COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
►860 NORTH BUSH STREET· UKIAH · CALIFORNIA · 95482
120 WEST FIR STREET · FT. BRAGG · CALIFORNIA · 95437

Ignacio Gonzalez, Interim Director
Ukiah Telephone 707-234-6650
UKIAH FAX 707-463-5709
Ft. Bragg Phone 707-964-5379
Ft. Bragg Fax 707-961-2427
pbs@mendocinocounty.org/pbs
www.mendocinocounty.org/pbs

DATE: MARCH 15, 2018

TO: PLANNING COMMISSION

FROM: MARY LYNN HUNT, CHIEF PLANNER
MATTHEW KIEDROWSKI, DEPUTY COUNTY COUNSEL
ELIZABETH BURKS, LACO ASSOCIATES

SUBJECT: OA_2018-0004- AMENDMENT TO MENDOCINO COUNTY CODE CHAPTER 10 A.17 MEDICAL CANNABIS CULTIVATION AND CHAPTER 20.242- MEDICAL CANNABIS CULTIVATION SITE OF THE INLAND MENDOCINO COUNTY CODE.

The Mendocino County Board of Supervisors has directed staff to amend Mendocino County Code Chapters 10.17.A and 20.242. This report details proposed amendments to these to remove the distinction of "medical cannabis", following the newest state regulations which also allow for "adult-use", and to ensure consistency with Bureau of Cannabis Control (BCC) and CalCannabis agency regulations. Other changes made for clarity, consistency, and to follow recent board direction are also proposed.

The most extensive change involves adapting the code sections to allow for both adult-use and medical cannabis, as opposed to exclusively medical. This would be accomplished by removing most instances of the phrase "medical" throughout, and referring to just "cannabis" to imply both types of use. Several minor changes are proposed in order to better align the existing terms and definitions with those of the State. The proposed changes are also intended to ensure consistency throughout the code sections themselves. These proposed changes are detailed in the following section, and can be viewed as red-line edits in the attached documents.

The title of these collective ordinances would be changed from Medical Cannabis Cultivation Regulations to Mendocino Cannabis Cultivation Regulations (MCCR).

BACKGROUND

- On April 4, 2017 the Board adopted Ordinance No. 4381, adding Chapter 10A.17 Medical Cannabis Cultivation and Chapter 20.242 Medical Cannabis Cultivation Site (Ordinance No. 4381) to the County Code regarding the cultivation of medical cannabis in Mendocino County and creating a permit program for cultivation in the inland area of Mendocino County. A Mitigated Negative Declaration (MND) was adopted for Ordinance No. 4381 (SCH No. 2016112028). The ordinance took effect on May 4, 2017.

- On August 22, 2017 the Board amended numerous sections of Chapter 10.17.A Medical Cannabis Cultivation (Ordinance No. 4392).

- Direction has been given to staff for other amendments to both cultivation and facilities chapters of the Mendocino County Code. Currently there are 2 amendments in the hearing stage process in addition to the amendments noted in this report.
    - OA_2018-0001 was heard and recommended approval by the Planning Commission on February 1, 2018 and subsequently scheduled for the Board of Supervisors February 27, 2018 meeting. The item was continued to March 13, 2018.
    - OA_2018-0003 was heard and recommended approval by the Planning Commission on March 1, 2018 and tentatively scheduled for the Board of Supervisors hearing on March 27, 2018.

PROPOSED CHANGES

Changes To Chapter 10a.17

The proposed amendments to Chapter 10A.17 – Medical Cannabis Cultivation Ordinance can be found in Attachment 1 of this report, and are shown in redline. The changes include the following:

- Revisions throughout would eliminate references to "medical" to reflect the State's incorporation of both medical and adult use purposes following passage of the MAUCRSA. This includes changing the overall reference to the regulations from "Medical Cannabis Cultivation Ordinance" (MCCO) to "Mendocino Cannabis Cultivation Ordinance" (MCCO). This would also remove language explicitly prohibiting nonmedical cannabis purposes.
- Relevant definitions set by the MAUCRSA would be added, including "A-License," "A-licensee," "Flowering," "Immature plant," "License," "M-license," "M-licensee," "Mature plant," and "Private residence".
- The definition of "Baseline date" would be set to August 26, 2017 which is the date the Initial Study under the California Environmental Quality Act for the MCCR was initiated.
- "Disturbance" would be defined, in accordance with Staff recommendations, to mean "areas of land where natural plant growth has been removed whether by physical, animal, or chemical means, or natural grade has been modified for any purpose. Land disturbance includes all activities whatsoever associated with developing or modifying land for cannabis cultivation related activities or access. Land disturbance activities include, but are not limited to, construction of roads, buildings, or water storage areas; excavation; grading; and site clearing. Disturbed land includes cultivation areas and storage areas where soil or soil amendments (e.g., potting soil, compost, or biosolids) are located."
- "Expansion" would be defined, in accordance with Staff recommendations, to mean "an increase in the size of Plant Canopy above the prescribed limit for which they are currently permitted, or were cultivating as of August 26, 2016."
- Section 10.A.17.030 - Changes have been made to insert provisions of existing Chapter 9.30, governing personal cultivation of adult use cannabis, into this section, with minor changes to Section 20A.17.040 as well. The provisions of Chapter 9.30 were adopted by the Board of Supervisors in April 2017, and are not substantively changing. The intent of the changes is to eliminate Chapter 9.30 and rely on Chapter 10.A.17 for all regulations regarding the cultivation of cannabis for personal use, whether for medical or adult use.

