cultivation - Mixed-Light means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures or light deprivation systems are included in this category.

Cannabis Cultivation - Outdoor means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

Cannabis Distribution Facility means the location or a facility where a person licensed with a Type 11 license pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA) conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

Cannabis Licensee means a person issued a state license under the Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.

Cannabis Manufacturer means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license and that holds a valid local license or permit.

Manufactured cannabis means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

Cannabis Manufacturing means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

Cannabis Nursery means a location that produces cannabis clones, immature plants, and seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of medical cannabis.

Cannabis Operator means the person or entity that is engaged in the conduct of any commercial cannabis use.

Cannabis product, medical cannabis, or medical cannabis product means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

Crop production means the commercial growing and harvesting of agricultural crops including horticultural or ornamental shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops or agricultural commodities except for cannabis or other controlled substances, which shall be defined and classified separately.

Person means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

Premises means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in land, or a leased or owned space in a building.

Prime Soils means all lands which qualify for rating as Class I or Class II in the Soil Conservation Service land use capability classifications or qualify for rating 80 through 100 in the Storie Index Rating. Additionally, where determined through site-specific fieldwork prepared by a qualified professional, soils meeting these characteristics may be recognized as prime.

Cannabis license, licensee, or registration means a state license issued pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).

Greenhouse. A temporary or permanent structure, including hothouses, hoop houses and similar structures for the covered propagation and growing of plants, constructed with a translucent roof and/or walls.

Marijuana means Cannabis

Medical Marijuana. See Cannabis – Medical

Nursery – Wholesale Greenhouse means an establishment engaged in the commercial production of trees, plants, seeds, stock, and other vegetation grown within a commercial greenhouse for wholesale distribution to other businesses. Wholesale greenhouse nursery does not include cannabis nurseries which are classified separately.

Nursery – Wholesale means an establishment engaged in the commercial production of trees, plants, seeds, stock, and other vegetation grown on site outdoors either in the ground or in containers for wholesale distribution to other businesses. Wholesale nursery does not include cannabis nurseries which are classified separately. Wholesale nursery may include greenhouses up to 2,500 square feet in size.

Nursery – Retail means an establishment engaged in the propagation of trees, shrubs and horticultural and ornamental plants grown under cover or outdoors for sale to the public. Includes commercial scale greenhouses and establishments for the sale of plant materials, lawn and garden supplies, and related items. Retail nursery does not include cannabis nurseries which are classified separately.

Nursery – Cannabis means an establishment that produces only clones, immature plants, and seeds for wholesale distribution to permitted cultivators or dispensaries, used specifically for the planting, propagation, and cultivation of medical cannabis.

Volatile solvent means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Ethanol, Isopropanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

Section 26-88-250 Cannabis Uses - Medical

- (a) **Purpose.** This section provides the development and operating standards for personal and commercial medical cannabis uses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.
- (b) **Applicability.** Medical cannabis uses shall be permitted only in compliance with the requirements of Section 26-88-250 through 256 and all other applicable requirements for the specific type of use and those of the underlying base zone.
- (c) **Limitations on Use.** Medical cannabis uses shall only be allowed in compliance with the following sections and all applicable codes set forth in the County Code, including but not limited to, building, grading, plumbing, septic, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use and shall comply with all permit, license, approval, inspection, reporting and operational requirement required by other local, state and federal regulatory agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to PRMD to serve as verification for such compliance. Permits for medical cannabis uses shall only be issued where written permission from the property owner or landlord is provided.
- (d) **Permit Requirements.** Medical cannabis uses shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Medical Cannabis Uses and Permit Requirements. No other type of cannabis uses are permitted except as specified in Table 1A-D. Medical cannabis uses shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services.
- (e) **Term of Permit.** Permits for medical cannabis uses shall be issued for a period not to exceed one year from the date of permit approval and shall be subject to annual permit renewals.
- (f) **Health and Safety.** ~~Medical cannabis uses shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services.~~ Medical cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.
- (g) **Taxes.** Medical cannabis uses shall comply with any additional taxes that may be enacted by the voters or any additional regulations that may be promulgated.

