



## Sonoma County Planning Commission

### STAFF REPORT

**FILE:** ORD18-0003  
**DATE:** June 7, 2018  
**TIME:** 1:30 pm  
**STAFF:** Katie Olding, Planner I  
Amy Lyle, Supervising Planner

**Board of Supervisors Hearing is  
scheduled for August 7, 2018**

#### SUMMARY

**Applicant:** County of Sonoma

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

**Subject:** Medical Cannabis Land Use Ordinance Amendments, Part 1

**PROPOSAL:** Consideration of a series of amendments to the Zoning Code including but not limited to allowing adult use/recreational cannabis for the full cannabis supply chain including dispensaries, options to enhance neighborhood compatibility as it relates to cannabis permitting, the creation of Cannabis Inclusion and Exclusion Combining Districts, amending definitions and ordinance language to align with state law where appropriate, and other amendments as recommended by staff.

**Environmental Determination:** Consistent with previously circulated and approved Negative Declaration adopted December 20, 2016; Exempt under Section 15061(b)(3) of the CEQA Guidelines; and consistent with the Business and Professionals Code Section 26055(h) (MAUCRSA)

**General Plan:** All, except Coastal Zone

**RECOMMENDATION:** Staff recommends that the Planning Commission

1. Hear the Staff Presentation,
  2. Hold a Public Hearing,
  3. Deliberate and Take Straw Votes on Policy Options, and
  4. Adopt Resolution recommending that the Board approve the Zoning Code Amendments.
- A final recommendation may be continued to an additional Planning Commission hearing date.



**EXECUTIVE SUMMARY:** As directed by the Board of Supervisors and the Cannabis Ad Hoc Committee, the County proposes to amend the Zoning Code to accomplish the following:

- Allow Adult Use/Recreational Cannabis Operations Including Dispensaries (no change to existing cap of 9);
- Extend the life of new cannabis permits from one year to two years;
- Allow transferability of permits between operators (similar to other land use permits);
- Require use permits for cannabis uses (cultivation including nursery) on properties less than 10 acres within Agricultural and Resource Zones;
- Create Inclusion and Exclusion Combining Districts;
- Harmonize definitions and ordinance language to align with state law and emergency state regulations regulating cannabis operations including new license types and definitions; and
- Amend other zoning code language to aid in consistency and clarification.

## **ANALYSIS**

### **BACKGROUND**

#### **State Law**

In 1996, voters adopted Proposition 215, entitled the Compassionate Use Act, which allowed for the use of marijuana for medicinal purposes by qualified patients, and for caregivers to provide medical marijuana and receive reimbursement for their costs. In 2004, SB 420 established a County Health ID card program, collective and cooperative cultivation, and safe harbor amounts for cultivation and possession. Following these developments, many new land uses evolved, but the interplay between federal, state, and local law was unsettled.

The Medical Cannabis Regulation and Safety Act (Medical Cannabis Act) was enacted in October 2015 and provided a framework for the regulation of medical cannabis businesses. The Medical Cannabis Act eliminated the cooperative/collective model and replaced it with a commercial licensing scheme under which operators are required to obtain both local permits and state license approvals. The Medical Cannabis Act retained local control over land use and where and whether commercial cannabis businesses are allowed and under what conditions.

On November 8, 2016, the voters of California passed the Adult Use of Marijuana Act (Adult Use Cannabis Act) legalizing non-medical adult use cannabis. On June 27, 2017 the state passed Senate Bill 94 which consolidated the regulations in Medical Cannabis Act and Adult Use Cannabis Act into the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Cannabis Act). The Cannabis Act created one regulatory system for medicinal and adult-use cannabis. The three state cannabis licensing authorities, California Bureau of Cannabis Control, CalCannabis Cultivation Licensing, and the Manufactured Cannabis Safety Branch, issued their comprehensive emergency regulations on November 16, 2017 creating the current cannabis regulatory structure.

#### **Sonoma County Laws**

The County began permitting medical cannabis dispensaries in 2007 and currently permits dispensaries pursuant to Sonoma County Code Section 26-88-126. The Board amended this code section in 2012 to

limit the number of dispensaries in the unincorporated County to a cap of nine. There are currently five permitted medical cannabis dispensaries and four in the application process.

In 2016 due to the new state medical cannabis law, the Board of Supervisors directed staff to bring forward a comprehensive cannabis ordinance. A Board of Supervisors Ad Hoc Committee on Cannabis (Ad Hoc Committee) was formed. The Ad Hoc Committee and staff conducted extensive community outreach in order to develop the Cannabis Ordinance. This outreach included town hall meetings in each supervisorial district, the establishment of a website, email list serve, project-dedicated email, online survey, and meetings with various stakeholder interest groups. An estimated 750 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 received feedback indicating 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. These concerns were particularly heightened for residential neighborhoods and related most often to cultivation.

In October and November, 2016 the Planning Commission held public workshops and public hearings to gather input and make recommendations on the proposed Cannabis Ordinance based on Board direction and public comment. On November 16, 2016 the Commission provided their recommendation. In December, 2016 the Board of Supervisors held another series of workshops and public hearings and adopted a series of ordinances establishing a comprehensive local program to permit and regulate the complete supply chain of medical cannabis uses, including: cultivation, nurseries, manufacturers, transporters, distributors, testing laboratories, and dispensaries. Sonoma County's ordinances regulating medical cannabis businesses include:

1. The Medical Cannabis Land Use Ordinance setting forth permit requirements on where and how each cannabis business type may operate;
2. The Medical Cannabis Health Ordinance establishing regulations and permitting for medical cannabis dispensaries and edible manufacturing to address product safety, labeling and advertising; and
3. The Cannabis Business Tax Ordinance imposing a tax on both medical and nonmedical commercial cannabis businesses operating in the unincorporated County.

### **Cannabis Ordinance Implementation**

Since Ordinance adoption staff have been focused on implementing the cannabis program. County departments hired and trained staff, developed specific rules and guidelines based on the ordinance, created support materials for businesses such as checklists and fact sheets, and built out multi-departmental online permitting, tax collection, and database systems. These implementation efforts also included an extensive public outreach and education program highlighted by the "Dirt to Dispensary" workshop series and involvement in the creation and staffing of the Cannabis Advisory Group.

The County began accepting permit applications from cannabis-related businesses on July 5, 2017. As of May 25<sup>th</sup>, 181 applications have been submitted. 130 of these are a mix of zoning and use permits

submitted to Permit Sonoma and the remainder of 51 are small outdoor cultivation Zoning Permits applications to the Department of Agriculture.

### **2018 Board of Supervisors and Cannabis Ad Hoc Committee Direction**

On April 10, 2018, the Board conducted a Cannabis Ordinance Study Session and adopted a Resolution of Intention to update the existing Cannabis Ordinances. Feedback from the Board of Supervisors focused the following three actions:

- Consider allowing Adult Use cannabis in unincorporated Sonoma County for the full cannabis supply chain including dispensaries.
- Harmonize the Sonoma County Ordinance with state law and regulations where appropriate.
- Enhance neighborhood compatibility and overconcentration issues related to cannabis operations.

The Ordinance amendment process is split into two parts. Part 1 has a limited scope and is focused on bringing forward amendments related to state law alignment and any other actions that could happen in quick fashion. Part 2 will include a more thorough review of neighborhood compatibility and other implementation efforts that require robust outreach and staff analysis. Part 2 will begin in summer, 2018 and will likely take 12-18 months.

The Board of Supervisors Cannabis Ad Hoc Committee (Supervisors Gorin and Hopkins) met on April 13<sup>th</sup> and May 21, 2018. They have provided direction which has been incorporated into this staff report.

**Table 1: Schedule of Part 1 Cannabis Ordinance Amendments**

<b>Date</b>	<b>Task</b>	<b>Request Action</b>
May 10, 2018	Marijuana Technical Advisory Committee Meeting	A Technical Advisory Committee (TAC) consisting of various representatives from County departments will provide feedback on the amendments as they are developed.
May 21, 2018	Board of Supervisors Ad Hoc Committee	Review of staff recommendation to the Planning Commission.
May 30, 2018	Cannabis Advisory Group Meeting	The Advisory Group will provide valuable information, perspective, and feedback to the County for throughout the process of amending, the cannabis ordinances.
June 7, 2018	Planning Commission Hearing and Recommendation	At least one public hearing and meetings to deliberate and provide a recommendation to the Board.
Aug 7, 2018	Board of Supervisors Hearing and Adoption	A public hearing will be held to deliberate and take formal action to adopt the revised ordinance.

### **Cannabis Advisory Group Recommendations**

On July 18, 2017, as part of Ordinance implementation, the Board of Supervisors approved the appointment of 20 members to serve on the Sonoma County Cannabis Advisory Group (CAG). The CAG was developed to offer a diverse perspective on the impacts of cannabis and cannabis regulations, and to provide information

and feedback to the County for developing, amending, and funding local cannabis programs and policies. The CAG has met for seven monthly meetings that have been well attended with an average of 150 people in attendance.

Within the CAG there are four Ad Hoc subgroups charged with research and development of recommendations on temporary state licenses, harmonization with state regulations, and inclusion and exclusion zones. Recommendations from the Advisory Group and Ad Hoc subgroups do not receive a formal vote, but instead reflect the opinion of the majority of the members of the group. Dissenting viewpoints are sought out by staff and the Co-Chairs, and minority and majority recommendations are often presented in writing to staff and shared with the Cannabis Ad Hoc. Recommendations, and the alternative minority recommendations of the Cannabis Advisory Group, are attached as Exhibit F.

Although the CAG has no direct decision making authority, the feedback from all members of the group was considered by staff in identifying key issues with the Cannabis Ordinance and informing the development of policy recommendations to the Ad Hoc and Planning Commission.

### **DISCUSSION OF ISSUES**

**Project Description:** Consideration of a series of amendments to the Zoning Code including but not limited to:

- Allow Adult Use/Recreational Cannabis Operations Including Dispensaries (no change to existing cap of 9);
- Extend the life of new cannabis permits from one year to two years;
- Allow transferability of permits between operators (similar to other land use permits);
- Require use permits for cannabis uses (cultivation including nursery) on properties less than 10 acres within Agricultural and Resource Zones;
- Create Inclusion and Exclusion Combining Districts;
- Harmonize definitions and ordinance language to align with state law and emergency state regulations regulating cannabis operations including new license types and definitions; and
- Amend other zoning code language to aid in consistency and clarification.

#### **ISSUE #1: ALIGNMENT WITH STATE LAW**

While the County controls local permitting, cannabis operators are also required to get a state license. This dual licensing system creates difficulties for staff and cannabis operations in areas where the State and County regulations do not align. The 2016 Ordinance was written based on existing state law, the Medical Cannabis Regulation and Safety Act (MCRSA). State law has since changed to accommodate Adult Use and two versions of Emergency Regulations have been released implementing the state law. The most recent Emergency Regulations were released May 17<sup>th</sup>, 2018. The following amendments are proposed to better align with current state law and regulations.

#### **Cannabis Adult Use/Recreational**

In November, 2016 California voters passed Prop 64 to include Adult Use in the cannabis marketplace. Sonoma County voted 59% in favor. In the summer of 2017, Governor Brown signed SB 94 and AB 113, which merged the Medical and Adult Use licensing framework. With a few exceptions, Adult Use and Medical Licensing are now mirrored across the supply chain, and the State began accepting Adult Use

Licenses on January 1, 2018. Many surrounding jurisdictions have adopted Adult Use policies including Santa Rosa, Sebastopol, Cloverdale, Cotati, and Mendocino County. Staff recommends allowing all cannabis operations to have the option to function within the Medical and Adult Use market place, including dispensaries. The proposed Ordinance (Exhibit A) removes the word “medical” and includes other amendments for consistency to allow both options. Existing permitted cannabis operations would have to apply for a use permit revision, or wait until permit renewal, to include Adult Use.

#### **New License Types:**

Staff proposes the following new license types and definitions for consistency with State Law:

- **Processor:** This new license type would allow a processing facility separate from individual cultivation sites. A processing-only site conducts trimming, drying, curing, grading, or packaging of cannabis and non-manufactured cannabis products for multiple cultivators. No cultivation of cannabis plants would occur at licensed processor premises. Centralized processing would only be allowed in Industrial Zoning Districts and will likely reduce the need for onsite processing facilities in Agricultural Zoning Districts and their associated impacts.
- **Microbusiness:** The most recent change in state law created a Microbusiness option which allows smaller operators to engage in at least three (3) of the following commercial cannabis activities: cultivation (limit of 10,000 square feet), manufacturing, and distribution/transportation. The microbusiness license would only be permitted with a Minor Use Permit in the Industrial Zoning Districts as indicated on the Cannabis Land Use Table. This new opportunity does not alter the allowed uses already in existence under the Cannabis Land Use Ordinance and only formalizes the potential to request this combined state license type.
- **Self-Distributor-Transport-Only License:** This new license type allows for the transport of cannabis goods that the permit holder has cultivated or manufactured. It does not allow transport of other offsite cannabis goods. Staff recommends allowing this use to be included within the use permit process for cannabis operations. Operators would still have the choice to work with a third party distributor/transporter if they so choose.
- **Shared Manufacturing Facilities:** Manufacturing is an existing license type but staff proposes to allow manufacturing facilities to be shared among multiple operators. The most recent State Regulations allow permitted cannabis manufacturers to provide the use of the licensed space and equipment to smaller manufactures. Cannabis manufacturers wishing to utilize the space could submit an application for a share (Type S) cannabis manufacturing license at the state level. This use would still require a use permit process and expanding opportunities to multiple operators to sub-lease has no land use implication.

## Zoning Code Definitions:

### Cannabis Measurement- Canopy

Staff proposes adopting a slightly modified version of the state definition of canopy to replace the “Cannabis Cultivation Area” definition within current code. The most recent set of Emergency Regulations propose to measure canopy similar to our local definition, although they are named differently. The proposed change in language is minimal but any difference in measurement presents many issues for staff and cultivators. This change would provide clarity and consistency for operators as they apply for both County permits and State licenses, and for tax purposes.

**Proposed Canopy Definition:** The designated area(s) at a permitted premises that will contain cannabis plants at any point in time, as follows:

- (1) For indoor and mixed-light license types, canopy shall be calculated in square feet and measured using the room boundaries, walls, or ceiling-to-floor partitions of each enclosed area that will contain cannabis plants at any point in time. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- (2) For outdoor license types, canopy shall be calculated in square feet and measured using physical boundaries of all area(s) that will contain cannabis plants at any point in time, including the space within the boundaries;
  - (a) Each unique area included in the total canopy calculation shall be separated by a physical boundary. For purposes of this section, “physical boundary” means a fence, hedgerow, garden plot, or other stable, semi-permanent structure that clearly demarcates the canopy edge.

The new definitions below are proposed to be added to the zoning code to provide consistency with state law and regulations:

- **Applicant – Cannabis:** A person that is applying for a permit pursuant to engage in commercial cannabis activity pursuant to this chapter.
- **Cannabis Business Owner:** A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit, unless the interest is solely a security, lien, or encumbrance; the chief executive officer of a nonprofit or other entity; a member of the board of directors of a nonprofit; the trustee(s) and all persons that have control of the trust and/or the commercial cannabis business that is held in trust; and/or an individual who will be participating in the direction, control, or management of the person applying for a permit.
- **Commercial Cannabis Activity:** The cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this chapter.
- **Delivery:** The commercial transfer of cannabis or cannabis products to a customer, including use by a retailer of any technology platform owned and controlled by the retailer.

