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COUNTY OF MENDOCINO
DEPARTMENT OF AGRICULTURE
890 N Bush St.
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DATE: MARCH 21, 2017

TO: BOARD OF SUPERVISORS

FROM: DIANE CURRY, Interim Agricultural Commissioner
MARY LYNN HUNT, Chief Planner
MATTHEW KIEDROWSKI, Deputy County Counsel

SUBJECT: AMENDMENTS TO THE MENDOCINO COUNTY CODE TO ADD CHAPTER 10A.17-MEDICAL CANNABIS CULTIVATION ORDINANCE AND CHAPTER 20.242-MEDICAL CANNABIS CULTIVATION SITE OF THE MENDOCINO COUNTY INLAND ZONING ORDINANCE (OA-2016-0003), COLLECTIVELY CALLED MCCR, INCLUDING REVISIONS TO POLICIES AND PROCEDURES FOR AGRICULTURAL PRESERVE AND WILLIAMSON ACT CONTRACTS REGARDING CANNABIS CULTIVATION AND THE ADOPTION OF AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION RELATED THERETO

PROJECT:

The Mendocino County Board of Supervisors (Board) intends to establish the Medical Cannabis Cultivation Regulation (MCCR) to govern the cultivation of medical cannabis in unincorporated Mendocino County, outside the coastal zone. The MCCR will be established through proposed Mendocino County Code amendments to add two new chapters.

Chapter 10A.17—Medical Cannabis Cultivation Ordinance (MCCO) of the Mendocino County Code—will be administered by the Agricultural Commissioner's Office to regulate cannabis cultivation, establish a permitting program, and require compliance with environmental and public health regulations.

Chapter 20.242—Medical Cannabis Cultivation Site Regulation (MCCS), of the Mendocino County Inland Zoning Ordinance—will be administered through Planning and Building Service (PBS) to regulate land use and zoning to ensure the location and scale of cannabis cultivation is compatible with the County's land use and environmental setting.

An ordinance adopting the proposed MCCR has been prepared for today's meeting, as well as a resolution for the approval of the Initial Study/Mitigated Negative Declaration prepared for the MCCR and a resolution adopting certain amendments to the County's Williamson Act Policies and Procedures.

An Initial Study of the potential environmental effects of the adoption of the MCCR has been prepared pursuant to the California Environmental Quality Act (CEQA). A related Mitigation

Monitoring and Reporting Program (MMRP) has also been prepared to summarize measures needed to minimize or avoid potentially significant effects of the project.

The Initial Study was circulated for review and comment by the public and by a variety of State and Local agencies. The comment period ended January 5, 2017. Public Hearings were held by the Planning Commission and at their January 19, 2017 meeting, the Commission voted (5-2) to recommend approval to the Board of Supervisors with proposed recommendations as outlined with their Resolution.

DISCUSSION:

The Board reviewed the report and recommendation of the Planning Commission regarding the MCCR, the Initial Study and proposed Williamson Act Policies and Procedures revisions at its meetings of February 7 and February 14, 2017, and provided direction to staff.

Pursuant to Board direction, staff has prepared revisions to the MCCR and the Initial Study and proposed Mitigated Negative Declaration. Redlines and clean versions of various documents are attached to this memorandum as listed at the end of this memorandum, and will be discussed in the proposed order for adoption by the Board.

Revisions to Williamson Act Policies and Procedures:

Changes are proposed to the County's Policies and Procedures for Agricultural Preserves and Williamson Act Contracts ("Policies and Procedures"), which are currently silent regarding cannabis cultivation.

The proposed changes would make cannabis cultivation a use compatible with a Williamson Act contract, but not a use that would qualify property for a contract. Changes are proposed to the definition of "agricultural use" for the Policies and Procedures that would specify that cannabis cultivation is not an agricultural use. Other sections of the Policies and Procedures, including Sections 5.2 (eligibility), 8.2 (qualifying agricultural uses), and 9.4 (compatible uses), refer back to this defined term. Cannabis cultivation would include planting, growing, harvesting, drying, curing, grading and trimming of cannabis in its natural state. Specifically excluded would be manufacturing, distributing and dispensing of cannabis or cannabis products. Lastly, the Policies and Procedures make cannabis cultivation (and other cannabis uses) incompatible with a Williamson Act contract for open space purposes.

