

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 Medical Cannabis Cultivation Ordinance (MCCO). 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 Existing Medical Cannabis Cultivation Sites

- A) Applications for zoning permits for existing cultivation sites shall include the Agriculture

Commissioner's determination the site existed prior to January 1, 2016.

- 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) Existing medical cannabis cultivation site(s), operated in accordance with an MCCO permit, may be allowed on one (1) 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 1.

Table 1
Zoning Permit Requirements for Existing Medical Cannabis Cultivation
by Zoning District and Medical Cannabis Cultivation Ordinance Permit Type

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)	NA	NA	NA	5	5	5	10	10	10	10
Cultivation Area Limit (sf)	2,500	500	501 - 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*	AP	AP	AP	AP	AP	--	AP	AP	AP
	TPZ*	AP	AP	AP	AP	AP	--	AP	AP	AP
	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

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

* No new cultivation sites are permitted the FL and TPZ zoning districts and no cultivation sites may be transferred to a legal parcel in the FL and TPZ Districts (Section 20.242.050.E); existing cultivation sites are permitted to continue in these districts subject to limitations (Section 20.242.050.F).

- D) 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 the following planning permit and approval requirements.

1) Planning Permit Requirements:

- a) Outdoor Cultivation (with an approved MCCO Type C Permit) not exceeding 2,500 requires an approved Zoning Clearance.
- b) Indoor Artificial Light Cultivation (with an approved MCCO Type C-A Permit) not exceeding 500 square feet requires an approved Administrative Permit.
- c) Indoor Artificial Light Cultivation (with an approved 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 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) Any future lapse or revocation of the MCCO permit will extinguish the permittee's ability to obtain a future permit to continue or resume an existing cultivation 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) 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) zoning districts and may be expanded up to 10,000 square feet with an approved Administrative Permit, subject to the following limitations:

- 1) 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.

- 2) No application will be accepted to permit existing cannabis cultivation sites within the FL (Forest Land) or the TPZ (Timber Production Zone) 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.

G) 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.

H) 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 setbacks, 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 the MCCO.
 - b) Residential Setback. MCCO 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.
 - c) Legal Parcel Setback.
 - (1) MCCO 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 the MCCO.
 - (2) 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.

Sec.20.242.060 New Medical Cannabis Cultivation Sites Located in Industrial Zoning Districts

Establishment of a new medical cannabis cultivation site in the I1 (Light Industrial), I2 (Heavy Industrial), and Pinoleville (PI) zoning districts, for Type 1A and 2A MCCO permits, issued on or after January 1, 2018 may be permitted subject to the requirements of Section 20.242.070.

Sec.20.242.070 New Medical Cannabis Cultivation Sites

- A) Except as provided in Section 20.242.060, on or after January 1, 2020 new medical cannabis cultivation sites may be permitted in accordance with this section.

All new medical cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Medicinal Cannabis, Section 10A.17.040 of the MCCO except as modified by Section 20.242.070 .F.

- B) All new medical cannabis cultivation sites located outside an Industrial Zoning District (I1, I2, and PI) or AG (Agriculture) Zoning District shall demonstrate there is adequate water to serve the cultivation site 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.
- C) 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.
- D) New medical cannabis cultivation site(s), operated in accordance with an MCCO permit, may be allowed on one (1) 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 Requirements for New Medical Cannabis Cultivation
by Zoning District and Medical Cannabis Cultivation Ordinance Permit Type

Permit Type		C	C-A			C-B	1	1-A Med Indoor, Artificial Light	1-B Med Mixed Light	2	2-A Lg Indoor, Artificial Light	2-B Lg Mixed Light	4
		Sm Outdoor	Sm Indoor, Artificial Light			Sm, Mixed Light	Med Outdoor			Lg Outdoor			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*	ZC	AP	UP		ZC	ZC	--	--	--	--	--	--
	RR 5*	ZC	AP	UP		ZC	ZC	--	ZC	--	--	--	--
	RR10*	ZC	AP	UP		ZC	ZC	--	ZC	ZC	--	ZC	ZC
	AG	ZC	AP	UP		ZC	ZC	--	ZC	ZC	--	ZC	ZC
	UR *	ZC	AP	UP		ZC	ZC	--	ZC	ZC	--	ZC	ZC
	RL *	ZC	AP	UP		ZC	ZC	--	ZC	ZC	--	ZC	ZC
	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

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

* = Watershed Assessment Required

- E) 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 the MCCO.
- a) 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.

- b) 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.
- 3) Setback Reduction. A reduction in the setback from a legal parcel line (Section 20.242.070.E.2) may be allowed with an Administrative Permit, approved according to Section 20.242.080.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 Residential Setback (Section 20.242.070.E.1).

Sec.20.242.080 -Planning Approval Required to Cultivate Medical Cannabis

- A) Planning Approval Procedure. Each medical cannabis cultivation site is subject to one of the following planning approvals that correspond to the applicable zoning district and MCCO Permit Type, as specified by Table 1 or Table 2 in Chapter 20.242.

The Agricultural Commissioner's Office shall refer completed MCCO permit applications to the Department of Planning and Buildings Services, which shall review the application in accordance with the applicable planning approval process. The Department will complete Zoning Clearance determinations within two-weeks of the referral date. If the MCCO permit application is incomplete or it requires an Administrative Permit or a Minor Use Permit, the Department will notify the Agricultural Commissioner's Office and the applicant.

- B) Zoning Clearance. The Department of Planning and Building shall review the MCCO permit application to confirm the medical cannabis cultivation site is allowed in zoning district, subject to the applicable requirements of this chapter. 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.
- 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 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 a 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 404 permit from the Army Corps of Engineers or a CWA 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.

- 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 PI) or a 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 404 permit from the Army Corps of Engineers or a CWA 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.