

Attachment E

Chapter 20.242 Medical Cannabis Cultivation Site

20.242.010 - Intent.

This 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 this chapter and the provisions of Mendocino County Code Chapter 10A.17, the Mendocino Medical Cannabis Cultivation Compliance Program (M3C3P). The objective of this Chapter is allow the cultivation of medical cannabis in locations that are consistent with 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.

Sec. 20.242.030 – Definitions.

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

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. 20.242.050 -Medical Cannabis Cultivation

(A) Medical cannabis cultivation is prohibited in all zoning districts with the exception that one (1) medical cannabis cultivation site may be allowed on one (1) legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit, as listed in Table 1, for the zoning district in which the cultivation site is located and the M2C3P permit for the proposed cultivation method required by M3C2P.

TABLE 1
Zoning Permit Requirement for Medical Cannabis Cultivation
by Zoning District and Mendocino Medical Cannabis Cultivation (M2C3P) Permit Type

M2C3P Permit Type	C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm, Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial Light	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial Light	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 - 2,000	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
Plant Limit	25	NA	NA	NA	26-50	NA	NA	51-99	NA	NA	NA
Zoning District	RR 2	AP	ZC	AP	AP	AP	--	UP	--	--	--
	RR 5	AP	ZC	AP	ZC	AP	--	UP	--	--	--
	RR 10	AP	ZC	AP	ZC	AP	--	AP	AP	--	UP
	AG	AP	AP	AP	AP	AP	--	UP	AP	--	UP
	UR	AP	ZC	AP	AP	ZC	--	AP	ZC	--	UP
	RL	ZC	ZC	ZC	ZC	ZC	--	AP	AP	--	UP
	I1	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC
	I2	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC
	PI	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC

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

(B) Notwithstanding Section 20.242,060.A, Only existing medical cannabis cultivation sites may be permitted within the Timber Production Zone (TPZ) and in the Forest Land (FL) Zoning District subject to the following limitations.

1. Only existing medical cannabis cultivation sites, which were allowed or permitted under prior programs (the Mendocino County expanded 9.31 Program of 2009 and 2010 or the Urgency Ordinance amending section 9.31, passed May 17, 2016), , are eligible for an Administrative Permit or Minor Use Permit at their approved location and corresponding M2C3P cultivation area limit, as follows.

- a. 9.31 Ordinance 25 Plant Maximum – Any permitted Type C, C-A, C-B M2C3P permitted cultivation site – cultivation area not exceeding 2,500 square feet - requires an Administrative Permit.
 - b. 9.31 Permit Program 50 Plant Maximum (Type I) – Any permitted Type 1 and 1B M3C2P permitted cultivation site – cultivation area between 2,501 and 5,000 square feet - requires an Administrative Permit.
 - c. 9.31 Permit Program 99 Plant Maximum (Type II) – Any permitted Type 2 and 2B M2C3P permitted cultivation site – cultivation area between 5,001 and 10,000 square feet - requires a Use Permit.
2. Applications for permits for cultivation sites in the TPZ and FL must provide evidence of cultivation activities on the parcel prior to January 1, 2016, including, but not limited to 1) ground level views of the cultivation activities and 2) aerial views from Google Earth, Bing Maps, Terraserver, or other comparable services showing: a) the entire legal parcel and b) the cultivation area in more detail. The date these images were captured shall be noted as well.
 3. Applications for cultivation sites in the TPZ and FL shall either provide 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”) or, for existing operations occupying sites created through prior unauthorized conversion of timberland, the applicant must provide evidence showing that they have completed a civil or criminal process and/or entered into a negotiated settlement with CalFire.
 4. All applications for TPZ and FL cultivation sites shall be submitted and deemed complete prior to January 1, 2020. The Department shall not accept applications for cultivation sites in the TPZ and FL after that date.

Sec. 20. 242.060 Development Standards

- (A) All medical cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Medicinal Cannabis, Section 10.17.040.
- (B) Cultivation Site Setback Requirements. The following setback backs, which are based on M2C3P permit types, are required in all zoning districts where a medical cannabis cultivation site is permitted.
 1. Special Use Setback. All M3C2P 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 M2C3P.
 2. Residential Setback. M3C2P type C, 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.
 3. 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 M3C2P.

- a. M3C2P type C and C-B cultivation sites (the smaller outdoor and mixed light sites) shall be 50 feet.
 - b. M2C3P Type 1, 1B, 2 and 2B cultivation sites (the larger outdoor and mixed light sites) and Type 4 nurseries shall be 200 feet.
 - c. M2C3P Type C-A, 1A and 2A (all indoor, artificial light sites) cultivation sites shall comply with the building setback established by the zoning district in which the cultivation site is located.
4. Setback Reduction. A reduction in the setback from a residential use (Section 20.242.060.1) or a legal parcel line (Section 20.242.060.2) may be allowed with a Use Permit, approved according to Section 20.242.070.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.

Sec. 20.242.070 - Planning Approval Required to Cultivate Medical Cannabis

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 in Table 1.

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 such a permit must be separately applied for and obtained from the Department.

- (A) Zoning Clearance. The Department shall review the Chapter 10A.17 permit application to confirm the medical cannabis cultivation site is allowed in zoning district, subject to the performance standards and other provisions of Chapter 10A.17. The Department shall provide any information as requested by the Agricultural Commissioner's Office to confirm compliance with any of the provisions of Chapter 10A.17.
- (B) Administrative Permit. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve or conditionally approve a proposed medical cannabis cultivation based on the following special findings.
 1. The proposed medical cannabis cultivation site is allowed in the zoning district and it 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 will avoid or minimize odor and light impact on residential uses.

4. If the proposed medical cannabis cultivation site is located within the FL or TPZ Zoning Districts, the cultivation site complies with the Cal Fire timberland conversion requirements, as defined under Public Resources Code section 4526.

(C) 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 proposed medical cannabis cultivation 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. If the proposed medical cannabis cultivation site is located within the FL or TPZ Zoning Districts, the cultivation site complies with the Cal Fire timberland conversion requirements, as defined under Public Resources Code section 4526.

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