- **Hoop House-Cannabis:** A temporary structure used for season extension or crop protection erected for less than 180 days where the material covering the structure is removable. Hoop houses do not have any electrical components, such as ventilation or artificial lighting, and are not used for light deprivation.
- **Light Deprivation:** The elimination of natural light in order to induce flowering, using black out tarps or any other opaque covering.
- **Non-manufactured Cannabis:** Flower, shake, kief, leaf, and pre-rolls.
- **Process, Processing, or Processes - Cannabis:** All activities associated with drying, curing, grading, trimming, rolling, storing, packaging, and labeling of non-manufactured cannabis.

Other existing definitions are also proposed for amendments (within Exhibit A) to provide clarity and to better align with current state law and regulations.

#### **ISSUE #2: NEIGHBORHOOD COMPATIBILITY**

Since adoption of the Cannabis Land Use Ordinance staff has received substantial communication from individuals and neighborhood organizations about the compatibility of cannabis operations with the community. Concerns have included the concentration of cannabis businesses, consistency with adopted Area Plans, proximity to residential, setbacks from sensitive uses (parks, schools, etc), preservation of rural character, use of private roads/access, and substandard parcel sizes.

As noted previously, on April 10<sup>th</sup> the Board of Supervisors directed staff to take some action now during Part 1 (2018) and launch a more robust process for Part 2 (to conclude in 2019). The following policy options and recommendations represent staff and the Cannabis Ad Hoc Committee's suggestions for consideration and deliberation.

**Cannabis Permit Requirement** (Land Use Table Amendment): Staff proposes the following policy options related to cannabis permitting and whether a zoning or use permit should be required and under what different circumstances.

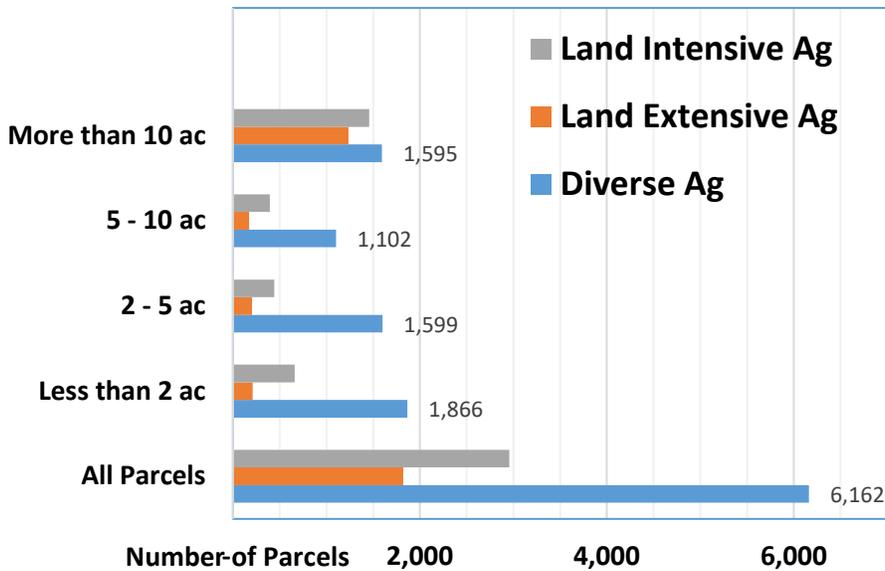
#### **Policy Options:**

1. **Require a Use Permit for All Sizes of Cultivation Operations within Non-Industrial Zones:** This option would require a conditional use permit regardless of parcel or operational size within the Land Intensive Agriculture (LIA), Land Extensive Agriculture (LEA), and Diverse Agriculture (DA) zones (use permits are already required within the Resources and Rural Development (RRD) Zone). Currently cannabis cultivation up to 10,000 sq ft is allowed with a zoning permit on LEA and DA lands. These zoning permits are processed by the Department of Agriculture. This option would require use permits for all operations within agriculture and resource zoning districts and would move all permitting to Permit Sonoma. The cannabis zoning permit process would be limited cultivation up to 500 sq ft of canopy within industrial zones.

2. **Require a Use Permit for Properties less than 10 acres within Non-Industrial Zones (Staff and Ad Hoc Recommended Option):** Operators on properties under 10 acres within the LIA, LEA, and DA zones would be subject to the conditional use permit process which includes public notification, environmental review, and a public hearing process. Zoning permits would continue to be allowed on properties over 10 acres.
3. **Require a Use Permit for Properties less than 10 acres within the Diverse Agriculture (DA) Zone:** Operators on properties under 10 acres would be subject to the conditional use permit process only within the DA Zone. The large majority of smaller agricultural properties are within this zoning district (see Figure 1 below). Zoning permits would continue to be allowed on properties over 10 acres.
4. **Require Use Permits for All Cannabis Operations within the DA Zone:** This option would require all cannabis operations, regardless of parcel or operational size, to obtain a conditional use permit within the DA zoning district.
5. **Require a 10 Acre Minimum Parcel Size within the DA Zone:** This option would not allow any cannabis operations on DA properties under 10 acres in size. Currently cannabis operations are allowed on properties as small as 2 acres. 74 % (4,567) of DA parcels are under 10 acres with 26% (1,595) being over.
6. **Pipeline Provision for Applications Approved or In Process**
  - a. Allow for approved permits to continue operating until they expire.
  - b. Allow any permits that are “complete for processing,” to continue to be processed and approved, and operate until they expire.

**BOS Cannabis Ad Hoc and Staff Recommendation:** Option #2 and #6b. Operators on properties under 10 acres within the LIA, LEA, and DA zones would be subject to the conditional use permit process which includes public notification, environmental review, and a public hearing process. This process would allow for a case-by-case review of neighborhood compatibility issues. Zoning permits would continue to be allowed on properties over 10 acres within the LEA and DA zones.

There are currently nine zoning permits in process, and one approved that would be impacted by this amendment. Staff proposes an ordinance pipeline provision which would allow any zoning permit application deemed complete by adoption date (proposed to be August 7<sup>th</sup>, 2018), to continue as a zoning permit for one year until renewal is required.

**Figure 1: Agricultural Zones and Parcel Size**

**Indoor Cultivation Setback from Schools** (Section 26-88-254(f)(4)): To better align with state law and alleviate issues related to proximity of indoor cultivation to schools, staff proposes a 600 ft separation between these uses.

**Allow Appeal of Zoning Permits Issued by the Department of Agriculture** (Section 26-88-250(m)): Currently the zoning code allows appeal of zoning permits issued by Permit Sonoma. This new language would provide consistency and allow appeal of zoning permits issued by the Department of Agriculture. The appeal body would be the Board of Zoning Adjustments (BZA). Note that this appeal process would be ministerial and the BZA's authority would be limited to determining if the project met the ministerial standards contained within the zoning code.

### **ISSUE #3: INCLUSION ZONE**

Staff proposes to create the Cannabis Inclusion Combining District as a tool for future application to parcels that do not have eligible zoning for cannabis cultivation only, but which have unique characteristics that make them worthy for consideration with a conditional use permit for cultivation. For instance, there are anomalies within zoning throughout the county where a small commercial property, surrounded by large agricultural properties, is ineligible under existing ordinance but is a logical location due to surrounding agricultural or open space use with no residential compatibility issues. This tool could also be used if there are specific neighborhoods or districts where cannabis uses are less likely to cause neighborhood compatibility or environmental issues.

The Inclusion Zone would be applied through a Zone Change application process which requires a public hearing process, environmental review, and final decision by the Board. No projects are being proposed for the rezoning at this time.

The following policy options are proposed for consideration by the Planning Commission.

**Policy Options:**

**1. Allow Cultivation within Certain Base Zoning Districts:**

- a. **Allow in Rural Residential (RR) and Agriculture Residential (AR) Zoning Districts:** This option would allow for all RR and AR properties, regardless of location or size, to apply for cannabis use permits.
- b. **Allow in Commercial Districts:** Currently the only cannabis uses allowed in commercial districts are dispensaries and laboratories. There have been a number of existing cultivators who were interested in continuing operations, one of which applied for a General Plan Amendment to move from Commercial to Agricultural Zoning but wasn't able to meet the General Plan designation criteria and was forced to withdraw the application and cease operations.
- c. **Allow in Agricultural Services District:** Currently no cannabis uses are allowed within this zoning district. There are only 13 parcels countywide within this zoning district. Allowing cannabis within this district would limit the opportunity for siting of agricultural support and commercial service uses.

**2. Limit the Inclusion Zone to Certain Areas of the County or Historic Use:**

- a. **Limit by Planning Areas:** The Sonoma County General Plan divides the county into nine (9) planning areas. These planning areas could be used to identify areas where AR and RR properties would be eligible for cannabis permitting.
- b. **Limit by Area Plan Area:** There are currently 8 adopted Area and Specific Plans. Cannabis applications could be included or excluded based on these boundaries.
- c. **Limit to Properties with Historic Cannabis Use:** This option would limit the RR and AR eligible properties to those with historic cannabis uses, meaning those properties where it can be proven that cannabis cultivation was occurring prior to Jan 1, 2018 (end of transition period).

**3. Criteria to be used for Consideration of Inclusion Zoning:**

- a. **Minimum Parcel Size:** Currently all cultivation, with the exception of indoor, has a 2 acre minimum parcel size requirement. The Inclusion Zone could express a larger minimum lot size of 5 or 10 acres. Note that only 9% of AR and RR parcels are larger than 5 acres and only 3% are over 10 acres.
- b. **Proximity to Residential Uses:** A key area of concern is neighborhood compatibility and proximity to residential uses. Criteria could be created to restrict eligibility in the following ways:
  - i. Property is located in an area with residential density no more than 1 unit/10 acres,
  - ii. No residential dwellings within a half mile of the parcel

- iii. No residential dwellings within 1,000 ft of the operation's premise.
- c. **Proximity to Agricultural Uses:** The property is within an area with other existing agricultural uses. This would require a finding that the cannabis operation would be surrounded by other types of traditional agricultural operations which would ensure a reduction in nuisance factors of noise, odor, etc.
- d. **Limitation on Size or Type of Cannabis Cultivation:**
  - i. Allow only Indoor Cultivation. This option would restrict uses to indoor only which may reduce neighborhood compatibility and nuisance issues.
  - ii. Allow only Cottage. This option would restrict the size of the cultivation to a maximum of 25 plants.
  - iii. Allow all types up to 10,000 sq ft of canopy.
  - iv. Allow all types and sizes based on the limits expressed in the Cannabis Land Use Table. This option would allow for a case by case review of the size of cultivation based on the property location, zoning, and size. Note the 1 acre of cultivation maximum would still apply.

#### 4. Initiation of Zone Change Request

- a. Applicant Submits Request: This would allow a private party to apply for the Inclusion Zone on one or more properties.
- b. County Initiated: A zone change to add the Inclusion Zone could only be initiated by the County, as directed by the Board of Supervisors and the Cannabis Ad Hoc Committee.
- c. Allow for both private parties and the County to initiate rezoning applications for Inclusion Zones.

**BOS Cannabis Ad Hoc and Staff Recommendation:** Staff recommends that the Inclusion Zone be made available to RR and AR properties within Planning Areas 4 and 6, on parcels 5 acres or more, for all types and sizes of cultivation allowed on the Cannabis Land Use Table and the standards and restrictions within the Cannabis Land Use Ordinance (as proposed). Staff further recommends that the Inclusion Zone be made available to all Commercial Zoning Districts countywide for any type of cultivation based on the requirements of the Cannabis Land Use Table. This process would be initiated by a private party application through a zone change application and use permit process.

#### ISSUE #4: EXCLUSION ZONE

Staff proposes to create a Cannabis Exclusion Combining District similar to the exclusion zones that already exist for Accessory Dwelling Units and Vacation Rentals. This zone would be used to exclude cannabis uses on properties that meet one or more of the criteria set within the Ordinance. For instance, this tool could be used to restrict cannabis within a certain area due to environmental sensitivity or neighborhood compatibility issues. The following policy options are proposed for deliberation and recommendation of the Planning Commission:

## Policy Options

1. **Criteria for Exclusion:** The Combining Zone may be placed on parcels where one or more of the following criteria are met:
  - a. Areas where there is inadequate road access or other conflicts;
  - b. Areas where the prevalence or concentration of cannabis operations 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 with sensitive biotic resources or significant environmental sensitivity exists; or
  - f. Other areas where the Board of Supervisors determines that it is within the public interest to prohibit cannabis uses.
  
2. **Initiation of Zone Change Request**
  - a. Applicant Submits Request: This would allow a private party to apply for the Exclusion Zone on one or more properties.
  - b. County Initiated: A zone change to add the Exclusion Zone could only be initiated by the County, as directed by the Board of Supervisors and the Cannabis Ad Hoc Committee.
  - c. Allow for both private parties and the County to initiate rezoning applications for Inclusion Zones.
  
3. **Pipeline Provision for Applications Approved or In Process**
  - a. Allow for approved permits to continue operating until they expire.
  - b. Allow any permits that are “complete for processing” to become approved and operate until they expire.
  - c. Allow this provision to be reviewed on a case by case basis through the Exclusion Zone Application Process.

**BOS Cannabis Ad Hoc and Staff Recommendation:** Allow individual private party applicants or the County to initiate an Exclusion Zone application. Staff and the Ad Hoc further recommend that all of the criteria listed under Option #1 be available options within the Exclusion Zone district. It is further recommended that the pipeline provision not be prescribed at this time. The Commission and the Board should have flexibility to apply a different pipeline provision on a case by case basis depending on the situation.

### ISSUE #5: OTHER STAFF RECOMMENDED CHANGES

Since adoption of the Cannabis Land Use Ordinance and the acceptance of permits beginning in July 2016, staff has found areas of the ordinance that require correction, clarification, or amendment based on experience processing permit applications. The following amendments are proposed by staff (exact language within Exhibit A):

**Extend the Length of Time of Permits:** Currently cannabis permits are issued for one year and require annual renewal. Staff and the Cannabis Ad Hoc Committee recommend that cannabis permits be issued for a two year period of time. Staff does not recommend retroactively extending approved applications for two

years. Rather, if allowed by the revised ordinance, approved applicants can apply to modify their permit to be eligible for the two year timeframe.

**Transferability:** Allow cannabis permits to be transferred between operators similar to other land use permits. The ordinance currently includes ambiguous language as to the transferability of permits. Due to changes in state law cannabis operators have been required to change corporate structure from non-profit to profit, and in many cases have been partnering with investors who are named in the business structure. These changes have resulted in many permits essentially being “transferred.” Because cannabis permits would be limited to two years, staff sees no harm in allowing the transfer of permits, provided that the ownership is documented.

**Remove Priority Processing Policy:** The program was envisioned to provide a more expedited pathway for local residents and operators. However, the majority of the 181 applicants received have requested priority processing. Staff has found this policy to be an ineffective tool and propose to remove the policy entirely.

**New Indemnification Language:** Standard indemnification language has been proposed by County Counsel to provide consistency between departments.

**Allowance for Propagation Areas:** This pertains to the propagation (mother plants, starts, seedlings) necessary to support the onsite cultivation operation, not to be confused with a nursery operation who sells seeds or seedlings. The existing code does not express an allowance or limitation on the amount of propagation area. Due to this ambiguity applicants and staff have experienced problems with clarifying the taxable area or the maximum amount of cultivation allowed on a property. Based on research of state regulations and other jurisdictions, staff is proposing the allowance of up to 5% of the floor area of cultivation to be used for non-flowering propagation. This allowance would allow vegetative and other propagative cannabis plant material to be cultivated for use on-site without impacting overall permitted canopy, a floor area of up to 5% of the size of the permitted canopy may be used for non-flowering plants provided this plant material is kept in a separate, unique area away from flowering plants.

**Enforcement Section:** Staff has proposed a number of amendments to make technical corrections and align language with upcoming Administrative Citation Ordinance.

