

Chapter 20.242 Medical Cannabis Cultivation Site

20.242.010 - Intent

This ~~chapter~~ Chapter 20.242 (“Chapter”) is intended to provide land use regulations for the County of Mendocino where medical cannabis may be cultivated, subject to the limitations established ~~of in~~ in this ~~e~~Chapter and the provisions of Mendocino County Code Chapter 10A.17, the Medical Cannabis Cultivation Ordinance (MCCO). The objective of this Chapter is to allow the cultivation of medical cannabis in locations that are consistent with the intent of the base zoning district and to help ensure that its cultivation and related activities will not create adverse impacts to the public health, safety, and welfare of the residents of the County of Mendocino.

Sec. 20.242.020 – Application

The cultivation of medical cannabis is prohibited in all zoning districts in Mendocino County, except as allowed by this Chapter or by Chapter 10A.17.

Sec. 20.242.030 – Definitions

Unless otherwise defined in this ~~chapter~~ Chapter, the terms and phrases used ~~in this chapter~~ herein shall have the same definitions as provided in Chapter 10A.17, or as provided in this Title 20.

~~Sec. 20.242.040 – Exception.~~

- ~~(A) — The cultivation of medical cannabis by qualified patients or primary caregivers is an allowed use subject to Mendocino County Code Chapter 10A.17 and all of the following restrictions:~~
- ~~(1) — The cultivator must have authorization as a qualified patient or as a primary caregiver to cultivate medical cannabis for medical use.~~
 - ~~(2) — Each legal parcel may have only one medical cannabis cultivation site regardless if the cultivation site is for personal use or any other allowed use allowed by this Chapter or Chapter 10A.17.~~
 - ~~(3) — The cultivation of medical cannabis is allowed as an accessory use to an existing legal dwelling, located on the same legal parcel, where the dwelling is a principal use in the Zoning District in which it is located.~~
 - ~~(4) — The cultivation of medical cannabis within an accessory structure shall be subject to the development requirements of the zoning district in which it is located and to requirements of Chapter 20.164 — Accessory Use Regulations except, notwithstanding Section 20.164.010, (a) the cultivation of medical cannabis in an accessory structure is not permitted prior to the construction of the legal dwelling on the parcel, and (b) cultivation of medical cannabis shall only be allowed on the same parcel as the allowed legal dwelling use.~~
 - ~~(5) — The cultivation of medical cannabis is not permitted within any habitable~~

~~space (i.e., kitchen, bedroom, bathroom, living room or hallway) of a dwelling unit nor is it permitted within any required parking space.~~

~~(6) The cultivation of medical cannabis shall be limited to growing the plant from its vegetative state to maturity. The resulting flowers or crop may be trimmed or cured for direct consumption. The production of its legal byproducts for consumption is allowed provided it is incidental and subordinate to allowed uses on the same site and that it does not involve any volatile substance or process.~~

Sec. 20.242.0540 Existing Medical Cannabis Cultivation Sites

(A) Referrals of Applications to the Department for review zoning permits for related to existing cultivation sites shall include the Agriculture Commissioner's determination that the cultivation site existed prior to January 1, 2016, unless the Agricultural Commissioner requests the assistance of the Department in making this determination as part of the referral to the Department.

~~(B) All medical cannabis cultivation sites located outside an Industrial Zoning District (I1, I2, and PI) must demonstrate there is adequate water to serve the cultivation site by providing evidence of an existing water right.~~

~~(C)~~(B) One (1) existing medical cannabis cCultivation sites, operated in accordance conformance with an the MCCO permit, may be allowed on ~~one (1)~~a legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit as required for the zoning district in which the cultivation site is located and as listed in Table 1.

TABLE 1
Zoning Permit Requirement for Existing Medical Cannabis Cultivation— by Zoning District and Medical Cannabis Cultivation Ordinance Permit Type

MCCO Permit Type	C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm, Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial	2-B Lg Mixed Light	4 Nursery
Min Parcel Area (ac)	NA	NA		NA	5	5	5	10	10	10	10
Cultivation Area Limit (sf)	2,500	500	501 - 2,500	2,500	2,501- 5,000	2,501- 5,000	2,501- 5,000	5,001- 10,000	5,001- 10,000	5,001- 10,000	22,000
Zoning District	RR-2	ZC	AP	UP	ZC	ZC	--	--	--	--	--
	RR 5*	ZC	AP	UP	ZC	ZC	--	ZC	--	--	--
	RR 10	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC
	AG	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC
	UR	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC
	RL	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC
	FL **	ZC	AP	UP	ZC	AP	--	AP	AP	--	AP

TPZ**	APZC	AP	APUP	APZC	AP	--	AP	AP	--	AP	AP
I1	ZC	ZC	ZC	ZC	ZC	ZC	ZC	--	ZC	ZC	ZC
I2	ZC	ZC	ZC	ZC	ZC	ZC	ZC	--	ZC	ZC	ZC
PI	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC

NA = Not Applicable, -- = Not Allowed, ZC = Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit

* Parcels in the RR-5 zoning district must have a minimum parcel size of five (5) acres.

