



## Sonoma County Planning Commission STAFF REPORT

**FILE:** ORD20-0005  
**DATE:** March 18, 2021  
**TIME:** At or after 1:10 pm  
**STAFF:** Andrew Smith, Agricultural Commissioner-Sealer  
Christina Rivera, Assistant County Administrator

**A Board of Supervisors hearing on the project will be held at a later date and will be noticed at that time.**

### SUMMARY

**Applicant:** County of Sonoma: County Administrator's Office, Department of Agriculture/Weights & Measures, Permit Sonoma

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

**Subject:** Cannabis Cultivation Ordinance Amendments, and General Plan Amendment

**Proposal:** Consideration of amendments to the County Code, Chapter 26 and new Chapter 38, to allow expanded ministerial permitting for commercial cannabis cultivation in agricultural and resource zoned areas.  
  
In addition, a General Plan Amendment is proposed to revise the Agricultural Resources Element to explicitly recognize cannabis cultivation as an agricultural use.

**Environmental Determination:** An Initial Study and Mitigated Negative Declaration were prepared and circulated for a 30-day public comment period from February 16, 2021 through March 18, 2021. The proposed Land Use Ordinance update and General Plan Amendment include modified siting criteria, operational standards, and best management practices to fully mitigate any potential impacts.

**General Plan:** Agriculture and Resource Land Uses (excluding the Coastal Zone)



## **RECOMMENDATION**

Recommend to the Board of Supervisors to approve the proposed General Plan Amendment, changes to Chapter 26 of the Zoning Code, and the creation of Chapter 38 to govern the ministerial permitting of cannabis cultivation.

## **EXECUTIVE SUMMARY**

As directed by the Board of Supervisors and the Cannabis Ad Hoc, County staff prepared draft amendments to the County's zoning code and general plan to accomplish certain goals. These goals are divided into the general and overlapping categories of permit streamlining and alignment of cannabis cultivation uses with other agricultural uses.

Permit streamlining provisions are designed to remove barriers for smaller-scale cultivators, consolidate permitting for different elements of the supply chain, make the permit process more predictable, and implement standards to streamline permitting requirements and make more cultivation projects ministerial. This includes changes that provide for better alignment with state regulatory requirements, mitigate environmental impacts, enhance protections for sensitive uses, and provide more certainty to permit applicants and the public.

- Adopt amendments to change more cultivation permitting and design review from discretionary to ministerial approval upon compliance with updated objective ministerial standards that are protective of the public health, safety, welfare, and environment;
- Revise setback and fencing requirements for greenhouses and use Best Management Practices to ensure design compatibility and odor control standards;
- Revise screening requirements for fencing if not visible from the public right-of-way;
- Revise lighting requirements at night unless needed for security purposes to reduce potential wildlife and night sky impacts;
- Clarify and enhance protections for air quality and odor control;
- Clarify and enhance protections for trees, and add ridgeline protections;
- Clarify and enhance watershed and groundwater protections;
- Clarify and enhance waste, wastewater, and erosion management measures;
- Maintain and emphasize protections for biotic resources, wildlife habitat, farmland, timberland, and fire safety;
- Revise cultural resources standard to accommodate ministerial permitting and requirement to submit a cultural resources report with the application;
- Revise measurement technique for sensitive use setbacks (i.e.: parks and schools) from parcel line of sensitive use to land use activity per an approved site plan, instead of parcel line to parcel line in the current Ordinance.
- Revise ordinance definitions and/or adopt state regulatory definitions to provide more clarity and congruency for compliance

Agricultural alignment provisions bring the cannabis cultivation more in line with the County's diverse and robust agricultural sector activities. These provisions eliminate restrictions and prohibitions that currently apply only to cannabis cultivation, which were originally implemented out of an abundance of caution. As County staff have increased their understanding of cannabis cultivation operations and related laws, some restrictions have become antiquated, burdensome, and of minimal usefulness.