One reason to make cannabis cultivation a compatible, but not qualifying use, is that cannabis cultivation will only be able to occupy a relatively small portion of contracted land. The largest cultivation permit sizes under the MCCR are 22,000 square feet (or ½ acre) for a nursery permit, or 10,000 square feet for a large cultivation permit. These sizes establish that cannabis cultivation on its own cannot meet the requirement that at least 50% of contracted property be used for agricultural purposes. For example, a 10 acre parcel of prime agricultural land would be required to have at least 5 acres of the property in agricultural use, but the largest MCCR permit currently proposed would be a 0.5 acre nursery. An additional 4.5 acres of agricultural uses would need to be on the property to meet the 50% requirement. Because cannabis cannot be the primary agricultural use on the property, it is appropriate to make it a compatible use.

Current Williamson Act contract holders were provided notice of the January 19, 2017, meeting of the Planning Commission. The Planning Commission's report and recommendation on the proposed MCCR included a recommendation regarding the proposed Policies and Procedures changes.

During its February 2017 meetings regarding the proposed MCCR, the Board provided direction to staff to further revise the Policies and Procedures to allow limited, non-volatile manufacturing on parcels, where the manufacturing would only be for the cultivator on the property.

Because the review of the changes to the Policies and Procedures has been limited to cultivation, staff is recommending that any change to the Policies and Procedures regarding manufacturing be done in conjunction with an ordinance regulating cannabis-related manufacturing in the County. As such, the proposed revisions to the Policies and Procedures shown in the attached documents do not include changes reflecting Board direction.

Current Williamson Act contract holders were provided notice of today's meeting.

The resolution prepared for the adoption of the revised Policies and Procedures includes several findings required by the Williamson Act related to compatible uses. In general, these findings can be made because the Policies and Procedures require that all compatible uses occupy no more than 15% of the contracted land or 5 acres, whichever is less. The largest permit type allowed by the MCCR is approximately one-half acre, which could easily fit within the area allowed for compatible uses. In addition, the Policies and Procedures require at least 50% of the contracted property to be used for agricultural uses. This will ensure that property under a Williamson Act contract will still be used for agricultural purposes.

A redline version of the Policies and Procedures showing proposed changes is attached to this memorandum as Attachment 1. The proposed resolution adopting the revised Policies and Procedures is attached to this memorandum as Attachment 2. Exhibit A to Attachment 2 is a clean version of the Policies and Procedures. Formatting has been revised and the table of contents updated to reflect different pagination resulting from the revisions.

CEQA Review:
The Initial Study, which concludes that a Mitigated Negative Declaration can be prepared (together, the Initial Study and Mitigated Negative Declaration are referred to as the IS/MND,) was updated to include changes to text and section references based on reorganization of the MCCR chapters, typographical corrections, and to match the direction provided by the Board at meetings held on February 7, 2017, and February 14, 2017. The direction included clarifications to the project description, individual impact sections, and substitution of mitigation measures.

Attached to this memorandum as Attachment 3 is a redline draft of the IS/MND, showing changes by strikethrough and underlined text. Attachment 4 to this memorandum is a proposed resolution adopting the IS/MND, and includes a clean version of the IS/MND as Exhibit A and the Mitigation Monitoring and Reporting Program as Exhibit B.

Based on the changes contained in the IS/MND, as lead agency under CEQA, the Board has the authority to determine whether or not to recirculate the IS/MND. The requirements regarding re-circulation are outlined in the CEQA Guidelines Section 15073.5:

(c) Recirculation is not required under the following circumstances:

1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.

2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.

3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.