- (h) **Operator Qualifications.** Commercial medical cannabis operators must meet the following qualifications:
1. Commercial medical cannabis operators and all employees must be 21 years of age.
 2. Commercial medical cannabis operators shall be subject to background search by the California Department of Justice. Permits for commercial medical cannabis operations shall not be permitted for operators with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code.
 3. Until January 2020, commercial medical cannabis permits may be issued only to persons that provide written proof that the operator has been a resident of Sonoma County for at least the last two years.
 4. The commercial medical cannabis operator must own at least fifty-one percent (51%) of the business or entity applying for or holding the commercial medical cannabis permit and must maintain full management control, including operations of the business or entity applying for or holding the commercial medical cannabis permit.
 5. The operator must give preference to hiring local residents.
 6. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or revocation of any issued permit.
- (i) **Weights and Measures.** All scales used for commercial transactions shall be registered for commercial use and sealed by the Sonoma County Agricultural Commissioner's Office of Weights and Measures.
- (j) **Tracking.** Commercial medical cannabis operators shall comply with any track and trace program established by the County and state agencies. Commercial medical cannabis operators must maintain records tracking all medical cannabis production and products and shall make all records related to commercial medical cannabis activity available to the County upon request.
- (k) **Inspections.** Commercial medical cannabis operations shall be subject to inspections by appropriate local and state agencies, including but not limited to, Sonoma County Department of Public Health Services, Agricultural Commissioner and the Permit and Resource Management Department.

- (l) **Enforcement Process.** Complaints regarding cannabis operations will be addressed by PRMD code enforcement section who may conduct an investigation to determine whether there was a violation of the county code or of a zoning standard or use permit condition. Sheriff reports, online searches, citations, aerial photos or neighbor documentation may constitute proof of a violation. If code enforcement verifies that a medical cannabis use is operating in violation of the county code, is otherwise unpermitted or that a zoning or use permit condition violation has occurred, a notice of violation may be issued. At the discretion of the code enforcement officer or the director, the zoning permit or use permit may be scheduled for a revocation hearing with the board of zoning adjustments. If the permit is revoked, a zoning or use permit for a cannabis operation may not be reapplied for or issued for a period of at least two (2) years.

- (m) **Civil Penalties.** In addition to any and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this Chapter, any person who violates any provision of this Chapter shall be liable and responsible for, and shall pay to the County, a civil penalty of \$500 for a first violation, \$750 for a second violation within twelve months of the first violation, and \$1000 for each additional violation within twelve months of the first violation.

- (n) **No criminal liability for violation.** This Section is not intended to, and does not, establish any criminal liability for a violation of this Section related to all cannabis uses. A violation of this Section shall be subject to all civil enforcement methods.
 - 1. Enhanced penalty for non-permitted operations. A cannabis operation that is determined to be operating without the necessary permit required under this section shall be subject to a penalty of ten (10) times the normal application fee.

 - 2. Three Strikes Penalty. Upon receipt of any combination of three (3) administrative citations, verified violations, or hearing officer determinations of violation of any of the permit requirements or performance standards issued to the owner or operator at the property within a two-year period, the permit for a cannabis operation is summarily revoked, subject to prior notice and to appeal, if requested within ten (10) days. Should such a revocation occur, an application to reestablish a cannabis operation at the subject property shall not be accepted for a minimum period of two (2) years.

 - 3. Violation of Standards or Conditions—Administrative Citations. In addition to all other legal remedies, criminal or civil, which may be pursued by the county to address any violation of the county code, this subsection provides for administrative citations, adopted pursuant to the authority conferred by the Government Code, including Section 53069.4. Violations of any provision of the county code, zoning or use permit condition are subject to administrative citation. Each day thereafter that the violation continues shall be considered a separate violation.

4. Monitoring and Enforcement Fee. An annual fee may be adopted by the board of supervisors and collected by PRMD or the county tax collector to pay for monitoring and enforcement.

Section 26-88-252 Cannabis Cultivation – Medical Personal Use

- (a) **Purpose.** This section establishes development criteria and operating standards for personal medical cannabis cultivation. Cultivation of medical cannabis for personal use shall be subject to the following standards and limitations as allowed in the base zone in compliance with Section 26-88-250. These standards shall apply to any medical cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.
 - 1) **Residency Requirement.** Cultivation of medical cannabis for personal use is limited to parcels with a residence and the qualified patient or primary caregiver shall reside full-time on the premises where the cultivation is occurring. Cultivation is not allowed within any dwelling unit, second dwelling unit, guest house, or any other residential accessory structure permitted for residential occupancy (R3 building code occupancy). No cultivation shall occur in apartments, duplexes, triplexes, or other multifamily dwellings.
 - 2) **Maximum Personal Cultivation.** Cultivation of medical cannabis for personal use is limited to no more than six (6) mature plants per residence with no more than three (3) mature plants outdoors. Total cultivation area may not exceed 100 square feet. Prohibited in the R2 and R3 zones.
 - 3) **Prohibition of Volatile Substances.** The use of volatile substances as defined in the fire and building codes (butane, alcohol, etc.) to manufacture cannabis products is prohibited.
 - 4) **Outdoor Personal Cultivation.**
 - i. Cannabis plants shall not be located in the front yard setback area and shall not be visible from a public right of way. No visible markers indicating that cannabis is cultivated on the site shall be visible from offsite.
 - 5) **Indoor and Mixed Light Personal Cultivation.**
 - i. Indoor, greenhouse and mixed light cultivation must be contained within a self-contained accessory structure, greenhouse or garage with a U occupancy under the building code. Cultivation within a residential structure with an R3 occupancy under the building code is prohibited.