- Extend cannabis cultivation permit term limits from 1 year to 5 years;
- Remove operator qualifications for cultivation activity;
- Remove one person cap for cultivation use (currently 1-acre per person or operator);
- Allow cultivators to transport their own product to other permittees/licensees;
- Allow cannabis cultivation area to rotate around a parcel per an approved site plan;
- Allow propagation incidental to cultivation;
- Revise limitations on indoor and greenhouse cultivation and limit accessory structures by limiting all new structures to a percentage of lot building coverage;
- Remove square foot limitations on mixed light and indoor cultivation utilizing existing structures;
- Expand the cannabis cultivation area allowed per parcel from 1 acre to 10 percent of the parcel;
- Remove cannabis-specific restrictions on tours, promotional events, and farmstays;
- Update definitions to distinguish between different types of “mixed-light cultivation”, such as between light deprivation and greenhouse cultivation; and
- Include nursery (wholesale only) production as cultivation in agricultural and resource zones subject to ministerial permitting

## **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 Cannabis Ordinance History**

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 cannabis law, the Board of Supervisors directed staff to bring forward a comprehensive cannabis ordinance. A Board of Supervisors Ad Hoc on Cannabis was formed. The Ad Hoc 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 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 cannabis businesses include:

1. The Cannabis Ordinance (Ordinance No. 6245), setting forth permit requirements on where and how each cannabis business type may operate;
2. The 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 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 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. The County also initiated extensive public outreach and education efforts, and was involved in the creation and staffing of the Cannabis Advisory Group.

## **2018 Board of Supervisors and Cannabis Ad Hoc 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.



The Ordinance amendment process was split into two parts. The first update had a limited scope and was focused on amending the ordinance to align with requirements of state law. These changes were approved by the Board of Supervisors on October 16, 2018 and implemented by staff.

The scope of this second update was developed over an extended period of time, and consists of a broad revision of the ordinance to achieve multiple goals. The Cannabis Advisory Group (CAG) was a diverse group of stakeholders initially convened in 2017 at the direction of the Board to provide expertise and guidance to staff and Supervisors in developing the County’s cannabis policy. The scope of this second ordinance update was developed through extensive collaboration with the Cannabis Advisory Group and the public input provided at regular Cannabis Advisory Group public meetings. The last meeting of the Cannabis Advisory Group was held on June 26, 2019 and the group’s recommendations for the ordinance update were transmitted to the Board of Supervisors and staff.

The CAG provided recommendations pertaining to economic vitality and neighborhood compatibility. Recommendations pertaining to economic vitality focused on revising development and operational standards to ensure that small operators can compete with large corporate entities operating in the region. Recommendations on neighborhood compatibility focused on addressing potential negative impacts to sensitive receptors.

On December 17th, 2019, the Board approved direction for staff to implement certain changes related to the cannabis program and its management. The primary direction was to amend the Cannabis Land Use Ordinance to expand opportunities for ministerial cannabis cultivation permits to be administered through the Department of Agriculture/Weights and Measures.

In May 2020, the County Administrator’s Office, in collaboration with the Department of Agriculture/Weights & Measures (Agricultural Commissioner), and Permit Sonoma, began drafting this second update to the Ordinance with consideration to all the recommendations of the Ad Hoc and the Cannabis Advisory Group.

In an effort to be as transparent as possible, staff released preliminary working draft documents (working drafts) of the Cannabis Ordinance and Subsequent Mitigated Negative Declaration) on January 31, 2021. Those working drafts were revised, and approximately two weeks later, on February 16, 2021, the public review draft documents, including the draft Cannabis Ordinance, draft Subsequent Mitigated Negative Declaration, draft revisions to Chapter 26, and the draft General Plan Amendment, were released for public review (hearing drafts). Four virtual town hall webinars were held the week of March 8, 2021, facilitated by an outside consultant.

## **DISCUSSION OF ISSUES**

### ***Project Description:***

The current Cannabis Ordinance allows commercial cannabis cultivation, including outdoor, indoor, and mixed light cultivation and associated drying, curing, grading, and trimming facilities. Ministerial zoning permits for outdoor cultivation may be issued by the Agricultural Commissioner. Ministerial zoning permits and discretionary use permits for all other cultivation activities are issued by Permit Sonoma.

The proposed Cannabis Land Use Ordinance update would allow commercial cannabis cultivation uses in agricultural and resource zoned areas outside of the coastal zone to be approved as a ministerial permit by the



Agricultural Commissioner if specific development and operational standards are met. Proposed cultivation in such agricultural or resource zoned areas that does not qualify for a ministerial permit under the proposed code changes would still be able to pursue a use permit for that activity. The proposed ordinance changes are discussed in the table below. They focus on establishing standards and requirements, streamlining the permit process, and modifications to align the use more closely with other types of crop cultivation.