** No new cultivation sites are permitted in the FL, TPZ, and RL zoning districts (Section 20.242.050.D) and existing cultivation sites in the FL, TPZ and RL zoning districts are permitted in these zoning districts subject to the limitations of this section (Section 20.242.050.E). Expansion of existing cultivation sites in the FL, TPZ and RL zoning districts is permitted, subject to the issuance of an Administrative Permit.

~~(D)~~(C) An existing cultivation site located in a zoning district not listed in Table 1 of this section may continue, but shall not be expanded or enlarged, subject to the requirements of Chapter 10A.17 and the following planning permit and approval requirements for a Zoning Clearance, Administrative Permit or Minor Use Permit.

(1) Planning Permit Requirements:

- (a) Outdoor Cultivation (with an approved pursuant to a MCCO Type C Permit) not exceeding 2,500 square feet requires an approved Zoning Clearance.
- (b) Indoor Artificial Light Cultivation (with an approved pursuant to a MCCO -Type -C-A -Permit)- not exceeding 500 square feet requires an approved Administrative Permit.
- (c) Indoor Artificial Light Cultivation (with an approved pursuant to a MCCO Type C-A Permit) between 501 and 2,500 square feet requires an approved Minor Use Permit.
- (d) Mixed Light Cultivation (with an approved pursuant to a MCCO Type C-B Permit) not exceeding 2,500 square feet requires an approved Zoning Clearance.

~~(2)~~ Planning Approval Requirements:

- ~~(a) The cultivation site was legally established under and adhered to County Ordinance 9.31 prior to January 1, 2016.~~
- ~~(b) The cultivation site is located on a legal parcel.~~
- ~~(c) The parcel on which it is located is a zoning district where a dwelling unit is a principally permitted use.~~
- ~~(d) The cultivation site is not expanded beyond the area established under County Ordinance 9.31.~~

~~(e) — The cultivation site complies with the Development Standards of this section.~~

~~(3)(2)~~ Any future lapse or revocation of the MCCO permit will extinguish the permittee's ability to obtain a future permit from the Department to continue or resume an existing cultivation site that is not within a zoning district listed in Table 1 of this section.

~~(E) — No new cultivation site shall be established on nor shall an existing cultivation site be transferred to a legal parcel located within a FL (Forest Land), or TPZ (Timber Production Zone), or RL (Rangeland) zoning district.~~

~~(F) — An existing cultivation site, which qualifies for a MCCO permit, may continue within the FL (Forest Land), or the TPZ (Timber Production Zone), or the RL (Rangeland) zoning districts not to exceed 2,500 square feet of cultivation with a Zoning Clearance, Administrative Permit or Minor Use Permit as listed in Table 1. The existing cultivation site and may be expanded up to a MCCO Outdoor or Mixed-Light permit type that allows up to 10,000 square feet of cultivation in conformance with all applicable MCCO requirements and conditions and with an approved Administrative Permit or Use Permit as listed in Table 1., subject to the following limitations:~~

~~(G) —~~

~~(H)(D) If the application would include the conversion of timberland as defined under Public Resources Code Section 4526, a copy of a less than 3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection ("CalFire"). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, the applicant must provide evidence that environmental impacts have been mitigated, to the extent feasible, as required by the resource protection agencies including CalFire, the NCRWQCB and the Department of Fish and Wildlife.~~

~~No application will be accepted to permit existing cannabis cultivation sites within the FL (Forest Land), or the TPZ (Timber Production Zone), or the RL (Rangeland) zoning districts on or after January 1, 2018. Any application submitted prior to that date and which remains incomplete because it lacks required information or fee, as determined by PBS, shall be void.~~

~~(H)(E) Transferability of Permits. Permits issued pursuant to this Section shall not be transferable to another person, except that the permittee may transfer the permit to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the permittee serves as a trustee, which shall not be deemed a change in ownership for purposes of this Chapter.~~