- ii. All structures (including greenhouses) used for cultivation must be legally constructed with all applicable permits such as grading, building, electrical, mechanical and plumbing.
- iii. Structures associated with the cultivation shall not be located in the front yard setback area. All structures used for cultivation shall adhere to the setbacks stated within the base zone. There shall be no exterior evidence of cultivation either within or outside the residence. No visible markers indicating that cannabis is cultivated on the site shall be visible from offsite. Greenhouses shall be substantially screened from the public right of way.
- iv. All structures used for cultivation shall have locking doors to prevent access to children or other users. All cultivation structures shall be equipped with odor control filtration and ventilation systems adequate to prevent an odor, humidity, or mold problem on the premises or adjacent parcels.
- v. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
- vi. The use of generators is prohibited, except as emergency back-up systems.

26-88-254 Cannabis Cultivation – Commercial Medical

- (b) **Purpose.** This section establishes development criteria and operating standards for commercial medical cannabis cultivation activities as allowed by the base zone in compliance with Section 26-88-250.
- (a) **Applicability.** This section shall apply to all commercial medical cannabis cultivation activities, including but not limited to, outdoor, indoor and mixed light or greenhouse environments and associated cloning, drying, aging, curing, trimming, and packing facilities. Medical cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Commercial medical cannabis cultivation operations shall comply with the following development criteria and operating standards in addition to the requirements of Section 26-88-250.
- (b) **Permit Requirements.** Commercial medical cannabis cultivation shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements. Zoning permits for outdoor cultivation areas shall be issued by the Agricultural Commissioner. Zoning permits and use permits for all other cultivation activities including indoor and mixed light or greenhouse and associated processing

operations shall be issued by PRMD. New structures and conversion of existing structures to cannabis cultivation will also be subject to design review.

- (c) **Limitations on Use.** All cultivation shall be conducted and maintained in compliance with this Section and the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner. The Agricultural Commissioner shall determine the applicable best management practices and shall enforce the provisions of this section for outdoor cultivation areas and management of pesticides and fertilizers for all cultivation types. All associated structures used in cultivation and related processes for cloning, drying, aging, curing, trimming, and packing shall be subject to permits issued by PRMD and shall be conducted and maintained in compliance with this Section.

Multiple cultivation permits may be issued to a single person or entity as defined herein, provided that the total combined canopy area of cultivation within the County does not exceed one acre. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person for the purposes of this standard.

- (d) **Development Criteria.**

- (1) **Number of Facilities.** No more than one cultivation use/operator may be approved per contiguous parcel ownership, except in the industrial and agricultural zones. No more than two cottage cultivation types may be issued per contiguous parcel ownership unless a use permit is obtained. In the agricultural and industrial zones, multiple zoning permits may be issued for multi-tenant operations on a single parcel provided that the minimum parcel size is met for the total combined canopy size and the total combined canopy size does not exceed the maximum size limit allowed for the type of cultivation in compliance with Table 1A-D *Allowed Cannabis Uses and Permit Requirements*. (i.e. Outdoor maximum is 43,560 sf; Indoor/Mixed Light maximum is 22,000 sf)
- (2) **Square Footage Limitations.** The total combined square footage of the canopy or cultivation area shall not exceed the maximum size thresholds as defined in Table 1A-D *Allowable Cannabis Uses and Permit Requirements*. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed and areas where equipment is stored and washed shall be limited to the on-site cultivation use only, unless a use permit is obtained for processing.
- (3) **Property Setbacks- Outdoor.** Outdoor cultivation areas and all associated structures shall not be located in the front yard setback area and shall be substantially screened from public view. Outdoor cultivation areas shall not be

visible from a public right of way. Outdoor cultivation areas shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on adjacent properties. Outdoor cultivation sites and greenhouses/ mixed light structures shall be setback a minimum of 600 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