<b>CANNABIS CULTIVATION LAND USE REGULATORY PROGRAM*</b>	
* Regulation of non-cultivation cannabis land uses, such as manufacturing, dispensaries or testing facilities, remain subject to use permit requirements under Chapter 26, and is not part of the proposed code update. The update is focused on cultivation activities only.	
<b>MINIMAL CHANGES</b>	
<b>CURRENT ORDINANCE</b>	<b>PROPOSED CHANGE</b>
<b>Parcel Requirements</b>	
<ul style="list-style-type: none"> <li>Minimum parcel size 10 acres</li> </ul>	<ul style="list-style-type: none"> <li>No change to minimum parcel size</li> </ul>
<b>Zoning Districts</b>	
<ul style="list-style-type: none"> <li>Agricultural and Resource Zones (LIA, LEA, DA, RRD) (indoor / outdoor cultivation)</li> <li>Industrial Zones (MP, MI, M2, M3) (indoor cultivation only)</li> </ul>	<ul style="list-style-type: none"> <li>No change to zone districts in which cultivation permitted. However, expansion of ministerial permit options for parcels zoned LIA, LEA, DA, RRD only.</li> </ul>
<b>Biotic Resources</b>	
<ul style="list-style-type: none"> <li>Habitat and Special Status Species require a biological assessment and that no “take” of a protected wildlife species occur</li> </ul>	<ul style="list-style-type: none"> <li>Clarifications to qualified biologist findings and the requirement for a Use Permit if mitigation measures are recommended</li> </ul>
<b>Riparian Resources</b>	
<ul style="list-style-type: none"> <li>Structures shall be located outside of RC setback</li> <li>Riparian Setbacks based off agricultural setbacks in Sec 26-65-40</li> <li>Prohibited within Biotic Habitat Zone (BH)</li> <li>Conform to wetland setbacks in Sec 36-16-120 unless a Use Permit is obtained</li> </ul>	<ul style="list-style-type: none"> <li>No change to RC, BH, or wetland setback requirements</li> <li>Chapter 38 breaks these out from one paragraph into three for clarity</li> <li>No longer possible to obtain a Use Permit for reduction in wetland setback</li> </ul>
<b>Timberland &amp; Farmland Protection</b>	
<ul style="list-style-type: none"> <li>Prohibits timberland conversion</li> <li>Land Conservation Contract (Williamson Act) compliance</li> <li>Farmland protection</li> </ul>	<ul style="list-style-type: none"> <li>No change to timberland conversion prohibition</li> <li>Cannabis remains a compatible but not qualifying use under the Uniform Rules for Agricultural Preserves and Farmland</li> <li>Clarifications relating to structure requirements and limitations</li> </ul>



<ul style="list-style-type: none"> <li>• Tree protection limited to timberland conversions and general tree protection within Ch 26</li> </ul>	<ul style="list-style-type: none"> <li>• Added protection for trees greater than 20 inches diameter at breast height (dbh) and for “Protected trees” at 9 inches dbh</li> </ul>
<b>Grading &amp; Slope</b>	
<ul style="list-style-type: none"> <li>• Grading subject to Ch 36 and 11 and limited to a slope of 15% or less</li> </ul>	<ul style="list-style-type: none"> <li>• No change to grading requirements.</li> <li>• Addition of Ridgetop protection setback:</li> </ul> <div data-bbox="862 562 1367 871" data-label="Diagram"> </div> <p>Ridge means a slope that is greater than 50% and greater than 50' in slope length; the diagonal distance one would travel walking uphill. The slope break is the point at which the slope of the land changes from 50% slope to a slope less than 50%. The setback is 50' horizontally from the slope break point.</p>
<b>Air Quality, Odor, &amp; Energy</b>	
<ul style="list-style-type: none"> <li>• Dust control required for all access roads and ground disturbing activities</li> <li>• Odor control required through filtration and ventilation for permanent mixed light and indoor cultivation</li> <li>• Renewable energy required</li> </ul>	<ul style="list-style-type: none"> <li>• No change to dust control requirements</li> <li>• New standard requires off-site odor to be addressed in all cultivation types</li> <li>• No change to renewable energy requirement.</li> </ul>
<b>Waste &amp; Runoff</b>	
<ul style="list-style-type: none"> <li>• Waste Management Plan</li> <li>• Wastewater Management Plan</li> <li>• Stormwater Management Plan</li> </ul>	<ul style="list-style-type: none"> <li>• No change to waste management requirements</li> <li>• No change to waste water management plans</li> <li>• Applicant must submit erosion and sediment control plan that ensures runoff</li> </ul>