(4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

The changes to the MCCR described later in this staff report, require changes to the project description in the IS/MND. These changes are in response to written and verbal comments received at multiple Planning Commission and Board hearings and subsequent Board direction. These changes have not resulted in new avoidable significant effects and have clarified permit requirements or procedures. Therefore, they may be considered insignificant modifications under CEQA.

Mitigation measures must be replaced with equal or more effective measures pursuant to CEQA Guidelines Section 15074.1, which provides:

(a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.

(b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:

(1) Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.

(2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.

(c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.

(d) “Equivalent or more effective” means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a

greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

Described below are the mitigation measures that were revised for various impact categories and a finding regarding if the new measure is equivalent or more effective in mitigating or avoiding a potential significant effect and that it in itself will not cause any potentially significant impact on the environment. The full text of these changes appear as strikethrough and underlined text in the IS/MND and a complete list of the final mitigation measures is presented in the Mitigation Monitoring and Reporting Program.

Aesthetics
Mitigation Measure AES-1 was changed to expand the requirement to fully contain light and glare from structures used to cultivate medical cannabis to apply to all new and existing structures. A requirement to have motion-activated and fully shielded security lighting was also added.

Finding: The proposed mitigation measure is more effective at mitigating or avoiding potential significant effects and will not in itself cause any potentially significant effect on the environment.

Agriculture and Forestry Resources
Mitigation Measure AG-4, which required the County to begin participating in reviewing Cal Fire Timber Conversion permits, was proposed to ensure the MCCR was not contributing to unnecessary timberland conversions. As a substitute for this, Mitigation Measure AG-4 has been revised to prohibit removal of any commercial timber species or oak species for the purposes of cultivating medical cannabis.

Finding: The proposed mitigation measure is more effective at mitigating or avoiding potential significant effects and will not in itself cause any potentially significant effect on the environment.

Air Quality
Mitigation Measure AIR-1 continues to require consultation with the Mendocino County Air Quality Management District (MCAQMD) and require necessary permits be obtained. However, in consultation with the MCAQMD, the language was refined to explicitly require any MCAQMD permits as part of the cultivation permit application process. It also allows for MCAQMD to waive the initial consultation requirement in the future once MCAQMD has developed an objective set of criteria for the County to be able to determine when a permit or other approval by MCAQMD may be necessary.

Finding: The proposed mitigation is equivalent at mitigating or avoiding potential significant effects and will not in itself cause any potentially significant effect on the environment.

Mitigation Measure AIR-2, which prohibited burning of excess medical cannabis plant materials, was removed. Upon further analysis, compliance with existing MCAQMD requirements, including limitations on burning any type of plant debris, are sufficient to avoid impacts related to burning of excess medical cannabis plant materials. Additionally this mitigation measure was redundant with Mitigation Measure AIR-1, which already outlines a consultation process with MCAQMD.

Finding: Because standards are already in place, including AIR-1, even with the proposed removal of this mitigation measure, equivalency at mitigating or avoiding potential significant effects has been achieved and the change will not in itself cause any potentially significant effect on the environment.

Biological Resources
Mitigation Measure BIO-1 required an automatic referral of cultivation permit application to California Department of Fish and Wildlife (CDFW) for each proposed cultivation site to evaluate the possible presence of sensitive species. This language has been modified to have qualified County staff or qualified third party inspectors complete the initial review. If these qualified individuals determine there is a likelihood of sensitive species to be present at the site, CDFW will be consulted. The effectiveness of the mitigation remains. If the project would cause impacts to sensitive species, a cultivation permit would not be granted.

Finding: The proposed mitigation is equivalent at mitigating or avoiding potential significant effects and will not in itself cause any potentially significant effect on the environment.

Mitigation Measure BIO-3 requires that in instances of relocation, that the origin site be restored. Language was added to clarify that only illegal ponds, dams or other in-stream water storage would need to be removed. The requirement to take additional site specific steps as recommended by the North Coast Regional Water Quality Control Board (NCRWQCB), CDFW, County staff or third party inspectors to restore natural function has been removed. The mitigation measure already requires that the restoration plan be completed in a way that complies with the standard conditions and best management practices specified in NCRWQCB Order No. R1-2015-0023. If there are violations related to unpermitted activity, all agencies with jurisdiction will have enforcement authority and the ability to require remedial measures. It does not need to be tied to this mitigation measure.