- (4) Property Setbacks- Indoor.** All structures used for indoor cultivation and all structures used for drying, aging, curing, trimming, and packing and all indoor cultivation structures shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with the cultivation shall not be located in the front yard setback area and shall be substantially screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure. No visible markers indicating that cannabis is cultivated on the site shall be visible from offsite.
- (5) Property Setbacks- Mixed Light/Greenhouse.** Mixed light and greenhouses shall be setback a minimum of 100 feet from property lines and a minimum of 300 feet from occupied residences and businesses on adjacent properties. Greenhouses/mixed light structures shall be setback a minimum of 600 feet from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.
- (6) Building Requirements.** All structures used in commercial cultivation, including greenhouses and require a building permit and shall comply with all applicable sections of the County Code. Cultivation uses that involve employees, contractors, or provide access to the public will require a site review for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.
- (7) Biotic Resources.** Cultivation areas shall be located to avoid impacts to sensitive biotic habitats including woodlands, wetlands, rivers, streams, and habitat connectivity corridors. Projects located within or adjacent to these areas will require a biotic assessment at the time of application to demonstrate that the facility avoids sensitive habitat. Any proposed cultivation activity located within adopted critical habitat areas must have appropriate permits or waivers from the state Department of Fish and Wildlife.

There shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained. Outdoor ~~in-above~~ ground cultivation and all indoor or mixed light cultivation and related processing facilities shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone) unless otherwise exempt. Outdoor ~~abovein-~~ground cultivation sites shall conform to the agricultural Riparian Corridor setback set forth in Section 26-64-050.

- (8) Cultural and Historic Resources.** Cultivation sites shall avoid or mitigate impacts to significant cultural and historic resources. Sites located within a Historic District shall be subject to review by the Landmarks Commission, unless otherwise exempt, consistent with Section 26-68-020.

If concentrations of prehistoric or historic-period materials are encountered during ground-disturbing work at the project location, all work in the immediate vicinity will be halted until a qualified archaeologist can evaluate the finds and make recommendations. The operator must immediately notify PRMD of the find. Historic-period features that may be present include backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse. Prehistoric cultural remains might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, choppers), midden (culturally darkened soil containing heat-affected rock, artifacts, animal bone, or shellfish remains), and/or stone milling equipment, such as mortars and pestles.

If human remains are encountered, work in the immediate vicinity will stop and the operator shall notify PRMD and the Sonoma County Coroner immediately. At the same time, the operator shall be responsible for the cost to have a qualified archaeologist under contract to evaluate the discovery. If the human remains are determined to be of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification.

If paleontological resources are found, all work in the vicinity of the find must cease, and a paleontologist and PRMD staff must be notified to develop proper mitigation measures required for the discovery. No earthwork in the vicinity of the find shall commence until a mitigation plan is approved and completed subject to the review and approval of the paleontologist and PRMD staff.

- (9) Farmland Protection.** Where a commercial cultivation site is located within an Agricultural Zone (LIA, LEA, DA), the primary use of the parcel shall remain in agriculture use pursuant to General Plan Policy AR-4a. Indoor and mixed light cultivation facilities shall not remove agricultural production within Important Farmlands, including Prime, Unique and Farmlands of Statewide Importance as

designated by the state Farmland Mapping and Monitoring Program, but may mitigate by relocating agricultural production on a 1:1.

If the facility is located on a site under a Land Conservation Act (Williamson Act) contract, the use must be listed as a compatible use in the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, and allowed by the type of contract and approved Land Conservation Plan. An application for modification of the contract and Land Conservation Plan may be required.

- (10) Fire Code Requirements.** The operator shall prepare and implement a Fire Prevention Plan for construction and ongoing operations and obtain an Operational Permit from the Fire and Emergency Services Department. The Fire Prevention Plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), addressing, vegetation management and fire break maintenance around all structures.
- (11) Grading and Access.** Cultivation sites shall not be located in areas with slopes that exceed 15 percent. Cultivation sites shall be designed to maintain natural grades and use existing roads for access. . Following the creation of temporary access roads, construction staging areas, or field office sites used during construction, all natural grades shall be restored and revegetated. The operator shall maintain an all-weather access road for maintenance and emergency vehicles.
- (12) Hazardous Materials Sites.** No cannabis operation shall be sited on a parcel listed as a hazardous materials site compiled pursuant to Government Code Section 65962.5, unless a use permit is required.
- (13) Lighting.** All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor and mixed light operations shall be fully shielded so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- (14) Runoff and Stormwater Control.** Runoff containing sediment or other waste or by-products shall not be allowed to drain to the storm drain system, waterways, or adjacent lands. Prior to beginning grading or construction, the operator shall prepare and implement a storm water management plan and an erosion and sediment control plan, approved by the review authority. The plan must include best management practices for erosion control during and after construction and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to minimize sediment run-off or discharge into

waterways. All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.

- (15) **Security and Fencing.** A Site Security Plan shall be required subject to review and approval by the Permit and Resource Management Department. All Site Security Plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensored and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels. Surveillance video shall be kept for a minimum of 30 days. Video must use standard industry format to support criminal investigations. Motion-sensor lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of Section 26-88-030. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area. Razor wire and similar fencing is discouraged and shall not be permitted in residential zones. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards.