	containing sediment or other waste or by-products does not drain to the storm drain system, waterways, or adjacent lands (This used to be a development standard and has been changed to submittal requirement)
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MODERATE CHANGES	
CURRENT ORDINANCE	PROPOSED CHANGE
Cultural Resources	
<ul style="list-style-type: none"> <li>• Cultivation sites shall avoid impacts to significant cultural and historic resources</li> <li>• Use Permit required if mitigation is recommended by cultural resource survey or local tribe</li> <li>• Stop work upon discovery of human remains</li> </ul>	<ul style="list-style-type: none"> <li>• Addition of requirement that applicant submit a Cultural Resource Survey for any application proposing ground disturbance.</li> <li>• Addition of requirement that applicant submit a Historic Resources Survey when any modification to structures over 45 years old proposed</li> <li>• No change to stop work requirements for accidental discovery but expanded scope to include cultural resources</li> </ul>
Fire Prevention	
<ul style="list-style-type: none"> <li>• Fire Prevention Plan required to show emergency vehicle access and turn-around, vegetation management, and fire break maintenance</li> <li>• Hazardous Materials</li> </ul>	<ul style="list-style-type: none"> <li>• Clarified that the Fire Prevention Plan must also state how the development complies with Ch 13, Ch 13A, and other applicable local and state standards</li> <li>• Cultivation prohibited on sites listed as a hazardous material site, no longer possible to get a Use Permit as an alternate path forward</li> </ul>
Design & Security	
<ul style="list-style-type: none"> <li>• Security Plan</li> <li>• Lighting must be downward casting, not spill onto neighboring properties, or to the night sky</li> <li>• Fencing required for all cultivation types</li> </ul>	<ul style="list-style-type: none"> <li>• Security plan requirement unchanged except motion sensor lighting is no longer required as part of security plan</li> <li>• No change to light pollution standard</li> <li>• Fencing required to screen and secure outdoor and hoop house cultivation, but not required to screen or secure indoor cultivation. Indoor cultivation required to be</li> </ul>





<ul style="list-style-type: none"> <li>Design standards maintained by the review authority, considered as a discretionary component of Use Permit</li> </ul>	<p>secure with locking doors to prevent free access.</p> <ul style="list-style-type: none"> <li>Ministerial objective design standards to conform to natural and agricultural setting to be maintained by the Agricultural Commissioner</li> </ul>
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SUBSTANTIAL CHANGES	
CURRENT ORDINANCE	PROPOSED CHANGE
Limitations on Canopy & Structures	
<ul style="list-style-type: none"> <li>Maximum outdoor cultivation area per parcel is 43,560 square feet (1 acre)</li> <li>Maximum greenhouse size of 10,000 sq/ft</li> <li>Maximum reuse of existing structures of 10,000 sq/ft</li> <li>Temporary hoop houses classified as mixed light cultivation</li> </ul>	<ul style="list-style-type: none"> <li>10% of parcel size replaces the static 1 acre maximum</li> <li>Tiered approach to size of new or expanded permanent structures depending on whether parcel is larger or smaller than 20 acres.</li> <li>Parcel at least 10 acres but no larger than 20 acres in size: limit of 43,560 sq ft.</li> <li>Parcel 20 acres or larger in size: limit of 43,560 sq ft. or 50% of the maximum allowed by base zone district, whichever is greater.</li> <li>New structures (or expansions) are those constructed after 1/1/2021.</li> <li>No limit on reuse of existing permanent structures for cultivation</li> <li>Temporary hoop houses classified as outdoor cultivation</li> </ul>
Setbacks	
<ul style="list-style-type: none"> <li>Sensitive use setback of 1,000 feet measured from property line of parcel with a sensitive use to property line of parcel with cultivation</li> <li>Sensitive uses: a school providing education to K-12 grades, a public park, childcare centers, or an alcohol or drug treatment facility</li> </ul>	<ul style="list-style-type: none"> <li>Sensitive use setback of 1,000 feet measured from property line of parcel with a sensitive use to the boundary of the cultivation area</li> <li>Addition of Class I bikeway to sensitive uses (To be included in both Ch. 26 and Ch. 38.)</li> <li>Define childcare center to align with definition of day care center as defined by California Health and Safety Code Section 1596.76.</li> </ul>