~~(1) — An existing cultivation site may be transferred from the original legal parcel ("origin parcel") to another legal parcel ("destination parcel") at any time provided: (1) the location and operation of the proposed cultivation site on the destination parcel complies with zoning permit and development standard requirements that apply to a new cultivation site as specified in Section 20.242.070, and (2) prior to the issuance of the MCCO permit and zoning permit required by this chapter to commence cannabis cultivation at the destination parcel, the permittee~~

~~shall provide the Agricultural Commissioner with a copy of a recorded covenant stating that the permittee releases any right to continue or resume medical cannabis cultivation on the origin parcel, and (3) the existing cultivation operation shall be resorted to the maximum extent feasible. The applicant for a transfer shall include a restoration plan, consistent with the standard conditions and BMP's listed in the Water Board Order, with the application for any permit for which transfer of an existing operation is proposed. The reclamation plan shall include the following, except where such activities can be demonstrated to be technically infeasible or likely to lead to additional environmental impacts:~~

- ~~(a) Remove or repurpose buildings, greenhouses, fences, irrigation equipment, water intakes, pumps, storage tanks and other materials brought to the site for the purpose of cannabis cultivation~~
- ~~(b) Remove dams, ponds or other in-stream water storage to restore material stream flows, unless such features will continue in use~~
- ~~(c) Remove or compost agricultural wastes~~
- ~~(d) Remove trash and other debris~~
- ~~(e) Revegetate cleared areas with native plants typical of nearby natural areas, including groundcover, shrubs and trees and~~
- ~~(f) Take additional site specific steps as recommended by NCRWQCB, CDFW, County Staff or third party inspectors to restore natural function and habitat values to the site.~~

~~(J) Development Standards~~

- ~~(1) All medical cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Medicinal Cannabis, Section 10.17.040 of the MCCO.~~
- ~~(2) Cultivation Site Setback Requirements. The following setback backs, which are based on MCCO permit types, are required in all zoning districts where a medical cannabis cultivation site is permitted.~~
 - ~~(a) Special Use Setback. All MCCO permitted cultivation sites shall be located 1,000 feet or greater from any youth oriented facility, a school, a park, or any church or residential treatment facility as defined in MCCO.~~
 - ~~(b) Residential Setback. MCCO Type C, C-A, C-B, 1, 1B, 2, 2B and 4 permitted cultivation sites shall be located 100 feet or greater from any legal residential structure located on a separate parcel.~~
 - ~~(c) Legal Parcel Setback.~~

- ~~(i) MCGO Type C, C-B, 1, 1B, 2, 2B and 4 permitted cultivation sites shall be located 50 feet or greater from any adjoining property under separate ownership or access easement, whichever is most restrictive, unless a greater setback is required in this section or by MCGO.~~
- ~~(ii) MCGO Type C-A, 1A and 2A (all indoor, artificial light sites) cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.~~

Sec. 20.242.0650 New Medical Cannabis Cultivation Sites Located in Industrial Zoning Districts

Establishment of a new medical cannabis cultivation site in the I-1 (Light Industrial), I-2 (Heavy General Industrial), and Pinoleville Industrial (P-I) zoning districts, for Type 1A and 2A MCGO permits, issued on or after January 1, 2018, may be permitted subject to the requirements of Section 20.2432.0760.

Sec. 20.242.0760 New Medical Cannabis Cultivation Sites

- (A) Except as provided in Section 20.242.0650, on or after January 1, 2020, new medical cannabis cultivation sites may only be permitted in accordance with this section.
- (B) All new medical cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Medicinal Cannabis, Section 10A.17.040, provided, however, that an applicant may seek a reduction in the setback requirements as stated in paragraph (D) of this section. ~~of the MCGO except as modified by Sec. 20.242.070 F).~~
- ~~(C) All new medical cannabis cultivation sites located outside an Industrial Zoning District (I1, I2, and PI) or the AG (Agriculture) Zoning District shall demonstrate there is adequate water to serve the cultivation site.~~
 - ~~(1) If surface water (or groundwater influenced by surface water) will be used, applicants may demonstrate that there is adequate water by providing (1) a watershed assessment that establishes there is sufficient watershed supply to serve the proposed cultivation site and existing uses within the watershed, and (2) a water right exists to serve the cultivation site. A watershed assessment shall consist of an established "In Stream Flow Policy" as prepared by the State Water Resources Control Board Division of Water Rights or an equivalent document approved by that agency.~~
 - ~~(2) If groundwater not influenced by surface water will be used, the applicant may demonstrate that there is adequate water by providing a water availability analysis which will address the adequacy of the proposed water supply, the direct effects on adjacent and surrounding water users, and possible cumulative adverse impacts of the development on the water supply within the watershed and show there is a sustained yield to support the proposed level of use.~~