(e) Operating Standards.

- (1) **Annual Inspections.** All cultivation sites shall be subject to annual on-site inspections by the Agricultural Commissioner. The inspection shall be conducted during regular business hours, with at least 24-hours' notice.
- (2) **Air Quality and Odor.** All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to prevent mold damage and to prevent cannabis plant odors or particles from becoming a public nuisance to surrounding properties or the public. A public nuisance may be deemed to exist if the cultivation produces odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.
- (3) **Energy Use.** Cultivation sites shall be designed to maximize potential for on-site renewable energy use including consideration of geothermal, solar, wind and cogeneration systems. Electrical power for indoor cultivation and mixed light operations including but not limited to illumination, heating, cooling, and

ventilation, shall be provided by any combination of the following: (i) on-grid power with 100% renewable source; (ii) on-site zero net energy renewable source; or (iii) purchase of carbon offsets of any portion of power not from renewable sources. The use of generators as a primary source of power shall be prohibited.

- (4) **Hazardous Materials.** All cultivation operations that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks and AB 185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Fire Prevention Division, Certified Unified Program Agency (CUPA) of Sonoma County Fire and Emergency Services Department or Agricultural Commissioner.
- (5) **Hours or Operation.** Indoor cultivation activities may be conducted seven days a week, 24-hours per day as needed. Outdoor processing activities, deliveries and shipping shall be limited to the hours from 8 am to 5 pm, unless a use permit is obtained.
- (6) **Noise Limits.** Cultivation operations shall not exceed the General Plan Noise Standards Table NE-2, measured in accordance with the Sonoma County Noise Guidelines.
- (7) **Occupational Safety.** Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and California Agricultural Labor Relations Act.
- (8) **Waste Management.** A Waste Management Plan addressing the storing, handling and disposing of all waste by-products of the cultivation and processing activities in compliance with the Best Management Practices issued by the Agricultural Commissioner shall be submitted for review and approval by the review authority. This plan should characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose, or reuse the wastes in compliance with Best Management Practices and County standards.

All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of to a County Transfer Station or County Landfill before the end of the seventh day. All waste, including but not limited to

refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from cannabis operations must be properly stored and secured to prevent access from the public.

- (9) Waste Water Discharge.** A waste water management plan shall be submitted identifying the amount of waste water, excess irrigation and domestic wastewater anticipated and proper management and disposal. . All cultivation operations shall comply with the Best Management Practices issued by the Agricultural Commissioner and shall submit verification of compliance with the Waste Discharge Requirements of the applicable Regional Water Quality Control Board, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sewer, septic, irrigation, greywater or bio-retention treatment systems. If discharging to a septic system an evaluation by a qualified sanitary engineer demonstrating the system’s capacity to handle the waste is required. All domestic waste for employees shall be disposed of in a permanent sanitary sewer or on-site septic system demonstrated to have adequate capacity.
- (10) Water Supply.** An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Trucked water shall not be allowed, except as noted below and for emergencies requiring immediate action as determined by the director. The onsite water supply shall be considered adequate with documentation of any one of the following sources:
1. Municipal Water: The public water supplier providing water service to the site has adequate supplies to serve the proposed use.
 2. Recycled Water: The use of recycled process wastewater from an onsite use or connection to a municipal recycled water supply for the cultivation use, provided that an adequate on-site water supply is available for employees and other uses.
 3. Surface Water: A diversion permit issued by the State Water Resources Control Board of an existing legal water right.
 4. Well Water:
 1. The site is located in Groundwater Availability Zone 1, 2 or 3 and not within an area for which a Groundwater Management Plan has been adopted or within a high or medium priority basin as defined by the State Department of Water Resources; or

2. Within Groundwater Availability Zone 4 or area for which a Groundwater Management Plan has been adopted or designated priority basin, the proposed facility would not result in a net increase in water use on site through implementation of water conservation measures, rainwater catchment or recycled water reuse system, water recharge project, or participation in a local groundwater management project; Trucked recycled water may be considered for the cultivation area with a use permit, provided that adequate on-site water supplies are available for employees and other uses: or
 3. A qualified professional prepares a hydro-geologic report providing supporting data and analysis and certifying that the onsite groundwater supply is adequate to meet the proposed uses and cumulative projected land uses in the area on a sustained basis, and the operation will not:
 - i. result in or exacerbate an overdraft condition in basin or aquifer;
 - ii. result in reduction of critical flow in nearby streams; or
 - iii. result in well interference at offsite wells.
- (11) Groundwater Monitoring:** Water wells used for cultivation shall be equipped with a meter and sounding tube or other water level sounding device and marked with a measuring reference point. Water meters shall be calibrated at least once every five years. Static water level and total quantity of water pumped shall be recorded quarterly and reported annually. Static water level is the depth from ground level to the well water level when the pump is not operating after being turned off. Static water level shall be measured by turning the pump off at the end of the working day and recording the water level at the beginning of the following day before turning the pump back on. Groundwater monitoring reports shall be submitted annually to the Permit and Resource Management Department, Project Review Division by January 31 of each year. The annual report shall show a cumulative hydrograph of static water levels and the total quarterly quantities of water pumped from well(s) used in processing.