Finding: The proposed mitigation is equivalent at mitigating or avoiding potential significant effects and will not in itself cause any potentially significant effect on the environment.

Based on the above analysis, it does not appear that the threshold to require recirculation of the IS/MND has been met.

MCCR Ordinance Revisions:
Pursuant to general Board direction, County staff has worked to revise and reorganize the MCCR. Attached to this memorandum as Attachments 5 and 6 are redlines of Chapter 10A.17 and Chapter 20.242, respectively.

Attachment 7 to this memorandum is a form of ordinance to adopt the MCCR. This version shows Chapters 10A.17 and 20.242 in a clean format.

As shown on the redline of the ordinances, this has resulted in significant changes to both Chapters 10A.17 and Chapter 20.242. However, the vast majority of these changes to both chapters are the result of eliminating duplicative requirements or references or shifting requirements from one chapter to the other or within each chapter. The following review of both Chapters discusses the more significant of the changes being proposed.

Chapter 10A.17

Section 10A.17.010
This section has been shortened to lessen discussion of state law provisions and more specifically provides that the MCCR is the governing structure for the cultivation of cannabis for medical use within Mendocino County.

Section 10A.17.020
Definitions have been added and modified. In particular, the definitions of "Legal Parcel," "Park" and "Plant Canopy" have been added/revised to reflect Board direction. The definition of "Zip-Ties" has also been deleted; please see below for a brief discussion.

Section 10A.17.030
This section has been simplified to reflect that under the MCCR, persons may cultivate cannabis for medical use either under a permit issued under the MCCR ("Permit") or under the exemption for qualified patients and personal caregivers ("personal exemption"). Other requirements previously in this section have been moved to other locations.

Section 10A.17.040
As in prior versions, this section contains the general limitations on the cultivation of medical cannabis that apply to all cultivation, whether done under a permit or under the personal exemption. The expanded setbacks that apply as of January 1, 2020, to new permit applications have been moved to this section.

Several requirements previously located in Chapter 20.242 have also been moved to this section. Chapter 20.242 previously included language that setbacks also apply from access easements, and included requirements related to indoor cultivation site setbacks (matching those of the zoning district) and accessory structures (also generally conforming to existing zoning code standards). Chapter 20.242 also included an allowance for a reduction in setbacks with an administrative permit; this is now referred to in this section.

Paragraph (B) has been revised to make the language regarding odor match that of the Section 41700 of the California Health and Safety Code, which is the standard that governs the Mendocino County Air Quality Management District. Staff recommends consistency between the County and the District on this issue.

Paragraph (I) has been added to incorporate the Board's direction on prohibiting tree removal.

Section 10A.17.050 – Former
This section formerly included language regarding a Track and Trace program and the voluntary acquisition of zip-ties for persons cultivating under the personal exemption. Compliance with a County Track and Trace system has simplified and been moved into Section 10A.17.070 regarding requirements for all permits. Staff is proposing deletion of the zip-tie provision, as persons cultivating under the personal exemption are already required to register with the Agricultural Commissioner.

Section 10A.17.050 – Revised (Former Section 10A.17.060)
Paragraphs regarding the medical marijuana collective system have been replaced with a simpler introductory sentence.

Section 10A.17.060 – Revised (Former Section 10A.17.070)
A primary goal of reorganizing Chapter 10A.17 was to place all permit types into a single section. Section 10A.17.060 provides general requirements on the ability of a permittee to have an area for medical cannabis plant starts. It also provides the basic information on the requirements for the cultivation permit types.

Paragraph (10) regarding Type 4 Nursery permits retains the most specificity from the earlier versions of the ordinance and has been revised to reflect revised definitions. There is also an allowance for growing plants to maturity for the purpose of verifying genetic expression, pursuant to the approval of the Agricultural Commissioner.