~~(3) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that there is adequate water by providing a will serve letter from the proposed provider.~~

~~(D) All new medical cannabis cultivation sites shall obtain approval from the following agencies if applicable:~~

~~(1) For activities that involve construction and other work in waters of the United States, that are not otherwise exempt or excluded, including streams and wetlands, comply with Clean Water Act (CWA) Section 404 by obtaining a federal permit from the Army Corps of Engineers and comply with CWA Section 401 by obtaining a water quality certification from the North Coast Regional Water Quality Control Board.~~

~~(2) For projects that disturb one (1) or more acres of soil, or projects that disturb less than one acre that are part of a larger common plan of development that in total disturbs one or more acres, obtain coverage under the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009- 0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.~~

~~(E)(C) Only one (1) medical cannabis cultivation sites, operated in accordance with an the MCCO permit, may be allowed on one (1)a legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit, as required for the zoning district in which the cultivation site is located and listed in Table 2.~~

TABLE 2

Zoning Permit Requirement for New Medical Cannabis Cultivation by Zoning District and Medical Cannabis Cultivation Ordinance Permit Type

MCCO Permit Type	C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm, Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial	2-B Lg Mixed Light	4 Nursery
Min Parcel Area (ac)	2	2		2	5	5	5	10	10	10	10
Cultivation Area Limit (sf)	2,500	500	501 - 2,500	2,500	2,501- 5,000	2,501- 5,000	2,501- 5,000	5,001- 10,000	5,001- 10,000	5,001- 10,000	22,000
Zoning District	RR-2	ZG	AP	UP	ZG	ZG	--	--	--	--	--
	RR 5*	ZC	AP	UP	ZC	ZC	--	ZC	--	--	--
	RR 10	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC
	AG	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC

UR	ZC	AP	UP	ZC	ZC	--	ZC	ZC	--	ZC	ZC
RL	ZG	AP	UP	ZG	ZG	--	ZG	ZG	--	ZG	ZG
I1	ZC	ZC	ZC	ZC	ZG--	ZC	ZC	--	ZC	ZC	ZC
I2	ZC	ZC	ZC	ZC	ZG--	ZC	ZC	--	ZC	ZC	ZC
PI	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC

NA = Not Applicable, -- = Not Allowed, ZC = Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit

* Parcels in the RR-5 zoning district must have a minimum parcel size of five (5) acres.

~~(F) — Cultivation Site Setback Requirements. The following setback requirements shall apply in all zoning districts where a new medical cannabis cultivation site is permitted.~~

~~(1) — Residential Setback. MCCO Type C, C-B, 1, 1B, 2, 2B and 4 permitted cultivation sites shall be located 200 feet or greater from any legal residential structure located on a separate parcel.~~

~~(2) — Legal Parcel Setback. The following parcel line setbacks shall apply to any adjoining property under separate ownership or access easement, whichever is most restrictive, unless a greater setback is required in this section or by MCCO.~~

~~i. — MCCO Type C, C-B, 1, 1B, 2, 2B and 4 permitted cultivation sites shall be located 100 feet or greater from any adjoining property under separate ownership or access easement, whichever is most restrictive, unless a greater setback is required in this section or by MCCO.~~

~~ii. — MCCO Type C-A, 1A and 2A (all indoor, artificial light sites) cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.~~

~~(G)(D) Setback Reduction. A reduction in the setback from a legal parcel line required by Section 10A.17.040(~~Section 20.242.070.E.3~~) may be allowed with an Administrative Permit, approved according to Section 20.242.0780(~~.C~~), provided that the approved setback reduction is 50 feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive and the location of the medical cannabis cultivation site continues to comply with the Adjoining Residential Setback~~required setback from an occupied legal residential structure.~~~~

Sec. 20.242.0870 - Planning Approval Required to Cultivate Medical Cannabis

(A) Planning Approval Procedure. Each proposed medical cannabis cultivation site is subject to one of the following planning review processes that correspond to the applicable zoning district and Chapter 10A.17 permit as specified by Table 1 or Table 2 in this Chapter ~~20.242~~.