**Clarification of Language, Without Change to Requirements, Within the Following Sections (as seen in Exhibit A):**

1. Maximum amount of cannabis allowed on a single parcel and how this is measured (no change to how this is measured) (26-88-254(e) and (f)(1))
2. Biotic Resources Section (26-88-254(f)(8))
3. Cultural and Historic Resources Section (26-88-254(f)(9))
4. Security and Fencing (26-88-254(f)(16))
5. Water Supply, proposed to be amended to “Water Source” and clarification that a hydrogeological report is required for Groundwater Availability Zone 3, consistent with the General Plan (26-88-254(g)(10)).

**Non-Substantive Corrections**

- a. Added separation criteria measurement to dispensary section that was mistakenly omitted.
- b. Addition of the 3<sup>rd</sup> footnote on the land use table to Indoor Cottage 500 sq ft LEA. This restricts uses to existing structures or previously disturbed areas.
- c. Land Use Tables reordered and numbered in line with the state license type.
- d. Corrections of grammar and spelling throughout.

**ENVIRONMENTAL DETERMINATION:**

It is the determination of staff that the proposed amendments are consistent with the previously circulated and approved Negative Declaration, adopted December 20, 2016; that the project is categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the project will have no significant or physical effect on the environment; under sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment; and Section 15321 as an action by an agency for enforcement of a law, general, rule, standard or objective administered or adopted by the agency; and the Business and Professions Code Section 26055(h) (MAUCRSA) because the adoption of this ordinance requires discretionary review of cannabis operations which will include applicable environmental review under CEQA.

**STAFF RECOMMENDATION**

**RECOMMENDATION:** Staff recommends that the Planning Commission

1. Hear the Staff Presentation,
2. Hold a Public Hearing,
3. Deliberate and Take Straw Votes on Policy Options, and
4. Adopt Resolution recommending that the Board approve the Zoning Code Amendments. Final recommendation may be continued to an additional Planning Commission hearing date.

**FINDINGS FOR RECOMMENDED ACTION**

1. The proposed amendments are necessary and desirable to protect the public health, safety and environmental resources, provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.
2. This ordinance amendment is intended to be Part 1 to a two part policy effort to alleviate neighborhood compatibility issues and harmonize with state regulations which were adopted after the County's adoption of the Cannabis Land Use Ordinance on December 20, 2016 (Ordinance #6189).
3. This ordinance is consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other

pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water.

4. It is the determination of staff that the proposed amendments are consistent with the previously circulated and approved Negative Declaration, adopted December 20, 2016; that the project is categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the project will have no significant or physical effect on the environment; under sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment; and Section 15321 as an action by an agency for enforcement of a law, general, rule, standard or objective administered or adopted by the agency; and the Business and Professions Code Section 26055(h) (MAUCRSA) because the adoption of this ordinance requires discretionary review of cannabis operations which will include applicable environmental review under CEQA. The Planning Commission finds on the basis of the whole record before it that this exemption reflects the independent judgment and analysis of the Commission and that there is no substantial evidence that the project will have a significant effect on the environment.

#### **LIST OF ATTACHMENTS**

- EXHIBIT A: Draft Cannabis Ordinance Amendments
  - EXHIBIT B: Draft Cannabis Land Use Table
  - EXHIBIT C: Draft Exclusion Combining Zone
  - EXHIBIT D: Draft Inclusion Combining Zone
  - EXHIBIT E: Draft Planning Commission Resolution
  - EXHIBIT F: Cannabis Advisory Group Recommendations
-

**Definitions in Section 26-02-140**

**Applicant – Cannabis:** A person that is applying for a permit to engage in commercial cannabis activity pursuant to this chapter.

**Cannabis:** 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; **the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “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 **California** Food and Agricultural Code or Section 11018.5 of the **California** Health and Safety Code, **or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.** Cannabis is classified as an agricultural product separately from other agricultural crops.

**Cannabis Business Owner:** A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit, unless the interest is solely a security, lien, or encumbrance; the chief executive officer of a nonprofit or other entity; a member of the board of directors of a nonprofit; ~~the trustee(s) and all persons that have control of the trust and/or the commercial cannabis business that is held in trust; and/or an individual who will be participating in the direction, control, or management of the person applying for a permit.~~

**Cannabis Cultivation:** 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, 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:** The total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.~~

**Canopy:** The designated area(s) at a permitted cultivation site that will contain plants at any point in their life stage as follows:

- (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain plants at any point in their life stage, including all of the space(s) within the boundaries;
- (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and
- (3) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- (4) An additional area for propagation of seeds, starts, and immature plants up to a maximum of five percent (5%) of the total permitted canopy area may be allowed to support cultivation sites other than nurseries.

**Cannabis Cultivation – Indoor:** ~~Cultivation of e~~Cannabis cultivation within any type of structure using exclusively artificial lighting.

**Cannabis Cultivation – Mixed-Light:** ~~Cultivation of e~~Cannabis cultivation using any combination of natural and supplemental artificial lighting, in a greenhouse or other similar structure using natural light, light deprivation, and/or 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:** ~~Cultivation of e~~Cannabis cultivation 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 other similar structures.~~ Artificial lighting is permissible for use in propagation areas.

**Cannabis Cultivation Site:** The premise(s), ~~leased area(s), property, location nor facility~~ where ~~medical-commercial~~ cannabis is planted, grown, harvested, dried, cured, graded, or trimmed or ~~that does~~where all or any combination of those activities occurs.

**Cannabis Dispensary:** ~~a~~A facility ~~operated in accordance with state law~~, where ~~medical~~ cannabis, ~~medical~~cannabis products, or devices for the use of ~~medical~~cannabis are offered, either individually or in any combination, for retail sale, including an establishment that delivers ~~medical cannabis or medical~~cannabis and/or cannabis products as part of a retail sale.

**Cannabis Distribution Facility:** ~~The location or a facility where a person 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. This Facility requires a Type 11 license pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).~~ The procurement, sale, and transport of cannabis and cannabis products between licensees.

**Cannabis License:** A ~~state~~ license issued **by the State of California** pursuant to the **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**. ~~Medical Cannabis Regulation and Safety Act (MCRSA)~~.

**Cannabis Licensee:** Any person issued a ~~state~~ license **by the State of California** under the **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**. ~~Medical Cannabis Regulation and Safety Act to engage in commercial cannabis activity.~~

**Cannabis Manufacturer:** A person that **conducts the** ~~production~~, **prepares** ~~preparation~~, propagat~~ion~~**es**, 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:** ~~A location~~ **All aspects of the extraction process, infusion process, and packaging and labeling processes, including preparing, holding, or storing of cannabis products. Manufacturing also includes any preparing, holding, or storing of components and ingredients.** ~~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 – Medical:** ~~Any product containing cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles~~ **Any cannabis or cannabis product** 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.~~

**Cannabis Operator:** The ~~natural person or designated officer responsible for the operation of~~ **individual authorized to represent the person applying for or operating pursuant to a permit authorizing** any commercial cannabis ~~use~~ **activity pursuant to this chapter.**

**Cannabis Product, medical cannabis, or medical cannabis product:** ~~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.~~ **Cannabis that has undergone any process whereby the plant material has**

been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

**Cannabis Testing Laboratory:** A laboratory, facility, or entity, ~~or site~~ in the ~~state~~ State of California that offers or performs ~~testing tests~~ of cannabis or cannabis products.

**Cannabis Transporter:** ~~A person engaged in T~~ the physical movement ~~transfer~~ of cannabis or cannabis products from ~~the business location of one commercial cannabis business to the business location of another commercial cannabis business,~~ one licensed premises to another licensed premises. ~~for the purposes of conducting commercial cannabis activity.~~

**Commercial Cannabis Activity:** The cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this chapter.

**Delivery:** The commercial transfer of cannabis or cannabis products to a customer, including use by a retailer of any technology platform owned and controlled by the retailer.

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

**Hoop House – Cannabis:** A temporary structure used for season extension or crop protection erected for less than 180 days where the material covering the structure is removable. Hoop houses do not have any electrical components, such as ventilation or artificial lighting, and are not used for light deprivation.

**Light Deprivation:** The elimination of natural light in order to induce flowering, using black out tarps or any other opaque covering.

**Nonmanufactured Cannabis:** Flower, shake, kief, leaf, and pre-rolls.

**Nonvolatile Solvent:** Any solvent used in the extraction process that is not a volatile solvent. For purposes of this chapter, ‘nonvolatile solvents’ include carbon dioxide and ethanol.

**Nursery – Cannabis:** An ~~establishment~~ person that produces only clones, immature plants, ~~and seeds, and other agricultural products for wholesale distribution to permitted cultivators or dispensaries,~~ used specifically for the planting, propagation, and cultivation of ~~medical~~ cannabis.

**Person:** 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~~.

**Process, Processing, or Processes – Cannabis:** All activities associated with drying, curing, grading, trimming, rolling, storing, packaging, and labeling of nonmanufactured cannabis.

**Premises(s) – Cannabis:** ~~A legal parcel, or a leasehold interest in land, or a leased or owned space in a building.~~ **The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or person holding a valid permit where commercial cannabis activity will be or is conducted.**

**Volatile solvent:** ~~Volatile solvents may~~ **Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures, including** ~~but is not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2).~~ **For purposes of this chapter, “volatile solvent” also includes** ~~dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall.~~

Sec. 26-88-250. - Commercial cannabis uses—~~Medical~~.

- (a) Purpose. This section provides the development and operating standards for ~~personal and commercial~~ ~~medical~~ cannabis ~~uses~~ **activities** to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.
- (b) Applicability. ~~Medical~~ **Commercial** cannabis ~~uses~~ **activities** shall be permitted only in compliance with the requirements of Sections 26-88-250 through 26-88-256 and all other applicable requirements for the specific type of use and those of the underlying base zone.
- (c) Limitations on Use. **The following limitations apply to all commercial cannabis activities.**
- (1i)** ~~Medical~~ **Commercial** cannabis ~~uses~~ **activities** shall only be allowed in compliance with ~~the following sections and~~ all applicable **county** codes ~~set forth in the county code~~, including but not limited to, grading, building, plumbing, septic, electrical, fire, hazardous materials, and public health and safety.
- (2ii)** The ~~operator~~ **permit holder** 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 requirements of other local, state or other agencies having jurisdiction over the type of operation. The ~~operator~~ **permit holder** shall provide copies of other agency and department permits, licenses, or certificates to the review authority to serve as verification for such compliance.
- (3iii)** Permits for ~~medical~~ **commercial** cannabis ~~uses~~ **activities** shall only be issued where written permission from the property owner or landlord is provided.
- (4iv)** Tasting, promotional activities, and events related to **commercial** cannabis ~~uses~~ **activities** are prohibited. ~~Commercial cannabis uses for non-medical cannabis for adult use is prohibited.~~
- (5v)** **Commercial cannabis activities are prohibited from using volatile solvents, including but not limited to Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2, or other dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene, as determined by the Fire Marshall.**
- (d) Permit Requirements. ~~Medical~~ **Commercial** cannabis ~~uses~~ **activities** 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 **commercial** cannabis ~~uses~~ **activities** are permitted except as specified in Table 1A-D. The county may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of the county code. ~~Medical~~ **Commercial** cannabis ~~uses~~ **activities** 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~~ **commercial** cannabis ~~uses~~ **activities** shall be issued ~~to the operator~~ for a period not to exceed **two (2) years** ~~one (1) year~~ from the date of permit approval and shall be subject to ~~biennial~~ **annual** permit renewals. The ~~operator~~ **permit holder** must apply for permit renewal prior to the expiration of the limited term permit. No property interest, vested right, or entitlement to receive a future permit to ~~operate~~ **conduct** a

~~medical-commercial~~ cannabis ~~use-activity~~ shall ever inure to the benefit of such permit holder ~~as such permits are revocable.~~

- (f) Health and Safety. ~~Medical-Commercial~~ cannabis ~~uses-activity~~ 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~~ **Permit holders** shall comply with **Sonoma County Code Section 35, the Sonoma County Cannabis Business Tax Ordinance, and** any additional taxes that may be enacted by the voters or any additional regulations that may be promulgated.
- (h) Operator Qualifications. ~~Commercial-medical-e~~ Cannabis operators must meet the following qualifications:
- (1): ~~Commercial medical-e~~ Cannabis operators and all employees must be **at least** twenty-one (21) years of age.
  - (2): ~~Commercial medical-e~~ Cannabis operators shall be subject to background search by the California Department of Justice. Permits for commercial ~~medical-cannabis operations-activities~~ shall not be ~~permitted-approved~~ for operators with **serious or violent** felony convictions, as specified in subdivision (c) of Section ~~1192.7 667.5~~ of the Penal Code and subdivision (c) of Section ~~667.5 1192.7~~ of the Penal Code.
  - ~~3. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.~~
  - (3) Cannabis operators must have authority to legally bind the person applying for and/or operating pursuant to a permit.**
  - ~~4. Priority processing of permits for medical cannabis operations shall be given to:~~
    - a. ~~Applications that demonstrate that the person operating the cannabis use or owner(s) of the cannabis use has been an existing cannabis operator in Sonoma County prior to January 1, 2016, or~~
    - b. ~~Applications that demonstrate that the person operating the cannabis use or owner(s) of the cannabis use have been a resident of Sonoma County prior to January 1, 2016, and~~
    - c. ~~Applications that provide a local preference hiring plan.~~
  - (4) Cannabis operators must meet the definition of a cannabis business owner.**
- (i) Weights and Measures. All scales used for commercial transactions shall be registered for commercial use and sealed by the Department of Agriculture/Weights and Measures.
- (j) Tracking. ~~Commercial-medical-cannabis-operators~~ **Permit holders** shall comply with any track and trace program established by the county and state agencies. ~~Commercial-medical cannabis-operators-Permit holders~~ must maintain records tracking all ~~medical-cannabis production~~ and **cannabis** products and shall make all records related to commercial ~~medical~~ cannabis activity available to the county upon request.
- (k) Inspections. ~~Commercial-medical-cannabis-operations~~ **Premises** shall be subject to inspections by appropriate local and state agencies, including but not limited to the ~~Departments of Health Services,~~ Agriculture/Weights & Measures, and Permit and Resource Management. ~~Medical-cannabis-operations-~~ **Premises** shall be inspected at random times for

conformance with the county code and permit requirements. The inspection shall be conducted during regular business hours, with at least 24-hours' notice. If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may temporarily suspend the permit and order the ~~medical cannabis operation~~ permit holder to immediately cease operations.