Water Use	
<ul style="list-style-type: none"> <li>Water source must be located on site and to be considered adequate the applicant must provide evidence of 1 of the following: municipal, recycled, surface, or well (groundwater).</li> <li>Trucked water allowed with a Use Permit</li> <li>Net zero water use required in Class 3 or Class 4 groundwater availability areas</li> <li>Hydrogeologic report required in Class 3 or Class 4 groundwater availability areas or Priority Groundwater Basin showing it will not exacerbate adverse conditions of the basin/aquifer</li> <li>Groundwater monitoring required</li> </ul>	<ul style="list-style-type: none"> <li>“Municipal” water redefined as “Retail”</li> <li>Trucked water only allowed during a declared emergency for both ministerial cultivation permits and discretionary use permits.</li> <li>Addition of dry season well yield test showing minimum yield to support the combined use of existing and proposed</li> <li>In addition to overdraft, well interference, and reductions in surface water for nearby streams, add the following to the list of adverse conditions to be avoided: seawater intrusion, degraded water quality, and land subsidence</li> <li>Monitoring shift from Permit Sonoma to the Agricultural Commissioner and increase in reporting frequency from 5 years to annual</li> </ul>
Operating Requirements	
<ul style="list-style-type: none"> <li>1 year permit term limit for ministerial and 5 year permit term limit for discretionary</li> <li>Annual review and inspections</li> </ul>	<ul style="list-style-type: none"> <li>5 year permit term limit for all types</li> <li>No change to annual review and inspections</li> </ul>
Allowable Activities	
<ul style="list-style-type: none"> <li>Self-distribution prohibited</li> <li>Cannabis farm stands not allowed</li> <li>All on-site propagation limited to 25% of the cultivation area</li> <li>Events prohibited</li> </ul>	<ul style="list-style-type: none"> <li>Self-distribution allowed, allowing operators to transport the product off site rather than requiring a third party to transport qualifies permittee for a distribution-transport only state license</li> <li>No change on prohibition of farm stands for cannabis sales; similar to existing prohibition on wine sales at farm stands.</li> <li>Elimination of 25 % cap of permitted canopy propagation limit and allows for by-right propagation to meet on-site cultivation needs (does not allow for wholesale nursery propagation).</li> </ul>



<ul style="list-style-type: none"> <li>• 1 acre per-person cap on cultivation</li> </ul>	<ul style="list-style-type: none"> <li>• The Agricultural Commissioner does not permit events, and any agricultural events would require a separate application to Permit Sonoma and an additional state license. Depending on nature of proposed combined cannabis cultivation and event or other activities a use permit may be required.</li> <li>• No per-person /entity limit on cultivation</li> </ul>
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**General Plan Consistency:**

The proposed General Plan amendment to redefine agriculture to explicitly include cannabis cultivation would not, in itself, allow for additional cannabis cultivation in the County. The amendment to the Agricultural Resources Element is consistent with the zoning code revision, will not create an internal inconsistency in the General Plan, or inhibit the implementation of any other General Plan policies or programs.

**Zoning Consistency:**

The proposed ordinance update is primarily dealing with the creation of Chapter 38 to be administered by the Agricultural Commissioner. Chapter 26 will remain substantially in its current state in order to facilitate the Use Permit process for parcels that are not eligible to obtain a ministerial permit. Changes in Chapter 26 are technical in nature to achieve consistency with Chapter 38, and directing members of the public toward the most appropriate permitting route, but there would be no other new allowed uses added to Agricultural or Resource Zones outlined in Chapter 26. In certain places requirements for permits under Chapter 26 are enhanced so that they are no less protective than those of Chapter 38, including the addition of ridgetop protection setback, use of generators or trucked water for cannabis cultivation only during a declared emergency when normal sources of water and power are unavailable, alignment with water resource protection measures, odor control measures, clarification of energy off-set requirements, and addition of provisions governing accidental discovery of cultural resources.