The Agricultural Commissioner's Office shall refer applications for cultivation permits pursuant to Chapter 10A.17 to the Department, which shall review the application to determine which of the following processes applies. If the application needs only a Zoning Clearance, the Department will provide a zoning clearance approval to the Agricultural Commissioner's Office. If the application requires either an Administrative Permit or a Minor Use Permit, the Department will notify the Agricultural Commissioner's Office and the applicant that planning approval is required.

- (B) Zoning Clearance. The ~~Planning and Building~~ Department shall review the MCCO permit application to confirm the medical cannabis cultivation site is allowed ~~in in the~~ zoning district, subject to the applicable requirements of this chapter, and confirm the legal parcel on which the cultivation site is located. The Department shall additionally provide any information as requested by the Agricultural Commissioner's Office to confirm compliance with any of the provisions of Chapter 10A.17.
- (C) Administrative Permit. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve, conditionally approve or deny an Administrative Permit medical cannabis cultivation sites based on the following special findings.
 - (1) The medical cannabis cultivation site is allowed in the zoning district and it is in compliance with the provisions of Chapter 10A.17.
 - (2) There is no other environmentally superior cultivation site located on the same parcel; the location and operation of the medical cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceeding 15%, prime soil, oak woodland, and timber resources.
 - (3) The medical cannabis cultivation site will avoid or minimize odor and light impact on residential uses.
 - (4) For any new medical cannabis cultivation site established after January 1, 2020 and that is not located ~~an Industrial Zoning District (I1, I2, and PI) or in the~~ AG (Agriculture) Zoning District, the submitted MCCO permit application contains evidence that demonstrates: (1) there is adequate water supply in the watershed and water rights to serve the cultivation site; (2) the cultivation site has received a GWA-Clean Water Act Section 404 permit from the Army Corps of Engineers or a GWA-Clean Water Act Section 401 permit from the North Coast Regional Water Quality Control Board, as applicable, and a General Permit for Discharges of Storm Water from the State Water Resources Control Board.
 - (5) The Administrative Permit granted for the medical cannabis cultivation site shall be limited to a period not to exceed 10 years. The Administrative Permit shall expire at the end of this period unless it is renewed prior to the end of 10-year period, or at any time the

approved MCCO permit for the cultivation site expires or is revoked.

~~(5)~~(6) An Administrative Permit may be applied for and granted for an exception to the dwelling unit requirement of Chapter 10A.17 for parcels in the Rural Residential, lot size ten (10) acres (R-R:L-10) zoning district with the additional finding that the applicant shall demonstrate that the cultivation site and any associated infrastructure (roads, buildings, water storage, etc.) does not preclude the development of the parcel with a residence in the future. For parcels that will need on-site sewage disposal systems to be developed, making this finding may require the identification of a primary and reserve leach field to be identified in order to issue the Administrative Permit.

(D) Minor Use Permit. In accordance with the Use Permit review procedure listed in Chapter 20.196, the Zoning Administrator or the Planning Commission shall approve, conditionally approve, or deny a Minor Use Permit for a medical cannabis cultivation site based on findings in Section 20.196.020 and the following special findings:

- (1) The proposed medical cannabis cultivation site is in compliance with the provisions of Chapter 10A.17.
- (2) In cases where there is no other environmentally superior cultivation site located on the same parcel, the location and operation of the medical cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceed 15%, prime soil, oak woodland, and timber resources.
- (3) The proposed medical cannabis cultivation site will avoid or minimize odor and light impact on residential uses.
- (4) For any new medical cannabis cultivation site established after January 1, 2020 and that is not located ~~an Industrial Zoning District (I1, I2, and P1) or in the~~ AG (Agriculture) Zoning District, the submitted MCCO permit application contains evidence that demonstrates: (1) there is adequate water supply in the watershed and water rights to serve the cultivation site; (2) the cultivation site has received a ~~CWA-Clean Water Act Section~~ 404 permit from the Army Corps of Engineers or a ~~CWA-Clean Water Act Section~~ 401 permit from the North Coast Regional Water Quality Control Board, as applicable, and a General Permit for Discharges of Storm Water from the State Water Resources Control Board.
- (5) The Use Permit granted for the medical cannabis cultivation site shall be limited to a period not to exceed 10 years. The Administrative Permit shall expire at the end of this period unless it is renewed prior to the end of 10-year period, or at any time the approved MCCO permit for the cultivation site expires or is revoked.