- (l) Monitoring. **Permit holders shall be subject to M**onitoring ~~shall be required for each medical cannabis operation to be granted a permit~~. An ~~annual~~ fee may be adopted by the board of supervisors and collected by the agency having jurisdiction or the county tax collector to pay for monitoring and enforcement.
- (m) **Appeals. Appeals of any permit issuance, denial, or decision by the Department of Agriculture/Weights & Measures shall be subject to review and appeal procedures pursuant to Chapter 36. Appeals of any permit issuance, denial, or decision by the Permit and Resource Management Department shall be subject to review and appeal procedures pursuant to Chapter 26.**
- (n) **Exercise of Permit and Notification of Changes. Permits are issued to and held by the person engaged in commercial cannabis activity, and specific to the premises for which it was issued. A permit holder shall, at all times, have one cannabis operator. Prior written notice must be provided to the agency having jurisdiction for any changes to ownership or cannabis operator, and must comply with applicable code requirements. New cannabis operators shall be required to participate in an orientation and/or exam(s), as determined by the agency having jurisdiction. Permit holders shall notify the agency having jurisdiction prior to any of the following:**
  - (1) A new person meeting the definition of cannabis business owner of the permit holder.
  - (2) Change in business entity type of the permit holder.
  - (3) Change in legal business name of the permit holder.
  - (4) A new person serving as operator of the permit holder.
  - (5) A new property owner of the parcel on which the premises is located.
- (o) **Permit Renewal. Applications for permit renewal may be administratively approved by the planning director only if:**
  - (1) **The use has been conducted in accordance with this section, with the operation's approved plan, and with all applicable use permit conditions of approval;**
  - (2) **There are no outstanding violations related to health, safety, land use, or tax; and;**
  - (3) **The requirements of Section 26-92-040 are met.**

(p) **Indemnification of County.** At the time of submitting an application for a permit pursuant to Sections 26-88-250 through Section 26-88-256, the applicant, and, if different than applicant, the lawful owner(s) of the property on which applicant seeks approval to engage in any commercial cannabis activity, shall agree, as part of the application, to defend, indemnify and hold harmless the county and its agents, officers, attorneys and employees from any claim, action or proceeding brought against the county or its agents, officers, attorneys or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, appeal boards of board of supervisors, which action is brought within the applicable statute of limitations. The indemnification shall include damages awarded against the county, if any, costs of suit, attorney fees and other costs and expenses incurred in connection with such action.

Sec. 26-88-252. - Enforcement.

(a) Violations.

- (1) Any activity performed contrary to the provisions of Sections 26-88-250 through 26-88-258 is hereby declared to be a violation of this chapter and a public nuisance.
- (2) Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to Sections 26-88-250 through 26-88-256~~8~~ shall constitute a violation of this chapter.
- (3) Each and every day during any portion of which any violation of Sections 26-88-250 through 26-88-258 or any permit issued ~~pursuant to this chapter~~thereunder is committed, continued, or allowed to continue shall be a separate offense.

(b) Enforcement. Complaints regarding **the noncompliance of commercial** ~~operations-activity or personal cultivation with Sections 26-88-250 through 26-88-258, as applicable,~~ will be addressed by the agency having jurisdiction which may conduct an investigation to determine whether there was a violation of the county code, a zoning standard, or a use permit condition. ~~s~~Sheriff reports, online searches, citations, aerial photos or neighbor documentation may constitute proof of a violation. **The agency having jurisdiction shall have discretion to investigate or prosecute any potential violation.**

~~If the agency having jurisdiction verifies that a medical cannabis use is operating in violation of the county code, is otherwise unpermitted, or that a violation of any permit condition has occurred, a notice of violation pursuant to Section 1-7.3 of the county code or an administrative citation pursuant to this section may be issued. At the discretion of the agency having jurisdiction or upon appeal, the zoning permit or use permit may be scheduled for a revocation or appeal hearing with the board of zoning adjustments pursuant to Chapter 26 or a revocation or appeal hearing pursuant to Chapter 11. 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.~~

~~Additionally, Where the agency having jurisdiction has evidence that a violation of Sections 26-88-250 through 26-88-258 poses a significant health or safety hazard to the~~

~~owners or occupants of adjoining properties or to the surrounding community, or for other good cause shown, the agency having jurisdiction may, in its discretion, commence a judicial action to enjoin such violation without the necessity of first going through the administrative procedures set forth in Section 1-7.3 of the county code.~~

~~(e)(1) Investigative and Prosecutorial Discretion. The agency having jurisdiction shall have discretion to investigate or prosecute any potential violation.~~

~~(d)~~(c) Suspension, Revocation or Modification.

(1) Any permit, license or approval issued pursuant to this chapter may be suspended, revoked, or modified by the agency having jurisdiction, if the ~~agency~~ **Director or the Agricultural Commissioner** determines any of the following:

~~(1)~~a. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification;

~~(2)~~b. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application; or

~~(3)~~c. One (1) or more of the conditions of the original permit have not been substantially fulfilled or have been violated.

~~(e)~~ (2) **Any suspension, revocation, or modification action taken by the Department of Agriculture/Weights and Measures shall be subject to review and appeal procedures pursuant to Chapter 36. Any suspension, revocation, or modification action taken by the Permit and Resource Management Department shall be subject to review and appeal procedures pursuant to Chapter 26. The revocation of any cannabis permit shall have the effect of terminating the permit and denying the privileges granted by the permit.**

**(3) Upon revocation, the permit holder and each person who meets the definition of cannabis business owner of the permit holder shall not apply for or be issued a permit for any commercial cannabis activity for a period of at least two (2) years.**

~~(e) Appeals. Permits issued by the Department of Agriculture/Weights & Measures shall be subject to review and appeal procedures pursuant to Chapter 11. Permits issued by PRMD shall be subject to review and appeal procedures pursuant to Chapter 26 or Chapter 1 as determined by director. The revocation of any permit issued pursuant to this Chapter shall have the effect of terminating the permit and denying the privileges granted by the permit.~~

~~(c) Administrative Remedies. This section is not intended to, and does not, establish any criminal liability. This section provides administrative remedies for any violation of this section related to all cannabis uses. A violation of this section shall be subject to all civil enforcement and abatement methods, including the administrative procedure set forth in Section 1-7.3 of the county code. The remedies provided for in this section apply to violations verified by the agency having jurisdiction, and shall be cumulative and not exclusive. This section is not intended to, and does not, establish any criminal liability.~~

**(1) Administrative Enforcement Action. A violation of Sections 26-88-250 through 26-88-258 or any permit issued thereunder shall be subject to civil enforcement and**

abatement methods pursuant to Section 1-7.3 of the county code, as determined by the agency having jurisdiction.

(2) 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, in the following amounts, adopted pursuant to the authority conferred by the Government Code, including Section 53069.4.~~

a. Any person violating or causing violation of any provision of Sections 26-88-250 through 26-88-258 or any permit issued pursuant to those sections may be issued an administrative citation by the agency having jurisdiction pursuant to Section 1.7-6. ~~Violations of any provision of the county code, permit, license or approvals are subject to administrative citation. Each act, omission, or condition may be cited as a separate violation and each violation that continues, exists, or occurs on more than one (1) day may constitute a separate violation on each day, at the discretion of the agency having jurisdiction.~~

b. Any person issued an administrative citation shall be liable for and shall remit payment of any fine(s) assessed in connection with the citation in compliance with Section 1.7-6 of this code.

c. Any person issued an administrative citation may appeal the citation to a hearing officer in compliance with Section 1-7.6 of this code.

**Cannabis ~~Administrative Citation~~ Civil Penalties Schedule**

Violation	First Offense	Second Offense	Third Offense
Exceedance of Allowed or Permitted <del>Cultivation-Canopy Area</del>	\$20 per square foot	\$30 per square foot	\$50 per square foot
Non-compliance with <del>a</del> Standard or Condition	\$1,000	\$5,000	\$10,000
Unpermitted Cannabis Use <del>other than cultivation area</del>	\$10,000	\$25,000	\$50,000

(23) Civil Penalties. In addition to any and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of a violation of ~~this chapter~~ the county code, the following civil penalties may be applied to violations associated with commercial cannabis activity, ~~any person who violates any provision of this chapter~~

~~shall be liable and responsible for, and shall pay to the county the following penalties, as determined by the agency having jurisdiction.~~

~~(a.i) For each square foot of canopy in exceedance of permitted canopy, no more than twenty dollars (\$20.00) per square foot for the first offense; no more than thirty dollars (\$30.00) per square foot for the second offense; and no more than fifty dollars (\$50.00) per square foot for the third offense. For each unpermitted cannabis use, no more than ten thousand dollars (\$10,000.00) for the first violation; no more than twenty five thousand dollars (\$25,000.00) for the second violation within two (2) years; and no more than fifty thousand dollars (\$50,000.00) for the third violation within three (3) years.~~

~~(b.ii) For each violation of a standard or condition of the permit or county code, nNo more than one thousand dollars (\$1,000.00) per day for the first violation; no more than ~~two~~ five thousand dollars (~~\$25,000.00~~) per day for a second violation within two (2) years; and no more than ~~five~~ ten thousand dollars (~~\$510,000.00~~) per day for each additional violation within two (2) years ~~for each day that the violation exists after the date of mailing or hand delivery of a notice of violation or a notice and order through to its abatement by whatever means; or.~~~~

~~(iii)c. For each unpermitted cannabis use, no more than ten thousand dollars (\$10,000.00) for the first violation; no more than twenty-five thousand dollars (\$25,000.00) for the second violation within two (2) years; and no more than fifty thousand dollars (\$50,000.00) for the third violation within three (3) years. No more than twenty dollars (\$20.00) per square foot of cultivation or cannabis use area for the first offense; no more than thirty dollars (\$30.00) per square foot of the cultivation or cannabis use area for the second offense; and no more than fifty dollars (\$50.00) per square foot of the cultivation or cannabis use area for the third offense.~~

~~(ivd.) In the event that the use or structure in violation may be permitted with an appropriate permit up to a maximum of fifty (50) times the amount of the standard fee for ~~every~~ each required approval, review, and permit.~~

~~(v) The penalty shall be imposed via the administrative process set forth in this section, as provided in Government Code section 53069.4, or may be imposed by the court, if the violation requires court enforcement without an administrative process. Acts, omissions, or conditions in violation of this section that continue, exist, or occur on more than one (1) day constitute separate violations on each day.~~

~~(34)~~ 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 standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two-year period, the permit for a cannabis operation is ~~hereby automatically nullified, voided or~~ revoked, subject to prior notice and to appeal. Appeals shall be filed within ten (10) days of the notice of revocation. Upon revocation, an application to reestablish a cannabis operation at the subject property shall not be accepted for a minimum period of two (2) years.

- ~~(4) — Liens. Whenever the amount of any civil penalty imposed pursuant to this section has not been satisfied in full within ninety (90) days and has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.~~
- ~~(i) — The lien provided herein shall have no force and effect until recorded with the county Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure Section 697.340, and may be extended as provided in Code of Civil Procedure Sections 683.110 to 683.220, inclusive.~~
- ~~(ii) — Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.~~
- ~~(iii) — Prior to recording any such lien, the agency having jurisdiction shall prepare and file with the clerk of the board of supervisors a report stating the amounts due and owing.~~
- ~~(iv) — The clerk of the board of supervisors will fix a time, date, and place for the board of supervisors to consider the report and any protests or objections to it. The clerk of the board of supervisors shall serve the owner of the property with a hearing notice not less than ten (10) days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.~~
- ~~(v) — Any person whose real property is subject to a lien pursuant to this section may file a written protest with the clerk of the board of supervisors and/or may protest orally at the board of supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.~~
- ~~(vi) — At the conclusion of the hearing, the board of supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.~~
- ~~(vii) — Within thirty days following the board of supervisors' adoption of a resolution imposing a lien, the agency having jurisdiction will file same as a judgment lien in the Sonoma County Recorder's Office.~~
- ~~(viii) — Once the county receives full payment for outstanding principal, penalties, and costs, the clerk of the board of supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Sonoma County Recorder's Office. This notice of satisfaction will cancel the county's lien under this section.~~
- ~~(ix) — The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The county shall be entitled to its attorney's fees and costs.~~

- ~~(5) — Removal of Violation. The penalties imposed by this section may not apply if the agency having jurisdiction establishes that within five (5) days after the date of mailing or hand delivery of notice of the existence of the violation, the person removed from the property the cannabis, the cannabis equipment, the use, or structure which constituted that violation.~~
- ~~(46) — Liability for Costs and Fees. In any enforcement action brought pursuant to this section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the county in the action or proceeding.~~

Sec. 26-88-254. - Cannabis cultivation—Commercial ~~medical~~.

- (a) 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, Commercial ~~Medical~~ Cannabis Uses.
- (b) 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 drying, curing, grading, and trimming 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—this section~~ in addition to the requirements of Section 26-88-250, Commercial ~~Medical~~ Cannabis Uses.
- (c) 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 shall be issued by ~~PRMD~~ **the Permit and Resource Management Department**. New structures, roads, and fences or conversion of existing structures or **shipping containers, or similar structures**, to cannabis cultivation shall be subject to design ~~standards—review~~ **maintained by the review authority**.
- (d) 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~~ **establish and publish** 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. ~~Permanent~~**All** structures used in cultivation shall be subject to permits issued by the Permit and Resource Management Department and other agencies having jurisdiction and shall be conducted and maintained in compliance with this ~~chapter~~**code**.

- (e) Multiple Permits. **Multiple cultivation permit applications will be processed concurrently.** Multiple cultivation permits may be issued to a single person ~~or entity as defined herein~~, provided that the total combined **canopy cultivation area** within the county does not exceed one (1) acre. **For the purposes of this provision, the entire canopy of a permit shall be attributed in full to each person who meets the definition of cannabis business owner of the permit holder. 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.**
- (f) Development Criteria.
- (1) ~~Number of Facilities~~**Multi-Tenant Operations.** ~~No more than one (1) cultivation use/operator may be approved per contiguous parcel ownership, except in the agricultural, and industrial zones. In the agricultural and industrial zones, M~~multiple ~~zoning~~ permits may be issued for multi-tenant operations on a single parcel provided that the **aggregate minimum parcel size is met for the total combined cultivation area and the total combined canopy cultivation area** does not exceed the maximum area allowed for the **type of cultivation type and parcel size** in compliance with Table 1A-D Allowed Cannabis Uses and Permit Requirements. ~~(i.e. Outdoor maximum is forty-three thousand five hundred sixty (43,560) square feet; Indoor/Mixed Light maximum is twenty-two thousand (22,000) square feet).~~
  - (2) Square Footage Limitations. The total combined square footage of the **canopy cultivation area** shall not exceed the maximum size thresholds as defined in Table 1A-D Allowable Cannabis Uses and Permit Requirements which provides the maximum size per parcel.
  - (3) **-Propagation Area. In order to allow vegetative and other propagative cannabis plant material to be cultivated for use on-site without impacting overall permitted canopy, a floor area of up to 5% of the size of the permitted canopy may be used for non-flowering plants provided this plant material is kept in a separate, unique area away from flowering plants.**
  - ~~(4)~~**3****In agricultural and resource zones, s**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. ~~No cannabis nursery shall exceed one (1) acre in size for outdoor or twenty-two thousand (22,000) square feet for indoor.~~
  - ~~(5)~~**3** Property Setbacks- Outdoor. Outdoor ~~cultivation areas~~ **canopy** and all ~~associated~~ structures **associated with the cultivation** shall not be located in the front yard setback area and shall be screened from public view. Outdoor ~~canopy cultivation areas~~ shall not be visible from a public right of way. Outdoor ~~canopy cultivation areas~~ shall be setback a minimum of one hundred feet (100') from property lines and a minimum of three hundred feet (300') from ~~occupied~~ residences and businesses ~~structures~~ **structures** on surrounding properties.

Outdoor cultivation sites ~~and greenhouses/mixed light structures~~ shall be setback a minimum of one thousand feet (1,000') from a school providing education to K-12 grades, a public park, childcare centers, 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. **The setback from public parks may be reduced with a use permit when it is determined that an actual physical separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park.**

- (64) Property Setbacks- Indoor. All structures used for indoor cultivation ~~and all structures used for drying, curing, grading or trimming 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 screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.

**Indoor cultivation within agricultural and resource zones shall be setback a minimum of six hundred feet (600') from a school providing education to K-12 grades. 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.**

- (75) Property Setbacks- Mixed Light/~~Greenhouse~~. Mixed light structures shall be setback a minimum of one hundred feet (100') from property lines and a minimum of three hundred feet (300') from ~~occupied~~ residences and businesses **structures** on surrounding properties in agricultural and resource zones. Mixed Light ~~structures/greenhouses~~ in industrial zones shall be setback three hundred feet (300') from ~~occupied~~ residences on surrounding properties.