**Environmental Determination:**

An Initial Study and Mitigated Negative Declaration were prepared to evaluate impacts of the proposed updated Ordinance. Several impact areas were identified that could potentially result in environmental impacts if not properly mitigated. The proposed mitigation measures would reduce all anticipated impacts to a less than significant level. These impacts and respective mitigations are summarized individually below.

**Aesthetics.** The updated Ordinance would allow for an increase in the acreage of cultivation within scenic vistas located outside the coastal zone. Whereas the current Ordinance restricts the total area of outdoor, mixed-light, and indoor cultivation in agricultural and resource zoning districts to no more than one acre per parcel, the updated Ordinance would instead limit cultivation by percent of parcel coverage. Plant canopy cover for outdoor cannabis cultivation and hoop houses would be limited to 10 percent of a parcel. In addition, new cannabis structures on parcels greater than 20 acres in size would be restricted to 50 percent of the maximum lot coverage prescribed for the base zone. These new provisions would allow for more than one acre of cannabis cultivation on parcels at least 10 acres in size. They would also allow for an increase in the number and size of greenhouses, indoor cultivation structures, and other supporting structures, as well as more fencing to protect



these structures. A new, reconstructed, or an expanded permanent structures that would need to comply with objective design standards adopted by the Board of Supervisors, which would reduce impacts to scenic vistas. However, the updated Ordinance could lead to an expansion of cannabis cultivation and associated structures which could impact the visual character of the surrounding area if mitigation is not applied. Cannabis would be redefined in the General Plan as an agricultural use. Agricultural uses contribute to an agrarian landscape aesthetic.

The proposed mitigation measures include standards for screening from public viewing areas with vegetation barriers, and compliance with existing design standards. To reduce the potential impact of sources of light glare, a prohibition on the use of glare producing materials for greenhouses and other structures is proposed.

**Air Quality.** Large-scale operations on parcels at least 60 acres in size could exceed the BAAQMD’s applicable screening criterion of approximately 5.95 acres for NOx, an ozone precursor. As a result, it is possible that cannabis operations would generate NOx emissions exceeding the Bay Area Air Quality Management Districts’s (BAAQMD’s) significance threshold of an average of 52 pounds per day during construction or operation, contributing to regional ozone pollution. During the construction of cannabis projects, ground disturbance and the use of construction vehicles on unpaved surfaces could cause a significant short-term increase in emissions of dust emissions, including PM10 and PM2.5. To reduce dust emissions, the updated Ordinance would require that cannabis cultivation sites “utilize dust control measures on access roads and all ground disturbing activities.” However, this provision does not specify effective, feasible measures that would substantially control dust emissions. Mitigation measures would include a screening analysis and control of NOx emissions for large projects, and stronger dust control measures.

**Biological Resources and Tree Protection.** Cannabis cultivation and development of new structures on agricultural parcels may require some tree removal. Currently no significant tree removal can be permitted without the issuance of a use permit. The proposed ordinance would allow for limited removal of small trees. Projects with removal of large trees or trees protected by the County tree ordinance would be required to prepare a tree replacement plan with a minimum replacement ratio of 2:1 (trees planted to trees impacted).

New requirements are established to address potential impacts to historic structures, including requiring a historic resource evaluations for any site with structures 45 years or older prior to the commencement of grading or building. Similarly, to address impacts to undisturbed cultural resources, the proposed Ordinance would require projects with new ground disturbance to submit cultural resources studies and be referred for review by local tribes and the Northwest Information Center. Where the cultural resources survey or local tribe recommends mitigation a Use Permit for the proposed project would be required to mitigate any potential impacts.

**Energy.** Energy usage by a cannabis operation includes relatively high electricity for lighting and climate control. In addition natural gas may be used for space heating, and gasoline for employee vehicle trips. Future cannabis cultivation projects will increase usage of gasoline, electricity, and natural gas due to additional vehicle trips and operational energy needs. The revised Ordinance would allow for larger cannabis operations that could potentially exceed energy supply during operation.

For projects projected to consume more energy than an estimated average amount for projects of this type, the updated Ordinance would require the preparation of a detailed energy demand analysis, and an Energy Conservation Plan containing measures necessary to reduce energy usage to an average level.