Sec. 26-88-126. - Medical cannabis dispensary uses.

- (a) Purpose. This section provides the location and operational standards for any medical cannabis dispensary within the unincorporated county in order to promote the health, safety, and general welfare of its residents and businesses.
- (b) Applicability. Medical cannabis dispensaries shall be permitted only in compliance with the requirements of this section, and all other applicable requirements of the underlying zoning district.
- (c) Permit Requirements. A use permit in compliance with Sections [26-92-070](#) and [26-92-080](#) shall be required for any medical cannabis dispensary. [Medical cannabis dispensaries shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services.](#) Additionally, medical cannabis dispensaries must comply with all other applicable building codes and requirements, including accessibility requirements.
- (d) Limit on Number of Dispensaries. No more than nine (9) medical cannabis dispensaries shall be permitted within the unincorporated county at any one time.
- (e) Compliance with Operating Plan and Conditions Required. A medical cannabis dispensary shall submit, as a part of the use permit application, an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, number of patients, hours and days of operation allowed and approved. The operating plan shall provide that the dispensary shall require, at a minimum, a doctor's written recommendation in compliance with state law, as well as a photo identification for any person entering the site. Any medical cannabis dispensary approved under this section shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.
- ~~(f)~~ Limited Term. Use permits for medical cannabis dispensaries shall be limited-term, and shall be issued for a maximum period of one year. ~~All use permits issued for a medical cannabis dispensary shall contain the following provision: "This permit shall be a limited term permit and shall be subject to revocation or modification following a public hearing if the approving body finds that there has been a violation or noncompliance with the operating plan or any of the use permit conditions, or if the use for which this permit is hereby granted constitutes a nuisance."~~
- ~~(f)~~(g) Exercise and Renewal of Permit. Use permits for medical cannabis dispensaries shall be exercised only by the applicant, ~~who must be a qualified patient or primary caregiver,~~ and shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the medical cannabis dispensary. All use permits issued for a medical cannabis dispensary shall include the following provision: "This use permit shall expire upon change of tenancy or sale or transfer of the business or property." Any use permit that is abandoned for a period of six (6) months shall automatically expire, and shall become null and void with no further action required on the part of the county. A

use permit renewal may be administratively approved by the planning director only if all of the following findings are made:

- (1) The use has been conducted in accordance with this section, with the dispensary's approved operating plan, and with all applicable use permit conditions of approval;
- (2) The business for which the use permit was approved has not been transferred to another owner or operator;
- (3) There are no outstanding ~~code enforcement~~ violations of health, safety, or land use.

~~(g)~~(h) Notwithstanding, a use permit approved under this section may be revoked or modified at any time following public hearing in accordance with Section 26-92-120.

~~(h)~~(i) Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the use permit, and shall include affidavits agreeing to abide by and conform to the conditions of the use permit and all provisions of the Sonoma County Code pertaining to the establishment and operation of the medical cannabis dispensary use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the medical cannabis dispensary use permit shall in no way permit any activity contrary to the Sonoma County Code, or any activity which is in violation of any applicable laws.

~~(i)~~(j) Location Requirements.

- (1) A medical cannabis dispensary shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100') of a residential zoning district.
- (2) A medical cannabis dispensary shall not be established within one thousand feet (~~4,000~~600') of any other medical cannabis dispensary, nor within five hundred feet (500') from a smoke shop or similar facility selling drug paraphernalia.
- (3) A medical cannabis dispensary shall not be established within ~~one thousand six hundred~~ hundred feet (~~4,000~~600') from any public or private school, park, drug or alcohol treatment facility, or an establishment, public or private, that caters to or provides services primarily to persons under eighteen (18) years of age.
- (4) Notwithstanding, the subsections (~~(j)~~(h))(1)—(2) may be waived by the decision-maker when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.