**Mixed light structures in all zones shall be setback a minimum of one thousand feet (1,000') from a school providing education to K-12 grades, a public park, childcare centers, 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. The setback from public parks may be reduced with a use permit when it is determined that an actual physical separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park.**

- (86) Airport Compatibility. All cannabis operations shall comply with the Comprehensive Airport Land Use Plan.

- (97) Building Requirements. All structures used in commercial cultivation, ~~including greenhouses require a building permit and~~ shall comply with all applicable sections of the county code. ~~Cultivation uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients shall meet county code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.~~

- (108) Biotic Resources. Proposed cultivation operations, including all associated structures, shall require a biotic **resource** assessment at the time of application that demonstrates that the project is not located within, and will not impact sensitive or special status

species habitat, unless a use permit is obtained. Any proposed cultivation operation, including all associated structures, located within adopted federal critical habitat areas must have either all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species, or a biotic assessment concluding that the project will not result in "take" of a protected wildlife species within the meaning of either the federal or California Endangered Species Acts.

~~There shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained. Outdoor cultivation areas and related processing structures shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone). Outdoor cultivation areas shall conform to the agricultural Riparian Corridor setback set forth in Section 26-65-040.~~

~~Proposed cultivation operations shall comply with the wetland setbacks set forth in Section 11-16-150, unless a use permit is obtained.~~

**(11) Conversion of Timberland. Cannabis cultivation activities, including associated structures, may only be located within a non-forested area that was in existence prior to December 20, 2016, and there shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained.**

**(12) Property Setbacks- Riparian Corridor Stream Conservation Areas. Structures used for cultivation shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone). Outdoor canopy shall conform to the agricultural Riparian Corridor setback set forth in Section 26-65-040 and the wetland setback areas in Section 36-16-120.**

**(139) Cultural and Historic Resources.** Cultivation sites shall avoid impacts to significant cultural and historic resources by complying with the following standards. Sites located within a Historic District shall be subject to review by the Landmarks Commission, unless otherwise exempt, consistent with Section 26-68-020 **and shall be required to obtain a use permit.** Cultivation operations involving ground disturbing activities, including but not limited to, new structures, roads, water storage, trenching for utilities, water, wastewater, or drainage systems shall be subject to design ~~review standards~~ and referral to the Northwest Information Center and local tribes ~~for consultation.~~ **A use permit will be required if mitigation is recommended by the** ~~A~~ cultural resource survey. ~~and on-site monitor during ground disturbing activities may be required to demonstrate cultural and historic resources are protected.~~

The following minimum standards shall apply to cultivation permits involving ground disturbance. All grading and building permits shall include the following notes on the plans:

If paleontological resources or prehistoric, historic-period or tribal cultural resources are encountered during ground-disturbing work at the project location, all work in the immediate vicinity shall be halted and the operator must immediately notify the agency having jurisdiction of the find. The operator shall be responsible for the cost to have a qualified paleontologist, archaeologist and tribal cultural resource specialist under

contract to evaluate the find and make recommendations in a report to the agency having jurisdiction.

Paleontological resources include fossils of animals, plants or other organisms. Historic-period resources include backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse. Prehistoric and tribal cultural resources 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), stone milling equipment, such as mortars and pestles, and certain sites features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe.

If human remains are encountered, work in the immediate vicinity will stop and the operator shall notify the agency having jurisdiction 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 twenty-four (24) hours of this identification.

- (1410) 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 agricultural use pursuant to~~ **operation shall be consistent with** 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 offset by relocating agricultural production on a 1:1 ratio.

If the ~~facility premises~~ is located on a site under a Land Conservation Act (Williamson Act) contract, the use must **comply with the Land Conservation Act contract, any applicable Land Conservation Plan, and** ~~be listed as a compatible use in~~ the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, **including provisions governing the type and extent of compatible uses listed therein.** ~~and allowed by the type of contract and approved Land Conservation Plan. An application for modification of the contract and Land Conservation Plan may shall be required if either is inconsistent with proposed use.~~

- (1511) Fire Code Requirements. The ~~operator~~ **applicant** shall prepare and implement a Fire Prevention Plan for construction and ongoing operations and obtain ~~an Operational Permit~~ **any permits required** 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), vegetation management and fire break maintenance around all structures.
- (1612) Grading and Access. Cultivation sites shall be prohibited on natural slopes steeper than fifteen percent (15%), as defined by ~~Section 11-22-020 county code Chapter 11 Section 16-020~~, unless a use permit is obtained. Grading shall be subject to a grading permit in compliance with Chapter 11 of the county code.
- (173) Hazardous Materials Sites. No **commercial** cannabis ~~operation activity~~ 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.

- (184) 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 contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- (195) 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 agency having jurisdiction. The plan must include best management practices for erosion control during and after construction and permanent drainage and erosion control measures pursuant to Chapter 11 of the county code. 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.
- (2016) 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-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of thirty (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, non-invasive~~ 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.~~ **with a Knox lock. No outdoor or mixed light cultivation sites located on parcels adjacent to public parks shall be visible from trails or public access points.** ~~adjacent to~~ Razor wire and similar fencing ~~is discouraged and~~ shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.
- (g) Operating Standards.
- (1) Compliance Inspections. All cultivation sites shall be subject to on-site compliance inspections by agencies having jurisdiction. 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 control odors, humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.
  - (3) Energy Use. 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 one hundred percent (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 for indoor and mixed light cultivation is prohibited, except for portable temporary use in emergencies only.

- (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~~ of Operation.** Outdoor harvesting activities and indoor or mixed light cultivation activities may be conducted seven (7) days a week, twenty-four (24) hours per day as needed. Deliveries and shipping, and outdoor processing activities ~~including drying and trimming~~, shall be limited to the hours from 8:00 a.m. to 5:00 p.m., unless a use permit is obtained.
- (6) **Noise Limits.** Cultivation ~~operations~~ **activities** 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 the 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 agency having jurisdiction. ~~This~~ **The** plan shall 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~~ **the** 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~~ **the** site shall not be accumulated or stored for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh day in a manner prescribed by the Solid Waste Local Enforcement Agency. 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, as well as 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 State Water Resource Quality Control Board~~, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, ~~greywater~~ **graywater** or bio-retention treatment systems. If

discharging to a septic system, a system capacity evaluation by a qualified sanitary engineer shall be included in the management plan. 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.~~ **Water Source.** An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. **Water use includes, but may not be limited to, irrigation water, and a permanent potable water supply for all employees.** Trucked water shall not be allowed, except as noted below ~~for recycled water from a municipal water supplier,~~ and for emergencies requiring immediate action as determined by the director. The onsite water supply shall be considered adequate with documentation of any one (1) of the following sources:

**a. Municipal Water:** **A municipal water supplier as defined in California Water Code Section 13575. The applicant shall provide documentation from the municipal water source** ~~The public water supplier providing water service to the site has~~ **that adequate supplies are available** to serve the proposed use.

**b. Recycled Water:** The use of recycled process wastewater **or captured rainwater** from an onsite use or connection to a municipal recycled water supply for ~~the non-potable cultivation~~ use, provided that an adequate on-site water supply is available for employees and other uses.

**c. Surface Water:** An existing legal water right and, if applicable, a Streambed Alteration Agreement issued by **the California Department of Fish and Wildlife.**

**d. Groundwater Well:** ~~Well Water:~~

1. The site is located in Groundwater Availability Zone 1 **or**; 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 **3 or**; 4, or **an** area for which a Groundwater Management Plan has been adopted or designated high or medium priority basin, the proposed use would:

a. The proposed use 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; or

b. 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

**cb.** A qualified professional prepares a hydro-geologic report ~~acceptable to the review authority~~ 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 that 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 **maintained in a calibrated state and documentation shall be submitted to the Permit and Resource Management Department** at least once every five (5) 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~~ **include water meter readings, static water levels and** the total quarterly quantities of water pumped from well(s) used in processing, **and static water levels**.
- (12) Groundwater Monitoring Easement: Prior to the issuance of any permit **for commercial cannabis cultivation pursuant to this chapter**, an ~~e~~Easement is required to be recorded ~~for this project~~ to provide Sonoma County personnel access to any on-site water well serving ~~this project~~ **the proposed use** and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted **for this purpose** Monday through Friday from 8:00 a.m. to 5:00 p.m. **Easements conveyed to the County under this Section shall be signed and accepted by either the Director of Permit and Resource Management or the Agricultural Commissioner**. All easement language is subject to review and approval by **the agency having jurisdiction** ~~PRMD Project Review staff~~ and County Counsel ~~the review authority~~ prior to recordation.

(Ord. No. ~~6189~~, § II(D)(Exh. A-2), 12-20-2016)

Sec. 26-88-256. - ~~Medical-e~~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-e~~Cannabis dispensaries shall be permitted only in compliance with the requirements of this section, **the requirements of Section 26-88-250**, and all other applicable requirements of the underlying zoning district.
- (c) Permit Requirements. A use permit issued in compliance with Sections 26-92-070 and 26-92-080 shall be required for any ~~medical~~-cannabis dispensary. ~~Medical-e~~Cannabis dispensaries shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services. ~~Additionally, medical-C~~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 (1) 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~~**customers**, hours and days of operation allowed and approved. The operating plan shall provide that the dispensary shall require, at a minimum, **a photo identification for any person entering the site, as well as** a doctor's written recommendation in compliance with state law, **if applicable**~~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 **two (2) years**~~one (1) year~~.
- ~~(g) Exercise and Renewal of Permit. Use permits for medical cannabis dispensaries shall be exercised only by the applicant 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 violations of health, safety, or land use.~~
- ~~(h) Revocation or Modification. 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.~~
- ~~(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.~~
- (jg) 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 (1,000') 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 feet (1,000') from ~~any public or private~~ a school **providing education to K-12 grades**, **public** park, childcare center, **or** drug or alcohol 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 dispensary.**
  - (4) Notwithstanding, the subsections (j)(1)—(2) may be waived by the ~~decision-maker~~ **review authority** when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.
  - (5) A ~~medical~~ cannabis dispensary proposed within the sphere of influence of a city will be referred to the appropriate city for consultation.
- (kh) Operating Standards. The following are the minimum development criteria and operational standards applicable to any ~~medical~~ cannabis dispensary use:
- (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 ~~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) ~~No person shall be allowed onto the premises unless they are an employee, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance.~~ If the dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the dispensary may be closed. ~~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.~~ **Customer access to the premises shall be limited to individuals who are at least twenty one (21) years of age and individuals who are least eighteen (18) years of age with a valid doctor's recommendation.** All ~~persons~~-**individuals** entering the site shall present a photo identification and shall establish proof of doctor's recommendation, **if applicable**, except as representing a regulatory agency. The operating plan submitted as a part of the use permit application shall specify how this provision will be complied with and enforced;
- (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;
- (7) An exhaust and ventilation system shall be utilized to prevent off-site odors;
- (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 live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis. A dispensary may sell manufactured cannabis, including edible products, and vaporizing devices if allowed by a permit issued by the Department of Health Services. 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 for personal cultivation but shall not include clothing, posters or other promotional items;-
- (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;-~~
- (10) No dispensary may increase in size without amending the use permit. The size limitation shall be included in the operational plan required by Section 26-88-~~126~~**256**(e), of this section;
- (11) Parking must meet the requirements of Section 26-86-010.
- (12) Operating days and hours shall be limited to Monday through Saturday from 7:00 a.m. to 7:00 p.m., including deliveries, 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.
- (13) ~~Medical-e~~**Cannabis** delivery services may only be allowed with a dispensary use permit.

## Sec. 26-88-258. - Cannabis cultivation—Personal.

(a) Purpose. This section establishes development criteria and operating standards for personal cannabis cultivation for medical or adult use.

**(b)** Cultivation of 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~~ **all types of cannabis cultivation growing environment including, but not limited to, (indoor, outdoor, and mixed light/greenhouse or indoor) unless otherwise specified. environments.**

(1) Residency Requirement. Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.

(2) Maximum Personal Cultivation. Cultivation of cannabis for personal use is limited to no more than one hundred (100) square feet per residence, of which up to six (6) plants can be cultivated for adult use purposes.

~~(3) Prohibition of Volatile Solvents. The use of volatile solvents, as defined herein, to manufacture cannabis products is prohibited.~~

**(34)** Outdoor Personal Cultivation. Cannabis plants shall not be located in front and side yard setback areas and shall not be visible from a public right of way. Outdoor cannabis cultivation is prohibited on parcels with multi-family units or in the medium and high density residential zones (R2 and R3).

~~(45)~~ Indoor and Mixed-Light Personal Cultivation.

**a.(i)** Indoor and mixed light personal cultivation must be contained within an enclosed accessory structure, greenhouse or garage. Cultivation within a structure approved for residential use as set forth in Chapter 7 of the county code is prohibited, unless there is no other feasible alternative location.

**b. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.**

**(5) Personal Cultivation Structures. All structures used for cultivation shall comply with the following:**

~~(ii)~~**a.** All structures (including greenhouses) used for cultivation must be legally constructed with all applicable permits such as grading, building, electrical, mechanical and plumbing.

~~(iii)~~**b.** All structures associated with the cultivation shall not be located in the front yard setback area and shall adhere to the setbacks stated within the base zone. There shall be no exterior evidence of cannabis cultivation. Greenhouses shall be screened from the public right of way.

~~(iiiv)~~**c.** All structures used for cultivation shall have locking doors or gates to prevent free access. All cultivation structures shall be equipped with odor control filtration and ventilation systems adequate to prevent ~~an~~ odor, humidity, or mold.

~~(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)~~**d.** The use of generators is prohibited, except as emergency back-up systems.

~~(vii)~~(7) All cultivation ~~operators~~ shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion **and sediment** control and management of fertilizers and pesticides.