**Geology and Soils.** The updated Ordinance would not require paleontological resource studies prior to construction to effectively identify the potential for paleontological resources to occur at a project site. Mitigation would include a requirement that potential paleontological resources be identified and properly avoided prior to ground disturbing activities more than five feet below the ground surface..

**Hazards and Hazardous Materials.** Future cannabis cultivation projects could be located on sites in the Cortese List, which have known hazardous materials. Additionally, projects would be located on lands zoned for agricultural uses that are typically associated with the historical use of pesticides and arsenic. Project construction activities that disturb soils on-site could potentially result in the release of hazardous materials into the environment related to previous agricultural use. Mitigation would include the investigation and remediation, if necessary, of contaminated soils on the project site.

**Noise.** Heating, ventilation, and air conditioning (HVAC) equipment at cannabis operations may be in use over a 24-hour period. The updated Ordinance would allow for promotional events to be held at cultivation sites such as site tours, tastings, amplified music, as approved by County and State permits.

Projects within 1,000 feet of schools, residences, hospitals and other sensitive uses, would be required to implement best practices to minimize construction noise including limited construction hours and siting criteria for staging and operation of stationary equipment. Requirements for HVAC equipment include a minimum setback of 300 feet from sensitive receptors, and sound barriers around noise sources to reduce noise to meet standards. Operating standards for noise reduction would be applied to any promotional events located 1,000 feet or less from sensitive receptors through separate County-issued event permits.

**Transportation.** New cannabis cultivation projects would have the potential to increase total vehicle miles traveled (VMT) in Sonoma County, as a result of employees driving to and from cultivation sites. These sites would be located in rural areas of the County, where existing average trip lengths are higher than in urban and suburban areas. Individual applicants would need to provide evidence that they would generate fewer than 110 average daily trips, or alternatively provide a full analysis of potential VMT impacts. Mitigation would require an analysis of potential VMT impacts and, as needed, implementation of measures to reduce VMT.

**Wildfire.** The updated Ordinance would allow for an increase in acreage of cannabis cultivation and associated structures within high fire risk areas. Severe wildfires damage the forest or shrub canopy, the plants below, as well as the soil. In general, this can result in increased runoff after intense rainfall, which can put homes and other structures below a burned area at risk of localized floods and landslides. Existing fire codes and regulations cannot fully prevent wildfires from damaging structures or harming occupants.

Mitigation would include reducing the risk of wildfire for sites located near steep slopes and vegetative wildfire fuels and during construction, as well as additional project siting criteria

## **FINDINGS**

1. CEQA
  - a. The proposed project with mitigations incorporated as described in the attached Mitigated Negative Declaration all impacts are mitigated to a less than significant level.
2. General Plan Consistency
  - a. The project includes an amendment to the Agricultural Resources Element to redefine agriculture to explicitly include cannabis cultivation.



**Sonoma County Permit and Resource Management Department**  
2550 Ventura Avenue Santa Rosa CA 95403-2859 (707) 565-1900  
www.Permitsonoma.org



- b. The proposed General Plan Amendment will not create an internal inconsistency in the General Plan, or inhibit the implementation of any other General Plan policies or programs.
3. Zoning Consistency
- a. The proposed Cannabis Land Use Ordinance update would allow commercial cannabis cultivation uses to be approved as a ministerial permit by the Agricultural Commissioner if specific development and operational standards are met.
  - b. Projects not meeting the standards will be subject to the Use Permit discretionary permitting process by Permit Sonoma to ensure all impacts are fully mitigated.
4. Additional Findings
- a. A notice of the public hearing was duly published for public review and comment at least 10 days prior to the public hearing.
  - b. The Planning Commission has reviewed and considered the staff report and presentation, and all comments, materials and other evidence presented by members of the public prior to and during the public hearing held by the Commission on March 18, 2021.

### **RECOMMENDATIONS**

Recommend to the Board of Supervisors to approve the proposed General Plan Amendment, changes to Chapter 26 of the Zoning Code, and the creation of Chapter 38 to govern the ministerial permitting of cannabis cultivation.

### **ATTACHMENTS**

Attachment A: Draft Resolution

Attachment B: Draft General Plan Amendment

Attachment C: Draft Chapter 38

Attachment D: Draft Chapter 26 Changes

Attachment E: Subsequent Mitigated Negative Declaration

Attachment F: Public Comment – Written

Attachment G: Public Comment – Cannabis Workshops