~~(j)~~(k) ~~Development Standards and Operational Criteria in General Standards~~. The following are the minimum development ~~standards criteria~~ and operational ~~criteria standards~~ applicable to any medical cannabis dispensary use ~~(Level 1 and Level 2)~~:

- (1) The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and accessibility requirements;
- (2) The dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The applicant shall submit a security plan/operational plan shall include the approved security measures for review and approval by PRMD. The Security Plan shall remain confidential.;
- (3) The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to design review committee review and approval. The planning director may waive this requirement where the applicant can demonstrate that existing

facilities, including parking, lighting and landscaping, already meet the requirements of this section;

- (4) No exterior signage or symbols shall be displayed which advertises the availability of cannabis, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior;
- ~~(5) A dispensary shall have no operators or employees who are not qualified patients or primary caregivers meeting all terms and conditions of applicable law;~~
- ~~(6) A dispensary may possess cannabis at its facility only in the collective amount that each qualified patient or primary caregiver served is allowed to possess under Health and Safety Code Section 11362.77, as may be amended from time to time;~~
- ~~(7)~~(5) No person shall be allowed onto the premises unless they are a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. No person under the age of eighteen (18) shall be allowed on the dispensary site. All persons entering the site shall present a photo identification and shall establish proof of doctor's recommendation. The operating plan submitted as a part of the use permit application shall specify how this provision will be complied with and enforced;
- ~~(8)~~(6) No dispensary shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises;
- ~~(9)~~(7) An exhaust and ventilation system shall be utilized to prevent off-site odors;
- ~~(10)~~(8) No dispensary shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the use permit. A dispensary may sell vaporizers and similar devices that provide an inhalation delivery system for medical cannabis, as allowed by the Health Permit. A dispensary may sell live starter plants from qualified nurseries, but shall not cultivate or clone cannabis. Not more than ten percent (10%) of the floor area, up to a maximum of fifty (50) square feet may be devoted to the sale of incidental goods.
- ~~(11)~~(9) No cannabis shall be smoked, ingested or otherwise consumed on the premises. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.
- ~~(k) Level 1 Medical Cannabis Dispensary Additional Criteria. The following additional criteria shall apply to a Level 1 medical cannabis dispensary:~~
 - ~~(1) A Level 1 medical cannabis dispensary shall have no more than three hundred (300) total patients at any one time, and shall serve an average of twenty (20) or less patients per day;~~
 - ~~(2)~~(10) The size of a Level 1 medical cannabis dispensary shall be limited, and shall not exceed one thousand (1,000) square feet unless specifically approved by the use permit. No dispensary may increase in size without amending the use permit. The size limitation shall be included in the operational plan required by 26-88-126(e), of this section;
 - ~~(3) Operating days and hours shall be limited to Monday through Saturday from 8:00 a.m. to 5:00 p.m., or as otherwise approved by the use permit. Operating hours may be further restricted through the use permit process where needed to provide land use compatibility.~~
- ~~(l) Level 2 Medical Cannabis Dispensary Additional Criteria. The following additional criteria shall apply to any Level 2 medical cannabis dispensary:~~
 - ~~(1)~~(11) Parking must meet the requirements of Section 26-86-010.
 - ~~(2)~~(12) Operating days and hours shall be limited to Monday through Saturday from 7:00 a.m. to 7:00 p.m., or as otherwise allowed by the use permit. Operating

hours may be further restricted through the use permit process where needed to provide land use compatibility.

(Ord. No. 5967, § I, 1-31-2012; Ord. No. 5748 § 2, 2007; Ord. No. 5715 § 2, 2007.)

Cannabis Exclusion Zone

Chapter 26 of the Sonoma County Code is amended to add a new Article 71, as follows:

Article 71. – Y Cannabis Exclusion Combining District.

Sec. 26-71-005. - Purpose.

The purpose of this district is to provide for the exclusion of cannabis related uses in the following areas:

- (a) Areas where there is inadequate road access or other conflicts;
- (b) Areas where the prevalence of cannabis is detrimental to the residential character of area;
- (c) Areas where the commercial or industrial uses are to be protected from conversion to cannabis uses;
- (d) Areas where, because of topography, access, water availability or vegetation, there is a significant fire hazard.
- (e) Areas where residential character is to be preserved; and
- (f) Other areas where the Board of Supervisors determines that it is in the public interest to prohibit cannabis uses.

Sec. 26-71-010. - Permitted uses.

All uses permitted in the base zone with which the Y combining district is applied shall be permitted in the Y combining zone, except for the establishment, operation, placement or construction of cannabis cultivation or related land uses otherwise authorized by 26-88-250 through 256.

Cannabis Inclusion Zone

Chapter 26 of the Sonoma County Code is amended to add a new Article 71, as follows:

Article 71. – Y Cannabis Inclusion Combining District.

Sec. 26-71-005. - Purpose.