**a. Individuals are prohibited from cannabis manufacturing using volatile solvents, including but not limited to Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O<sub>2</sub> or H<sub>2</sub>, or other dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene, as determined by the Fire Marshall.**

(Ord. No. [6189](#), § II(H)(Exh. A-4), 12-20-2016)

**DRAFT ORD18-0003  
SUMMARY OF ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR CANNABIS USES**

LAND USE				ZONING DISTRICT																											
				Agricultural			Resources		Rural Residential		Urban Residential			Commercial					Special		Industrial				Public	Public	Public				
				Land Intensive Agriculture	Land Extensive Agriculture	Diverse Agriculture	Resources and Rural Development	Timber Preserve	Agriculture and Residential	Rural Residential	Low Density Residential	Medium Density Residential	High Density Residential	Planned Community	Commercial Office	Neighborhood Commercial	Retail Business and Services	General Commercial	Limited Commercial	Commercial Rural	Agricultural Services	Recreation and Visitor Serving	Industrial Park	Limited Urban Industrial	Heavy Industrial	Limited Rural Industrial	Public Facilities	Draft Cannabis Inclusion	Draft Cannabis Exclusion		
LIA <sup>1</sup>	LEA <sup>1</sup>	DA <sup>1</sup>	RRD <sup>1</sup>	TP	AR <sup>1</sup>	RR	R1	R2	R3	PC	CO	C1	C2	C3	LC	CR	AS	K	MP	M1	M2	M3	PF	Y	Q						
<b>CANNABIS USES</b>																															
<b>Outdoor Cultivation</b> <span style="float:right">Outlined area indicates Zoning Permits (ZP) which are processed by the Dept of Agriculture, Weights &amp; Measures</span>																															
Cottage	25 plants	2 ac	1C	CUP/ZP <sup>2</sup>	CUP/ZP <sup>2</sup>	CUP/ZP <sup>2</sup>	MUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP <sup>3</sup>	—			
Specialty Outdoor	5,000 sq. ft. or 50 plants	3 ac	1	CUP	CUP/ZP <sup>2</sup>	CUP/ZP <sup>2</sup>	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			
Small Outdoor	5,001 - 10,000	5 ac	2	CUP	CUP/ZP <sup>2</sup>	CUP/ZP <sup>2</sup>	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			
Medium Outdoor	10,001 - 43,560	10 ac	3	CUP	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			
<b>Nursery Outdoor</b>	<b>Limited as Expressed Above</b>		<b>4</b>	CUP	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP <sup>3</sup>	—				
<b>Indoor Cultivation</b>																															
Cottage	500	None	1C	CUP/ZP <sup>2,4</sup>	CUP/ZP <sup>2,4</sup>	CUP/ZP <sup>2,4,5</sup>	MUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	ZP	ZP	ZP	ZP	—	CUP <sup>3</sup>	—
Specialty Indoor	501 - 5,000	None	1A	CUP <sup>4</sup>	CUP <sup>4</sup>	CUP <sup>4,5</sup>	CUP <sup>4</sup>	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
Small Indoor	5,001 - 10,000	None	2A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
Medium Indoor	10,001 - 22,000	None	3A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
<b>Nursery Indoor</b>	<b>Limited as Expressed Above</b>		<b>4</b>	CUP <sup>4</sup>	CUP <sup>4</sup>	CUP/2 ac <sup>4</sup>	CUP <sup>4</sup>	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
<b>Mixed Light Cultivation</b>																															
Cottage	2,500	2 ac	1C	CUP/ZP <sup>2,4</sup>	CUP/ZP <sup>2</sup>	CUP/ZP <sup>2</sup>	MUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
Specialty Mixed Light	2,501 - 5,000	3 ac	1B	CUP <sup>4</sup>	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
Small Mixed Light	5,001 - 10,000	5 ac	2B	CUP <sup>4</sup>	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
Medium Mixed Light	10,001 - 22,000	10 ac	3B	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
<b>Nursery Mixed Light</b>	<b>Limited as Expressed Above</b>		<b>4</b>	CUP	CUP	CUP	CUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	—	CUP <sup>3</sup>	—
<b>Testing/Laboratories</b>																															
			8	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	—	—	—	
<b>Manufacturing</b>																															
Level 1 - nonvolatile solvents	per use permit		6	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	—
<b>Dispensaries</b>																															
Storefront and Delivery	per use permit		10	—	—	—	—	—	—	—	—	—	—	—	—	—	CUP	CUP	—	CUP	—	—	—	—	—	—	—	—	—	—	
<b>Processing Only</b>	<b>per use permit</b>			—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	—
<b>Microbusiness<sup>5</sup></b>	<b>per use permit</b>			—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	—
<b>Distributor-Transport</b>	<b>per use permit</b>		11	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	—
<b>Distributor-Transport Only<sup>6</sup></b>	<b>per use permit</b>		13	MUP	MUP	MUP	MUP	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	MUP	MUP	MUP	MUP	—	—

TYPE OF PERMIT REQUIRED	
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

- Notes:**
- 1 Commercial Cannabis Uses on properties with a Land Conservation (Williamson Act) Act Contract are subject to Uniform Rules for Agricultural Preserves.
  - 2 Zoning Permit may be approved if property is 10 acres or more in size
  - 3 See Sonoma County Code Section 26-74 for applicability with AR, RR, and LC.
  - 4 Within existing previously developed areas, including hardscape, or legally established structures built (finalized) prior to January 1, 2016. No net increase in impervious surface.
  - 5 Two acre minimum lot size for indoor cultivation within the DA zone
  - 5 Does not alter the allowed uses already in existence under the Cannabis Land Use Ordinance and only formalizes the potential to request this combined state license type.
  - 6 Distributer-Transport Only restricts the licensee to only transporting cannabis goods that the licensee has cultivated or manufactured.

**COMBINING CULTIVATION TYPES:**

For example:  
 A 5-acre DA parcel would allow  
 10,000 SF outdoor  
 10,000 SF mixed light  
 OR  
 5,000 SF indoor  
 OR  
 Any combination not exceeding 5,000 SF indoor and 10,000 SF total

**Cannabis Exclusion Zone**

Chapter 26 of the Sonoma County Code is amended to add a new Article 73, as follows:

**Article 73. – Q Cannabis Exclusion Combining District.**

**Sec. 26-73-005. - 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 or concentration of cannabis operations 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 with sensitive biotic resources or significant environmental sensitivity exists;
- (f) Other areas where the Board of Supervisors determines that it is within the public interest to prohibit cannabis uses.

**Sec. 26-73-010. - Permitted uses.**

All uses permitted in the base zone with which the Q combining district is applied shall be permitted in the Q 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 Combining District**

Chapter 26 of the Sonoma County Code is amended to add a new Article 74, as follows:

**Article 74. – Cannabis Inclusion Combining District.****Sec. 26-74-005. - Purpose.**

The purpose of this district is to provide for the allowance of commercial cannabis cultivation operations within areas that meet certain siting criteria and the development standards of this chapter.

**Sec. 26-74-010 Applicability.**

This combining district may be applied to the following zones where the site meets all of the applicable criteria.

- (a) When combined with a Rural Residential (RR) or Agriculture and Residential (AR) Zones subject to all of the following criteria:
  - a. Property is located within Planning Area 4 or 6;
  - b. Property is five (5) acres in size or larger;
  - c. Maximum cultivation canopy shall be limited to Cottage sizes for indoor, mixed light, and outdoor or any combination thereof shown in Table 1;
  - d. The operator shall reside full-time on the property where the cultivation operation is occurring; and
  - e. The operation meets all requirements within the Sections 26-88-250-256.
- (b) When combined with a Limited Commercial (LC) Zone subject to all of the following criteria:
  - a. Property is five (5) acres in size or larger;
  - b. Cultivation is limited to indoor and mixed light;
  - c. Maximum cultivation canopy shall be limited as shown on Table 1 for indoor, mixed light, or any combination thereof provided that the total canopy does not exceed the maximum for the parcel size;
  - d. No cannabis dispensary or laboratory is located onsite;
  - e. No other visitor serving commercial uses are located onsite; and
  - f. The operation meets all requirements within the Sections 26-88-250-256.

**Sec. 26-74-015. Permitted Uses with a Use Permit.**

In addition to the uses permitted in the base zoning, commercial cannabis cultivation operations may be permitted in the Y combining district subject to approval of a conditional use permit and subject to the special use regulations in Sections 26-88-250 through 256, as applicable.

**Table 1: Allowed Cannabis Uses and Permit Requirements for the Inclusion Combining District.**

LAND USE	MAXIMUM CANOPY PER PARCEL (square feet or plant)	MINIMUM PARCEL SIZE	STATE LICENSE TYPE	Agriculture and Residential	Rural Residential	Limited Commercial	Special Use Regulations	
				AR	RR	LC		
<b>CANNABIS USES</b>								
<b>Outdoor Cultivation</b>								
Cottage	25 plants	5 ac	1C	CUP <sup>1</sup>	CUP		26-88-250-254	
Specialty Outdoor	5,000 sq. ft. or 50 plants		1	—	—	—		
Small Outdoor	5,001 - 10,000		2	—	—	—		
Medium Outdoor	10,001 - 43,560		3	—	—	—		
Nursery Outdoor	Limited as Expressed Above		4	CUP <sup>1</sup>	CUP	—		
<b>Indoor Cultivation</b>								
Cottage	500	5 ac	1C	CUP <sup>1</sup>	CUP	CUP		
Specialty Indoor	501 - 5,000	5 ac	1A	—	—	CUP		
Small Indoor	5,001 - 10,000	5 ac	2A	—	—	CUP		
Medium Indoor	10,001 - 22,000	5 ac	3A	—	—	CUP		
Nursery Indoor	Limited as Expressed Above		4	CUP <sup>1</sup>	CUP	CUP		
<b>Mixed Light Cultivation</b>								
Cottage	2,500	5 ac	1C	CUP <sup>1</sup>	CUP	CUP		
Specialty Mixed Light	2,501 - 5,000	5 ac	1B	—	—	CUP		
Small Mixed Light	5,001 - 10,000	5 ac	2B	—	—	CUP		
Medium Mixed Light	10,001 - 22,000	10 ac	3B	—	—	CUP		
Nursery Mixed Light	Limited as Expressed Above		4	CUP <sup>1</sup>	CUP	CUP		
<b>TYPE OF PERMIT REQUIRED</b>								
<b>ZP</b>	Permitted Use; Zoning Permit Required							
<b>MUP</b>	Conditionally Permitted Use; Minor Use Permit required							
<b>CUP</b>	Conditionally Permitted Use; Use Permit required							
<b>—</b>	Use not allowed							
<b>Notes:</b>	1 Commercial Cannabis Uses on properties with a Land Conservation (Williamson Act) Act Contract are subject to Uniform Rules for Agricultural Preserves.							

Resolution Number

County of Sonoma  
Santa Rosa, California

June 7, 2018  
ORD18-0003 Katie Olding

RESOLUTION OF THE PLANNING COMMISSION OF THE  
COUNTY OF SONOMA, STATE OF CALIFORNIA,  
RECOMMENDING TO THE BOARD OF SUPERVISORS THE  
PROPOSED AMENDMENTS TO CHAPTER 26 OF THE ZONING  
CODE TO ALLOW ADULT USE FOR THE FULL CANNABIS  
SUPPLY CHAIN, ENHANCE NEIGHBORHOOD  
COMPATIBILITY, CREATE CANNABIS INCLUSION AND  
EXCLUSION COMBINING DISTRICTS, THE ADDITION OF NEW  
DEFINITIONS AND AMENDMENTS TO HARMONIZE WITH  
CALIFORNIA STATE LAW AND REGULATIONS WHERE  
APPROPRIATE, AND OTHER AMENDMENTS AS NECESSARY  
FOR CLARIFICATION

WHEREAS, the Medical Cannabis Regulation and Safety Act (“MCRSA”), signed into law in October 2015, constructed a comprehensive framework for the regulation of medical cannabis and replaced the collective/cooperative model with a dual commercial licensing scheme at the local and state levels; and

WHEREAS, on December 20, 2016, the Board of Supervisors adopted a series of ordinances to establish a comprehensive local program, to permit and regulate the complete supply chain of medical uses; and

WHEREAS, the Senate Bill 94, known as the “2017-2018 Budget Trailer Bill”, signed into law on June 27, 2017, repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”) and the Adult Use of Marijuana Act (“AUMA”) with one regulatory framework termed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, SB 94 amended Business and Professions Code section 26055 to add subsection (h), which provides that the CEQA process does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of applications for permits, licenses, or other authorizations to engage in commercial cannabis activity, and that in order to qualify for this exemption, the discretionary review of applications provided for by any such law, ordinance, rule, or regulation shall include a requirement for any applicable environmental review pursuant to the CEQA process to occur prior to taking action on such applications; and

WHEREAS, on July 5, 2017 the County of Sonoma began accepting permit applications for cannabis-related businesses in accordance with the newly adopted Medical Cannabis Land Use Ordinance; and

WHEREAS, on November 16, 2017 the three State of California cannabis licensing authorities, California Bureau of Cannabis Control, CalCannabis Cultivation Licensing, and the

Manufactured Cannabis Safety Branch, issued their comprehensive emergency regulations creating the current cannabis regulatory structure; and

WHEREAS, on April 10, 2018 the Board of Supervisors adopted a Resolution of Intention, directing staff to explore and propose amendments to the Cannabis Ordinance to allow for Adult Use cannabis for the full supply chain, enhance neighborhood compatibility, and adopt new definitions and minor technical changes to harmonize with State law and regulations where appropriate; and

WHEREAS, it is the determination of staff that the proposed amendments are consistent with the previously circulated and approved Negative Declaration, adopted December 20, 2016; that the project is categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the project will have no significant or physical effect on the environment; under sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment; and Section 15321 as an action by an agency for enforcement of a law, general, rule, standard or objective administered or adopted by the agency; and the Business and Professionals Code Section 26055(h) (MAUCRSA) because the adoption of this ordinance requires discretionary review of cannabis operations which will include applicable environmental review under CEQA. The Planning Commission finds on the basis of the whole record before it that this exemption reflects the independent judgment and analysis of the Commission and that there is no substantial evidence that the project will have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the Board of Supervisors adopt the attached revised Medical Cannabis Land Use Ordinance amending Chapter 26 of the Sonoma County Zoning Code.

WHEREAS, in accordance with the provisions of law, the Planning Commission held public hearings on June 7 and June 28, 2018, at which time all interested persons were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings:

1. The proposed amendments are necessary and desirable to protect the public health, safety and environmental resources, provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.
2. This ordinance amendment is intended to be Part 1 to a two part policy effort to alleviate neighborhood compatibility issues and harmonize with state regulations which were adopted after the County's adoption of the Cannabis Land Use Ordinance on December 20, 2016 (Ordinance #6189).
3. This ordinance is consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect

Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water.

4. It is the determination of staff that the proposed amendments are consistent with the previously circulated and approved Negative Declaration, adopted December 20, 2016; that the project is categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the project will have no significant or physical effect on the environment; under sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment; and Section 15321 as an action by an agency for enforcement of a law, general, rule, standard or objective administered or adopted by the agency; and the Business and Professions Code Section 26055(h) (MAUCRSA) because the adoption of this ordinance requires discretionary review of cannabis operations which will include applicable environmental review under CEQA. The Planning Commission finds on the basis of the whole record before it that this exemption reflects the independent judgment and analysis of the Commission and that there is no substantial evidence that the project will have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors find the project to be exempt from CEQA and approve the proposed changes to Chapter 26 of the Sonoma County Code.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary of the Planning Commission as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

THE FOREGOING RESOLUTION was introduced by Commissioner **NAME**, who moved its adoption, seconded by Commissioner **NAME**, and adopted on roll call by the following vote:

Commissioner Todd Tamera  
Commissioner Komron Shohhosseini  
Commissioner Cameron Mauritson  
Commissioner Pamela Davis  
Commissioner Greg Carr

Ayes:                      Noes:                      Absent:                      Abstain:

WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and

SO ORDERED.

4/21/2018

## **Report from Sub-Committee on Inclusion/Exclusion Zones**

### **Discussion:**

This sub-committee was tasked with exploring the concept of Inclusion/Exclusion Zones for cannabis cultivation in the county. After several meetings of grappling with this concept we found that while exclusion zones were potentially a helpful tool, inclusion zones were not. Therefore, it was agreed the two committee members representing neighborhood groups would focus on exclusion zone criteria and the rest of us would focus on criteria for cultivation on parcels under 10 acres. The ideas presented here are outside the box thinking. Applying mainstream ways of relating to the cannabis industry is not working, thus we felt it was important that Staff, and ultimately the Board, have options to consider which have not yet been put on the table.

### **History:**

The CAG was created to give the BOS input from on the ground players regarding issues that the newly regulated cannabis industry faces as we move into phase two of implementing the county ordinance. And while we want to listen to what the board members are saying about cannabis and how they want to move forward, our job ultimately is to bring them information and ideas they don't already have. As Supervisor Gorin said at our first meeting, "you are the eyes and ears of your communities, and we need to know what you see and hear that can help us shape policy going forward."