  An additional change recommended by the Department of Agriculture is the deletion of the requirement that qualified patients or primary caregivers register with the Department. This registration requirement has lost some relevancy following the

legalization of adult use cannabis and cultivation. Enforcement of the personal cultivation provisions for either medical or adult use may be done without the registration requirement.

- Paragraph (D) of section 10A.17.070 is proposed to be amended pursuant to the direction of the Board of Supervisors. Changes would allow a permit to include any combination of cultivation types (though if any of the types would require a permit pursuant to Chapter 20.242, the entire permit would undergo such review) and to allow a single permit for multiple continuous legal parcels under the same ownership.
- Paragraph (A)(1) of section 10A.17.080 is proposed to be amended to extend the application deadline for Phase One applications for sites within the Sunset areas until December 31, 2018, pursuant to the direction of the Board of Supervisors
- Minor changes are proposed to sections 10A.17.140 through.160 regarding enforcement procedures pursuant to the recommendation of the Code Enforcement Division. It is recommended to delete any requirement of the County to request a return receipt when mailing, and to clarify that letters be mailed to the mailing address associated with the permit. Code Enforcement has stated that the return receipt requested requirement slows down the process and has not added any value. The changes also clarify that cultivating cannabis while in the application process is an exception to the nuisance declaration only during Phase One. Minor formation changes are also recommended.
- Currently, the square footage of cultivation area dedicated to propagation of starts is included in measuring the cumulative total square footage allowed under a given Permit. This would be changed to no longer count the propagation of immature plants towards the total square footage. A performance standard would also be added that such propagation must not constitute any new disturbance such as grading or clearing.
- Minor rewording throughout for clarity or administrative purposes.

Changes To Chapter 20.242

The proposed amendments to Chapter 20.242 – Medical Cannabis Cultivation Site ordinance can be found in Attachment 1 of this report, and are denoted by redlines. The changes include the following:

- Revisions throughout would eliminate references to “medical” to reflect the State’s incorporation of both medical and adult use purposes following passage of the MAUCRSA. This includes changing the title of this chapter from “Medical Cannabis Cultivation Site” to “Cannabis Cultivation Sites”. This would also remove language explicitly prohibiting nonmedical cannabis purposes.
- Changing the required permit type for certain existing outdoor and mixed-light project types in Forestland (FL) and Timber Production (TPZ) zoning districts from an Administrative Permit to a Zoning Clearance and clarifying that an Administrative Permit is only required when there is an expansion of a cultivation site in these zones.
- Clarifying that parcels in Industrial zoning districts are not subject to a minimum parcel size.
- Minor rewording throughout for clarity.

ENVIRONMENTAL RECOMMENDATION In order to comply with the California Environmental Quality Act (CEQA), the County of Mendocino adopted a Mitigated Negative Declaration (State Clearinghouse Number 2016112028), pursuant to the provisions of CEQA. An addendum to the existing Mitigated Negative Declaration has been prepared to satisfy the requirements of CEQA. Attachment 2 of this staff report contains the addendum, which makes findings on the level of significance these changes entail, with regards to environmental review.

GENERAL PLAN CONSISTENCY ANALYSIS Staff finds that the proposed amendments are consistent with the 2009 Mendocino County General Plan. The amendments would not constitute an increase in environmental impact, or change to existing land use provisions. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.

RECOMMENDED MOTION FOR THE PLANNING COMMISSION Adopt the resolution and recommend that the Board of Supervisors approve Ordinance Amendment No. OA_2018-0004 which will modify the inland zoning ordinance of Chapter 20.242 of the Mendocino County Code, and Chapter 10A.17 Medical Cannabis Cultivation of the Agricultural Code finding the Addendum to the Adopted Mitigated Negative Declaration is appropriate to address the requirements under CEQA for the proposed ordinance changes and that no subsequent environmental review is needed.

ATTACHMENTS:

1. PC Resolution
2. Ordinance Amendments-Redline
3. CEQA Addendum