The Nursery permit type has included a restriction that sales of products on nurseries located in the Timberland Production and Forestland zoning districts may be limited to permitted cultivators only.

Staff would note that including the Rangeland zoning district on this list may be appropriate. Direction would need to be given at the March 21 meeting to do so.

Section 10A.17.070
This is a new section where requirements applicable to all Permit types have been placed. This begins with a general reference that adherence to the zoning district requirements of Chapter 20.242 is required, and that all other applicable requirements of Chapter 10A.17 must be adhered to.

Paragraphs (B) and (C) have been added from Chapter 20.242. These require that permitted cultivation sites cannot include habitable spaces or required parking spaces. These provisions could be added to the requirements for all cultivation in section 10A.17.040, and would then apply to permittees as well as persons cultivating under the patient exemption. Direction would need to be given at the March 21 meeting to do so.

Paragraph (D) contains the pre-existing requirement that a person may obtain two cultivation permits and are limited to one permit per parcel. Pursuant to Board direction, this paragraph now also allows 2 permits to be on the same parcel so long as the total square footage of the 2 permits does not exceed the largest maximum square footage permitted on a parcel in that zoning district. For example, a person could obtain two 5,000 square foot permits in a zoning district that allowed a person to obtain a single 10,000 permit.

Paragraph (E) contains the dwelling unit requirement as well as exceptions to the requirement pursuant to Board direction.

Paragraph (F) contains additional language regarding generator requirements. Requirements regarding generators has been shifted within Chapter 10A.17 in an effort to better describe how the requirements apply to all cultivators versus permittees and as to between application standards and performance standards.

Subsequent paragraphs contain provisions related to Track and Trace, fees, inspections by the Agricultural Commissioner, and third-party inspector consultations. One addition regarding Agricultural Commissioner inspections is that for a pre-permit inspection, a representative from the Department of Planning and Building Services shall be present to inspect all indoor cultivation sites, as well as mixed-light cultivation sites.

Lastly, paragraph (K) includes, pursuant to Board direction, provisions regarding the non-transferability of permits.

Section 10A.17.080
Former Section 10A.17.080 contained a recitation of each permit type. This section has been replaced with a description of the three phases the MCCR will operate under, in addition to compliance with all other requirements of Chapter 10A.17.

Paragraph (A) reviews the three phases of permit issuance. In response to Board direction, staff considered a cut-off point for the issuance of permits under Phase One and determined that, instead of a 90-day window for applications, that a cutoff date of December 31, 2017, was a reasonable amount of time to finalize an application to the Agricultural Commissioner.

Paragraph (B) states requirements specific to Phase One permits. Included is the definition and requirement of providing "proof of prior cultivation," references to zoning code requirements of Chapter 20.242 and the two year sunset provision for residential districts.

Paragraph (B)(3) - Relocation

The Board specifically requested more information describing the process for relocation of an existing cultivation site. The relocation provisions are now found in MCCR Section 10A.17.080(B)(3) *Relocation*. Relocation applies only in Phase 1 and allows for cultivation sites to be transferred from an origin site to a destination site on a different parcel. The destination site must comply with zoning and development standards that apply to a new cultivation site and the cultivator must release rights to resume cultivation on the origin parcel. The permittee must provide the Agricultural Commissioner with an agreement to release the rights for further cultivation on the origin parcel. The form of the agreement will be approved by County Counsel and the Agricultural Commissioner, which may take the form of a document that can be recorded against the parcel containing the origin site. In addition, an internal County database could be created, listing parcels where cultivation rights have been extinguished.

Mitigation Measure BIO-3 requires that prior to adoption, the MCCR be revised to include a requirement that any origin site for which relocation is proposed be restored. This is described in Section 10A.17.080(3)(b). The origin site would be restored based on a restoration plan the permittee would have prepared consistent with the stand conditions and BMPs listed in the NCRWQCB Order No. R1-2015-0023.