The Supervisors are frustrated with the lack of participation by the cannabis community in the regulated market. Supervisor Zane asked the question at the last meeting, "What is the problem? Why are people not stepping up?" This is a perfect example of how the CAG can help inform the Supervisors as to why there is so little participation. Participation in the regulated market will remain as it is unless we find creative ways to include the small, local farmers. There simply isn't anywhere for small cannabis farmers to go that they can afford. When discussing cultivation, it seems the discussion is primarily based on the impacts of outdoor growing. The smell, security issues, unsightly fences, etc. But the vast majority of cultivation on smaller parcels in this county happens indoors or in greenhouses. Why are we not discussing how these

two methods on smaller parcels could be compatible with neighborhoods? Pushing outdoor cultivation to larger parcels (10 acres or more) in certain areas of the county may be appropriate, but making yet another sweeping, county-wide restriction is a mistake. There are many areas of the county where outdoor cultivation on smaller parcels would be acceptable to neighbors. Pushing all indoor to industrial is just more of the same; supporting big business with deep pockets while leaving the local indoor cultivators out or under-ground.

The other huge issue of course is crime. We all know that crime goes down with legalization, but only if people participate in legalization. More regulation=less participation=more crime. We are not a one size fits all county. As Supervisor Hopkins said at the meeting, her district is quite cannabis friendly while others are not. If we stop trying to figure out what is going to work county-wide for all parcels over or under a certain size and work off a basic set of criteria for each category of cultivation: outdoor, indoor, and mixed light, we would see more participation in the regulated market and less tension in the neighborhoods. Thousands of growers have been operating for years in harmony with their neighbors in this county. Let's consider allowing our local cultivators to work together with their neighbors on whether a cultivation will work in their neighborhood rather than applying yet another layer of restriction on an already top heavy regulatory scheme.

The ordinance already lays out all the restrictions on water, access, biotic compatibility, etc. See below for some additional suggestions on how to work with the issues.

### **Policy Options for Small Parcel Cultivation:**

- Move away from using zoning and acre size to determine where cultivation can happen and allow cultivation if the operator can meet the criteria set forth by the ordinance with these additional requirements. Set-backs from property-lines, residents, schools and parks already severely limits where cultivation can happen.
  - Must be a 2 yr resident on parcels under 5 acres.
  - Must prove no impact on neighbors that share a property line on parcels under 5 acres either by proving how they will mitigate impacts or with signed statements from neighbors that they are agreeable to the cultivation even if there is some impact to them.

- All cultivation requires an MUP or a CUP
  - With the exception of Nursery-which does not present any of the risks or issues mature plants do
- Cultivation no larger than Specialty on parcels under 5 acres and no larger than Small on parcels between 5 and 10 acres
- Make set-backs from schools and parks be 1000 feet to the cultivation site, not the property line
- Indoor Cultivation
  - Must be 100 feet from the nearest residence
- Create a Neighborhood Compatibility Best Practices Check List:
  - The County has gathered a tremendous amount of feedback from neighborhood groups and from small cultivators. A checklist could be created from this data that a cultivator could be give prior to the application process. This would allow the cultivator to “test the waters” of their neighborhood for compatibility with their business plan.
- Additionally and possibly as a next step in the process – it is recommended that the County hire a liaison to work between cannabis applicants and neighbors. This person could be the first person an applicant meets with to determine compatibility with a neighborhood based on the completed check list. They could also work to educate neighbors throughout the MUP, CUP process.
- It is also recommended that the County employ in some fashion, people from the cannabis industry to go out on complaint calls. We have heard too many times that code enforcement comes out and evaluated a complaint, but nothing happens and the neighbor then just has to live with the problem. People from the cannabis industry are more familiar every aspect of the cultivation process, be it indoor, outdoor, or mixed light. Experts in each of these modalities will be far more likely to understand if there is a violation and how it must be effectively mitigated. It is also likely that a cannabis industry person will be more invested in truly resolving the issue because they are more invested in improving the image of the cannabis industry.

- We believe to make good policy it is imperative to employ the knowledge of people in the industry to understand the issues that are unique only to cannabis. For instance, no other industry in Sonoma County has a black market, no other industry has been self-regulating for decades prior to legalization. In addition, no industry is looked at so radically differently from one district to the next.
- Create a working committee that is made up of Staff, small cannabis cultivators (indoor, outdoor, mixed light), and neighborhood groups to further flesh out these concepts and make them into fully developed policy options that could be presented to the BOS.

The ideas presented above put the burden on the cultivator to show compatibility with neighbors, while allowing those that feel they can meet all the requirements the option to apply. If the BOS truly wants to increase participation by cultivators in the legal market, we believe these changes to policy would be a good start.

In the “County of Sonoma 2017 Cannabis Ad Hoc Committee Charter/Scope of Work” document the following direction was given:

“Inclusion and Exclusion Zones – In December 2016, the board gave direction to staff to develop inclusion and exclusion combining zones for future consideration. The Ad Hoc will work on the development of combining zones that would allow the Board to carve out specific areas or properties on which to include or exclude certain cannabis land uses separately from what is allowed pursuant to the base zoning district.”

Below is a list of possible criteria that could be used in reviewing/assessing applications for creation of exclusion zones that would be received from interested parties. We currently envision that an exclusion zone would exclude all cultivation, but it may be possible to exclude outdoor and mixed light (for example) while continuing to permit indoor cultivation.

Due to strong interest, we suggest the exclusion concept be **fast tracked**. It is a relatively straight forward process to produce; and solves the problem of uncertainty for the cannabis grow applicant who will not be wasting time or money filing an application on a parcel which could end up in an exclusion zone. It is suggested that all ministerial applications be held until this process is finalized.

Allow for a process that lets future exclusion zone applications be submitted prior to a final ordinance adoption. This would allow the county to alert potential cannabis grow applicants that the area they are interested in will be having an exclusion zone application in process as soon as the ordinance is in place.

**List of exclusion zone criteria:**

- 1) Inadequate access**
  - a. narrow public road
  - b. narrow private road
  - c. easement across private property with no owner agreement for commercial use of road
- 2) Water resource issues**
  - a. inadequate water supply
  - b. sensitive watershed
  - c. interference with neighborhood wells and septic systems
- 3) Residential character is to be preserved**
  - a. current land use is residential
  - b. neighborhood is clearly defined
  - c. currently little or no commercial ag operations
  - d. adjacent to residential area
- 4) Sensitive flora or fauna habitat**
- 5) Scenic corridor**
- 6) Existing county study area**
  - a. Inconsistent with area specific plan
- 7) Area defined to decide by ballot?**

## Cultivation Subgroup Report

The Cultivation Subgroup has been tasked with comparing the current county ordinance with the newly released state regulations to determine the differences and make recommendations on how the county can best align with the state in order to allow Sonoma County cultivators the best opportunities for viable businesses in the regulated marketplace.

### Current Findings:

1. Sonoma County begin developing cannabis policy in 2016 based on MMRSA passed in November of 2015. The Sonoma County Board of Supervisors adopted the Cannabis Ordinance for Land Use, Medical Cannabis Health Ordinance, and Cannabis Business Tax Ordinance in December 2016.
2. California released passed further legislation in 2016 to establish Medical Cannabis Regulation and Safety Act (MCRSA).
3. Citizens of California passed Prop 64 to include Adult Use cannabis marketplace, of which Sonoma County voted 59% in favor.
4. California released the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) on November 16, 2017.
5. On November 16th, 2017 the State of California released emergency regulations issued by the CA Bureau of Cannabis Control, CA Dept of Public Health and CA Dept of Food and Agriculture.
6. Additional guidance has been provided throughout 2017 by CA Dept Fish and Wildlife, CA State Water Board, CA Dept of Pesticides, CA Dept of Taxes and Fees Administration.
7. **Sonoma County's Ordinance 6189 is severely outdated and does not align with the new state regulations that took effect January 1, 2018.**

### Recommendations:

This CAG Subgroup recommends immediate action on the following priority points to bring Sonoma County in line with the state and to help ensure the success of operators. It is essential Sonoma County take cues from the state in order for operators to succeed as they transition into the regulated marketplace. Discrepancies between the local and state regulations produce barriers to operators entering the regulated marketplace.

### **Immediate Priorities**

1. ***General Provisions and Definitions:*** It is essential for operators to have clarity of definitions between state and local regulations. Operators are at a serious disadvantage to statewide competition and will bankrupt before they can pay fall taxes due to Sonoma County's outdated definitions placing excessive burden on operators. The following definitions need to be added or updated in order to match the state emergency regulations: "cannabis", "premise" "batch" or "harvest batch", "canopy", "dried flower", "flowering", "immature plant" or "immature", and "mature plant". Many of these definitions are essential for Sonoma County Operators to align the way square footage is measured by the state, specifically cultivation area vs. canopy.

**See Definitions PDF:** Attached.

**RECOMMENDATION:** Reconcile the differences in defined language between Sonoma County and MAUCRSA to ensure maximum compatibility between the local permits and state licensing programs for businesses. These definitions must be drafted in this spring and prepared for final draft after the permanent state regulations are released in July.

2. *Sonoma County's Definition of Cultivation Area vs State's Definition of Canopy:*

**STATE:** Defines "canopy" and allows for a license type with a certain square footage that includes mature, flowering plants only.

**COUNTY:** Defines "cultivation area" and allows for a maximum cultivation building footprint of a certain square footage based on the permit type, including the spaces in between plants and immature plants.

**RECOMMENDATION:** This subgroup recommends the local ordinance must align with the State with respect to immature plants not counting towards cultivation square footage and not restricting the permit type by building footprint and instead mature plant canopy only. By not counting immature plants in the total canopy square footage, we will allow our local cultivators to stand on equal footing with the other farmers in the state, rather than at a further economic disadvantage. This would not apply to nursery licenses, but only for flowering commercial cultivation sites.

3. *Set Backs:*

**STATE:** In section § 8102. Annual License Application Requirements, the state requires that a proposed location site be at least a 600 foot radius from a school providing instruction in kindergarten or any grades 1-12, day care, or youth center.

**COUNTY:** Currently, the County requires a proposed location site for outdoor and greenhouse cultivation be at least a 1000 foot radius from schools and parks. The County also requires 100 foot setback from property lines and a 300 foot setback from occupied residence and businesses on surrounding properties for these same operations.

**RECOMMENDATION #1:** Given the extreme shortage of qualified properties due to zoning restrictions and rising neighborhood concerns, we would like to recommend the County to take setbacks on a case by case basis.

(EX: 40+ acre parcel located next to a small park, by current ordinance this parcel is in-eligible, however the actual garden would be located acres away from this property line shared with the park and therefore it should be considered acceptable since the cannabis project is well over 1,000ft from the park)

(EX: A concerned neighbor feels like the garden is too close to their residences.. the operators can shift the garden in another direction that puts it within 100ft of another property line but that owner is OK with it so the garden moves and is now further away from concerned neighbor).

\*We recognize there is disagreement about the matter of setbacks. This is just one recommendation.

4. *Processor License:*

**STATE:** In order for cultivators to process (dry, cure, trim, package) their cannabis, significant investment is required to upgrade structures, including costly infrastructure such as sprinklers and ADA restrooms. The state now offers a processor license type for cultivators to bring their cannabis to for processing. This type of business would be beneficial to the local operators who cannot afford to build processing facilities on their permitted properties.

**COUNTY:** 26-88-254(f)(2) Square Footage Limitations. ...*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.*.. This current language essentially restricts Sonoma County producers from utilizing centralized processing facilities. But wouldn't necessarily restrict those processors from providing their services to outside producers from other jurisdictions. This means that currently a small Sonoma County cannabis farmer could not have his product transported to a larger Sonoma facility to have it processed.

**RECOMMENDATION:** Allow centralized processing licenses on parcels zoned agricultural and industrial.

5. *No tax on non-flowering plants & auxiliary cultivation areas:*

**RECOMMENDATION:** Non-flowering plants and any cultivation for research and development that does not enter the supply chain should not be taxed or counted towards our licensed canopy area.

6. *Greenhouse with no electrical should fall under outdoor tier and tax rates:*

**RECOMMENDATION:** Outdoor operators that use a greenhouse structure during certain times of the season with no electrical wiring should fall under the outdoor tier and tax rate.

7. *Allow for temporary structure to be used for processing:*

**RECOMMENDATION:** Operators should be allowed to use temporary structures for processing such as trailers for trimming or storage and processing during harvest season.

8. *Caregivers:*

**STATE:** The state Bureau regulations allows for caregivers, non-commercial gardens of up to five patients to cultivate at one location, to produce cannabis for personal use. Medical cannabis patients may live in circumstances where they cannot cultivate cannabis, such as federally subsidized housing.

**COUNTY:** Limit of 100sf of personal cultivation per parcel.

**RECOMMENDATION:** The county should allow for a caregiver to cultivate on behalf of these patients should not require commercial cannabis permits, as this medicine is provided directly to qualified patients in Sonoma County.

## **Additional Priorities**

1. Inclusion/Exclusion Zones (defer to this subgroup)
2. State requires Track and Trace Program which Sonoma has not integrated
3. Allow Cooperative Cultivation Sites (allowing 1+ acre cooperative cultivation on large, approved parcels)
4. At the state level, nurseries may maintain a research and development area for mature plants that would be tagged but prohibited from entering the supply chain (Article 4 Sec 8302). Nursery operators & cultivators should be allowed a small cultivation area for R&D, such as breeding of new genetics, that does not count towards the total canopy allowance.

## Consequences of Inaction

**It is imperative the county prioritize the reconciling the inconsistencies between Ordinances 6189, 6188 and MAUCRSA to reflect the progress of a burgeoning industry.** Operators are making significant financial commitments based on state regulations and the current Sonoma County ordinance. Because of the disparity in alignment, there are significant challenges placed on businesses as they formulate business plans, create contracts, make purchasing decisions and move forward with applying for state licensing. It is of the utmost importance that the Board of Supervisors align their ordinance with the state as soon as possible enabling businesses to make reasonable decisions as they move forward in the regulated cannabis market at the local and state level; delayed alignment of state regulations with the local ordinance will only hurt early adopting compliant operators in the long run.

## **Subgroup Report Supply Chain Alignment with State Law**

The Board of Supervisors and the Medical Marijuana Regulation and Safety Implementation Ad Hoc Committee tasked the Cannabis Advisory Group (CAG) to develop recommendations related to cannabis in Sonoma County. In Fall 2017, the CAG selected five members to develop recommendations to align Sonoma County's cannabis policy with changes to state cannabis laws and regulations for supply chain operators, which includes all manufacturing, distribution, retail, events, microbusiness and testing facilities. The CAG established a separate subgroup to address alignment issues for cultivation. In developing this report, CAG subgroup members met on several occasions and presented draft recommendations at two CAG meetings, which included member discussion and public comment.

### **Current Findings**

1. In 1996, the voters of the State of California approved Proposition 215, which was intended to decriminalize cultivation and possession of medical cannabis by a qualified patient, or the patient's primary caregiver, for the patient's personal use.
2. On September 26, 2006, the Sonoma County Board of Supervisors adopted Medical Marijuana Possession and Cultivation Guidelines in Resolution 06-0846, which provided a limited defense to prosecution or other sanction by County of Sonoma for medical use of cannabis by qualified patients.
3. In September 2015, the state enacted the Medical Marijuana Regulation and Safety Act (MMRSA), which instituted a comprehensive state-level licensure and regulatory scheme for the medical cannabis supply chain. MMRSA allowed for-profit commercial activity related to medical cannabis in California. MMRSA also created a dual licensing system whereby cannabis operators must obtain both local authorization and then state licensing for each type of cannabis activity, including nursery, cultivation, distribution, transportation, manufacturing, testing, and retail.
4. After MMRSA was passed, Sonoma County began developing medical cannabis policy, which was approved by unanimous vote of the Board of Supervisors in December 2016.
5. On November 8, 2016 the voters of California adopted Proposition 64, which legalized the use of cannabis for adult use in California.
6. In 2017, the state enacted several bills to homogenize the adult use and medical regulatory framework, and in November 2017 the state issued emergency regulations for the cannabis supply chain.