The purpose of this district is to provide for the allowance of commercial cannabis cultivation in appropriate areas.

Sec. 26-71-010 Applicability.

This combining zone may be applied to the rural residential zoning district where determined it is appropriate to allow small scale commercial cannabis cultivation.

Sec. 26-71-010. - Permitted uses.

In addition to the uses permitted in the base zoning, commercial cottage cannabis cultivation may be permitted in the Y combining zone subject to approval of a (zoning or use permit) subject to the special use regulations in Sections 26-88-250 through 256, as applicable.

**PLANNING COMMISSION DRAFT
SUMMARY OF ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR CANNABIS USES**

LAND USE	SIZE LIMIT (Maximum Square Feet of total canopy or cultivation size)	Minimum Parcel Size	STATE LICENSE TYPE	Agricultural			Resources		Rural Residential		Urban Residential				Commercial					Special		Industrial				Public		
				Land Intensive Ag	Land Extensive Ag	Diverse Ag	Resources and Rural Development	Timber Preserve	Ag and Residential	Rural Residential	Low Density Single Family	Medium Density Multi-family	High Density Multi-family	Planned Community/PC	Comm Office	Neighborhood Commercial	Retail Bus and Services	General Commercial	Limited Commercial	Commercial Rural	Ag Services	Recreation and Visitor Serving	Industrial Park	Limited Urban Industrial	Heavy Industrial	Limited Rural Industrial	Public Facilities	
				LIA ¹	LEA ¹	DA ¹	RRD ¹	TP	AR ¹	RR	R1	R2	R3	PC	CO	C1	C2	C3	LC	CR	AS	K	MP	M1	M2	M3	PF	
CANNABIS USES																												
Nursery	per use permit																											
Wholesale (outdoor)			4	CUP	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Wholesale (indoor/greenhouse)			4	CUP ²	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	CUP	—	
Outdoor Cultivation																												
Personal	3 plants ³	None	exempt	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cottage	25 plants	2 ac	1C	ZP	ZP	ZP	MUP	—	MUP	MUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Specialty Outdoor	5,000 sq. ft. or 50 plants	3 ac	1	CUP	ZP	ZP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Small Outdoor	5,001 - 10,000	5 ac	2	CUP	ZP	ZP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Medium Outdoor	10,001 - 43,560	10 ac	3	CUP	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Indoor Cultivation																												
Personal	6 plants ³	None	exempt	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cottage	500	None	1C	ZP ²	ZP	ZP	MUP	—	MUP	MUP	—	—	—	—	—	—	—	—	—	—	—	—	ZP	ZP	ZP	ZP	—	
Specialty Indoor	501 - 5,000	None	1A	CUP ²	CUP ²	CUP ²	CUP ²	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—		
Small Indoor	5,001 - 10,000	None	2A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	CUP	CUP	—		
Medium Indoor	10,001 - 22,000	None	3A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	CUP	CUP	—		
Mixed Light / Greenhouse Cultivation																												
Personal	6 plants ³	None	exempt	P	P	P	P	P	P	P	P	—	—	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Cottage	2,500	2 ac	1C	ZP ²	ZP	ZP	MUP	—	MUP	MUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Specialty Mixed Light	2,501 - 5,000	3 ac	1B	CUP ²	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Small Mixed Light	5,001 - 10,000	5 ac	2B	CUP ²	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Medium Mixed Light	10,001 - 22,000	10 ac	3B	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Testing/Laboratories			8	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	—	—	—	CUP	CUP	CUP	CUP	—	
Manufacturing																												
Level 1 - nonvolatile solvents			6	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	CUP	CUP	—	
Level 2 - volatile solvents			7	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Dispensary/Retail Sales																												
Storefront and Delivery	per use permit		10	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	—	CUP	—	—	—	—	—	—	—		
Dispensary, max 3 retail site	per use permit		10A	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	—	CUP	—	—	—	—	—	—	—		
Distributor	per use permit		11	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	—		
Transporter	per use permit		12	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	—		

TYPE OF PERMIT REQUIRED	
P	Permitted Use - Ministerial; CEQA exempt; Building Permit only (with clearances and subject to standards)
ZP	Permitted Use if standards met- CEQA exempt; Zoning Permit and Building Permit only
MUP	Minor Use Permit or Hearing Waiver; CEQA applies unless Cat Exempt; can add conditions
CUP	Use Permit - noticed hearing before Planning Commission; CEQA; can add conditions
—	Use not allowed.

1 Cannabis uses on properties with a Land Conservation (Williamson Act) Act Contract are subject to Uniform Rules for Agricultural Preserves.
2 Existing structures
3 A total of 6 plants per residence with no more than 3 plants outdoor, up to a maximum of 100 square feet