## **Recommendations**

After comparing the existing Sonoma County medical cannabis policy to current state rules and regulations, the Supply Chain Subgroup recommends the following.

1. **Allow for Adult Use Permits.** Currently, the Sonoma County cannabis ordinance does not allow adult use. With over 136,358 or 59% of the voters supporting Proposition 64, the residents of Sonoma County have spoken and they want adult use allowed. In July, operators will be at a serious disadvantage if the County does not allow adult use and medical permits in Sonoma County. Adding the adult use market would increase taxes while continuing to attract investment in the local cannabis industry.

**Recommendation:** Resolve to allow adult use permits per the same rules as medical cannabis permits. Rather than open a full policy review, the CAG recommends allowing adult use through a board resolution as soon as possible. This will provide time for existing and pending permit holders to add adult use to their applications and obtain state licensing for both medical and adult use.

2. **Align with State License Transferability.** Sonoma County's ordinance presently disallows and ownership transfers of cannabis permits. This complete prohibition on ownership transfers restricts investment and financial growth of local cannabis companies. By disallowing ownership transfers, businesses are unable to sell to potential buyers or take on investment that would change the ownership structure of the permitted operation. This rule also differs from state rules, which allows ownership in a licensed operation to change upon prior notification and approval from the state agency.

**Recommendation:** Adopt a similar procedure as the state rules for permit transferability. Upon notification and approval of the County, allow permit ownership to transfer. This would not significantly impact the landuse for the property and would give the County the relevant information about the new ownership while allowing for business development and investment.

3. **Allow Type 7, Level 2 Volatile Manufacturing.** During the County's cannabis policy development process, the state provided little direction on the Type 7, Level 2 Volatile Manufacturing license. With the new laws and regulations, the state has strict rules for the storage, use, and disposal of volatile solvents. Volatile manufacturing is an important part of the supply chain. The solvents and processes used for volatile manufacturing are critical for pesticide remediation, extraction, and innovation through research and development.

While the Type 7 license carries more risks, the potential risks can be drastically reduced with proper fire and building controls and systems. Through the planning and building permit processes, facilities can be designed and constructed to provide safe, state-of-the-art volatile manufacturing. Allowing Type 7 licenses in industrial zones would attract additional businesses and would allow existing operators to expand their use. In the cannabis industry, manufacturing jobs are generally more technical and higher paid, leading to important tax and economic development in the area.

**Recommendation:** Allow Type 7, Level 2 Volatile Manufacturing in industrial zones (M1 & M2).

4. **Allow for New License Types.** Since the Sonoma County cannabis ordinance was passed in December 2016, the state laws and regulations have created several new license types, including:
- Packaging - packaging and repackaging of cannabis and cannabis products.
  - Type N (Infusion) - infusions of cannabis oils into edible and topical cannabis products.
  - Microbusiness - at one premises, allows operator to combine at least three license types (distribution, cultivation, manufacturing, or retail).
  - Events - with cannabis consumption and/or sales.
  - Distribution – self Distribution, Transport Only Distribution, and Full Distribution
  - Retail Non-storefront Delivery
  - S Type – shared facilities for manufacturers
  - Processor – for cultivation sites that conduct only trimming, drying, curing, grading, packaging, or labeling of nonmanufactured cannabis.

With the new license types, a series of recommendations follow.

5. **Allow P and N Types.** The P and N are manufacturing license types that allow for less operational activity than the Type 6, which allows for infusions, packaging as well as extraction. Since the County currently allows Type 6 licenses in Industrial zones, allowing the new manufacturing license types would allow different types of manufacturers to operate in the area.

Generally, infusion and packaging requires less space and equipment, while producing less noise and odors. These uses are suitable for additional land use and zoning. Finding industrial spaces with a few hundred to a thousand square feet is difficult and rental prices for larger spaces are far too expensive for small businesses. Therefore, we offer staged approach to allowing P and N.

**Recommendation:** Allow P and N license types in Industrial zones as soon as possible per resolution of the Board. In phase two of policy development, allow P and N permit types in Commercial and Industrial zones.

6. **Allow for All Distribution Types.** Currently the definition of a Cannabis Distribution Facility in the Ordinance is as follows:

*The location or a facility where a person 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. This Facility requires a Type 11 license pursuant to the Medical Cannabis Regulation and Safety Act (MCRSA).*

This was Pre-Prop 64 Adult Use and Pre-State regulations for MAUCRSA and allows for only one type of license (Type 11- Full Distribution). The state regulations for MAUCRSA have now established different categories of distribution. Distribution is needed in all phases of cannabis businesses (cultivators, manufacturers and retailers), including: transporting cannabis; arranging for laboratory testing; conducting quality assurance review of cannabis goods to ensure they comply with all packaging and labeling requirements storage of cannabis goods; and, collecting and paying taxes.

The state now allows various types of distribution, including:

- Transport only (Type 13): Transports cannabis, no coordinating labs, no collecting taxes, and no transport to retail allowed, unless immature plants and seeds from a nursery.
- Distribution (Type 11): allows all distribution for other licensed cannabis operators.
- Self-Distribution (Type 11): allows for distribution of cannabis and cannabis goods produced by the same business as the distributor.

**Recommendation:** Allow for all distribution types as the state. To support local smaller operators, allow permitted cultivators to obtain self-distribution.

7. **Expand Distribution Zoning.** Currently Distribution is only allowed in the following Industrial zoning districts: MP (Business Park), M1(Limited Urban Industrial), M2 (Heavy Industrial)

**Recommendation:** Expand all distribution types in all commercial zones and include M3 (Light Rural Industrial) to minimize the distances for hauling cannabis goods and

products. It would expand the opportunities for these mandated and much needed services to avoid over-concentration by limiting to industrial zones.

- 8. Continue to Allow Cannabis Events.** Sonoma County has long been a destination for cannabis events, which have drawn thousands of tourists to the area. The state has created a new events license category that may host events at county fairgrounds or district agricultural association. Only persons aged 21 and older are allowed to purchase cannabis from retail or microbusiness licensees. The state also allows for onsite consumption at licensed cannabis events; however, no alcohol or tobacco can be consumed. Cannabis events are still required to obtain local authorization. With the history of successful cannabis events, the County would benefit from continuing to allow cannabis events.

**Recommendation:** Allow cannabis event permits.

- 9. Allow Non-storefront Delivery.** With the state’s emergency regulations now available, it is clear that non-storefront delivery is allowed under a retail license. As with all licenses, the state requires a brick and mortar premises for non-storefront delivery retail operations. These operations are not open to the public for onsite sales, and therefore should be allowed in a wider variety of zones than storefront retail establishments. Many costumers appreciate and need delivery for a variety of reasons. Allowing non-storefront delivery would add to the options for customers as well as add more tax revenue from increased sales.

**Recommendation:** Allow non-storefront delivery in commercial and industrial zones.

- 10. S Type for Shared Manufacturing Facilities.** In March, the state released new emergency regulations for S Type facilities. This S license would permit a licensed manufacturer to offer shared used of the facility to another opeator. The new regulations require the primary permit holder to first obtain a manufacturing license (Type 7, 6, or N) and then obtain local authorization for the shared operator. Then the operator would apply to the state for a shared license, which permits solventless oil-based extractions, infusions and packaging by the shared licensee. Only one shared licensee may operate in the shared premises at a time; however, shifts may stagger to allow for multiple shared licensees.

This new S Type license is intended to help keep costs down for small businesses and to allow for more operators to have manufactured products. Under the collective model, many products were made by small operators. From tinctures to cookies, products from small operators have helped build the cannabis industry. Many of these small collectives have been displaced in the new commercial model. Allowing shared facilities in Sonoma

County, would help small operators find space and diversify the types of operations in the area.

**Recommendation:** Allow S Type facilities in line with state rules.

**11. Allow Microbusiness Permits.** When Sonoma County drafted their cannabis regulations in December of 2016, they were based on the newly implemented state regulations (AB 266, AB243 & SB643) which passed in October of 2015. These state laws did not include the microbusiness model. It wasn't until the passage of Proposition 64 by voters in November of 2016 that this business model was introduced for adult recreational use. Since that time, the emergency regulations and MAUCRSA all for Microbusiness licensing, and it makes sense that the County of Sonoma adopt policy that reflects the new permit types available by the state.

Since the passage of SB420 by State representatives, collectives have formed where multiple patients share their resources often through a retail facility. The idea of seed to sale falls under both the collective model and the Microbusiness. Allowing businesses to operate the full spectrum of cultivation, manufacturing, distribution, and sales will ultimately allow older businesses that were structured this way to flourish.

As more and more of the agricultural crops in the United States are supplemented financially for the public to afford food, less and less farmers are finding incentives to continue producing. The exception to this model is Farm to Table Trend, which in Sonoma County, draws elite "foodies" to have the experience of knowing where their food comes from. If we apply this to cannabis in the same way, Micro-business may be one of the most successful cannabis models for people seeking the experience of knowing that products they consume are safe.

Microbusiness is very similar to wine tasting rooms and micro brewery's that currently exist in Sonoma County. Tourists travel from all over the world to have the boutique experience of visiting the location their favorite beer or wine are produced. Sonoma County is known for the diverse agricultural crops cultivated, as the micro climate is incomparable. Producing Sonoma grown cannabis, at a location where the cultivation can be observed, as well at the extraction and production methods, would further provide education to the visitor about the unique cannabis grown in this region.

Under state rules, a licensee can qualify for a Microbusiness if, on the same parcel, they are operating three of the four following permit types: cultivation, manufacturing, distribution, or retail. However, as described below, Sonoma County's current cannabis ordinance provides very limited combinations required for microbusinesses state licensing.

Sonoma County Cannabis Zoning

Retail Facilities are allowed at	C1 C2 LC
Distribution Facilities are allowed at	MP M1 M2
Cultivation Facilities are allowed at	
Mixed light	LIA LEA DA RRD
Indoor	LIA LEA DA RRD MP M1 M2 MP
Outdoor	LIA LEA DA RRD
Manufacturing Facilities are allowed at	MP M1 M2 M3

**Recommendations:**

- a. Small Business, roll out plan, application, with phase in process. Submit full Microbusiness Application, with timeline to open each of the four departments
- b. Delivery should qualify as retail under microbusiness.
- c. Identify which zones may be appropriate for which type of Microbusiness combinations
- d. Consumption: (1) allow consumption onsite; (2) allow consumption in limited area on the premises

**12. Processor License.** In order for cultivators to process (dry, cure, trim, package) their cannabis, significant investment is required to upgrade structures, including costly infrastructure such as sprinklers and ADA restrooms. The state now offers a processor license type for cultivators to bring their cannabis to for processing. This type of business would be beneficial to the local operators who cannot afford to build processing facilities on their permitted properties.

**Recommendation:** Allow processing licenses on parcels zoned agricultural and industrial.

**13. Clarify Permit Renewal Process and Fees.** At this time, cannabis permits in Sonoma County are annual. The current ordinance does not clarify the process or costs to renew a cannabis permit. With permits starting to be issued, the uncertainty about renewal makes it difficult for businesses to develop their operations or attract investor funds. If operators are in good standing, their permits should be renewed through a less rigorous process that costs less than the initial application.

**Recommendation:** Provide a clear process for permit renewal that reflects a lesser amount of scrutiny and costs less due to reduced staff time.

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## **ALTERNATIVE RECOMMEDATION TO THE CULTIVATION SUBGROUP REPORT**

Section 3: Setbacks. Taking setbacks on a case by case by case is a flawed concept for multiple reasons. It adds a whole new level of complexity to the permitting process. In addition, there would be a major increase in the workload of Permit Sonoma in verifying the validity of each request.

1. There is the question of the grower's legal right to enforce the agreement if the neighbor changes his or her mind.
2. Would a new agreement be required at each yearly renewal?
3. How would other nearby residents know that a special variance was granted?
4. What recourse could a new owner of the adjacent parcel have to cancel the previous variance?
5. Would the special variance need to be part of a real estate disclosure should the property be sold?
6. Would this special variance need to be part of real estate disclosures of other nearby neighboring properties?

In sum, this case by case approach to setbacks would negate the now standard setbacks with which people are becoming familiar with and replace them with a hodgepodge of various setback possibilities. The clarity of the current setback standards would be lost.

Recommended this idea be discarded. Needlessly complex.

## **ALTERNATIVE RECOMMENDATIONS TO THE SUPPLY CHAIN ALIGNMENT REPORT**

### **Number 9. Allow Microbusiness permits.**

Recommend tabling this item for future study. There are too many flaws in the existing ordinance to iron out before throwing a new permit type into the mix. The County has a revolt in non-conforming DA as well as other zones and has the issues of oversaturation and adjacency plus the thorny problems of inclusion/exclusion overlay combining zones to examine before they embark on entirely new type of business permit. Code Enforcement will probably never be fully staffed enough to regulate manufacturing 7 at cultivation sites and Permit Sonoma should not be tasked at this time to identify which zones may be appropriate for which type of micro business permits. The Supply Chain Alignment report itself is confusing in that manufacturing 7 (volatile solvents) is recommended to be allowed only in Industrial zones but the item pops up again as a possible qualifier for one of the multiple uses (manufacturing) necessary for application for the micro business permit.

a. There is no need to rush through another complicated topic; address this type of permit sometime in the future.

b. Suggest referring to this permit as “Vertically Integrated Cannabis Business Permit”. It is a misnomer to call this permit a “micro” permit as there is no reference to size nor is there any mechanism to restrict the size of the operation.

c. Recommend no consumption on premises or portion thereof. Recommend no consumption at dispensaries. Code Enforcement is having a difficult job keeping up with violations of events at wineries and cannot take on additional cannabis related complaints. At this time State and local law enforcement cannot deal with people who have overindulged and are driving from an event.

### **10. Allow Transferability of Permits and Temporary Penalty Relief.**

Each new applicant must start the process again. The public needs to know who the permit is being issued to. There are standards as to who can get a permit. If the permits are transferable, the County and the public will be denied the ability to weigh in on the applicant.

Furthermore, if the applicant did unpermitted work during the period of penalty relief, they should immediately be disqualified from the program. Penalty relief is a good faith program. If the applicant does not show good faith, they should immediately lose the benefits of the program.

a. Disagree with recommendation

**11. Privacy of Records.** Number 9 highlights the similarities between a cannabis microbusiness and the wine tasting rooms where tourists from all over the world may visit the operation, stroll through the gardens, watch the extraction and production process and educate themselves on the unique cannabis grown in this County. Yet, number 11 recommends that addresses of

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cultivation facilities not be made public for public safety reasons. Instead the suggestion is to use P.O. boxes, agents of service, or mailing addresses. The combination of number 9 and number 11 are a perfect example of cognitive dissonance or holding two contradictory ideas at the same time. Cultivation sites either DO NOT have public safety issues or they DO have public safety issues. It makes no difference if one parcel can grow, manufacture, distribute and sell and the other parcel may only grow.

Commercial growers in residential areas subject their neighbors to dangers and are essentially hiding themselves among residents. In their request to remain anonymous they admit the inherently dangerous business they are conducting. The operations are not safe, and they belong in well protected industrial zones.

a. Public records cannot be secret.

14. **Sensitive Use Radius.** Retain the 1000-foot setback from parks and schools and other sensitive spots. During the fall of 2016, the Sonoma County Office of Education recommended this setback during a public meeting and there is no reason for change. The idea that this rule was enacted during an era when the federal government was targeting closing dispensaries based on federal drug laws is specious.

Parents take their children to parks that don't have playground equipment. Children, adults, people with sensitive conditions, etc. all use and hike in our parks. Operations must be placed where they do not interfere with the rights of the public to enjoy public land.

a. Recommend no change to the ordinance