At Board direction, relocation was clarified to include provisions that allow origin sites in the Rangeland (RL) District and Rural Residential Districts, lot size five acres (R-R:L-5) with conforming parcel sizes of five acres or more, to relocate to existing cultivation sites in the RL District. This would maintain the baseline in the RL District with no new cultivation sites established.

Staff recommends that applications involving relocation be subject to an application deadline. This could be the same timeframe as other sunset provisions identified in the MCCR. If accepted by the Board, relocation would be allowed consistent with applicable requirements for cultivation permits if applied for within two (2) years after the effective date of the ordinance, consistent with the sunset provision for certain residential cultivation sites.

In response to Board direction, Paragraph (B)(4) provides that multiple owners of a parcel who each live on the parcel may each apply for a cultivation permit, but would be limited to a Type C, Type C-A or Type C-B permit, unless an owner had previously enrolled in a permit program pursuant to the County's Chapter 9.31, in which case such an owner could apply for a permit commensurate with their prior cultivation under the prior Chapter 9.31 permit.

There are no requirements specific to Phase Two permits. Phase Three permits require compliance with the water-specific requirements of paragraph (C)(1). These require either the watershed assessment, the groundwater availability analysis or a will-serve letter from a water provider.

Section 10A.17.090

This section remains regarding the cultivation permit application and zoning review. Introductory paragraphs have been synthesized and now include the requirement for referrals or consultations to outside agencies to be returned within 30 days of the request. This section also

includes the requirement for a referral of applications to the Department of Planning and Building Services, as well as the Air Quality Management District, the latter pursuant to a mitigation measure.

Staff has revised paragraph (D) to include additional information, which conforms to what the Department of Planning and Building Services requires for development site plans and what is needed to do a zoning clearance review.

Paragraph (F) has been revised to include a synthesis of language regarding generators that was previously located in the performance standards section.

Paragraph (K) has been revised so that the approximate date of installation of a well used as a water source must be provided.

Section 10A.17.100
This section has been revised to include the review by the County regarding sensitive species or habitat, pursuant to Board direction and mitigation measures.

Section 10A.17.110
This section also includes revisions regarding generators. Pursuant to section 10A.17.070 (F), generators are allowed as a primary source, although users must work to phase out generators over a stated period of time. Language in paragraph (E) regarding the acoustical analysis previously required ensuring conformance with the County's General Plan Policies has been synthesized.

Paragraph (G) has been revised to remove the North Coast Regional Water Quality Control Board's Order No. 2015-0023 as an appendix to Chapter 10A.17. The Order is a public document and can be made available on the Agricultural Commissioner's website.

Paragraph (N) has been simplified to rely to a greater extent on the references to State law and regulations.

Section 10A.17.120
This section has been simplified pursuant to Board direction that cannabis labeled as Certified Mendocino County Grown must be grown pursuant to standards similar to those used by the United States Department of Agriculture as organic.

Section 10A.17.130
This section only received minor revisions.

Sections 10A.17.140 through 10A.17.160
The Board provided direction to staff respecting certain enforcement provisions of 10A.17.140 - 10A.17.160. Staff undertook further review of these provisions, considered comments by the public, and made additional changes to sections 10A.17.140 and 10A.17.160. No additional changes were made to 10A.17.150.

Additional changes to Section 10A.17.140 include the following: clarification that a notice of non-compliance will provide a time frame in which the permit holder may cure the identified non-compliances; clarification and further delineation regarding the responsibilities of a permit holder after receipt of a notice of non-compliance; clarification and further delineation regarding the authority of the Agricultural Commissioner to grant a permit holder additional time to cure non-compliances, if deemed appropriate, after issuance of a notice of non-compliance.

Additional changes to Section 10A.17.160 include the following: clarification about when the Chapter might be violated in the absence of a permit; removal of unnecessary language describing the remedy of injunctive relief; clarification that permitted cultivation of cannabis will not be declared a public nuisance under County Code sections 8.75 or 8.76.

Sections 10A.17.170 through 10A.17.190
These sections received no changes.

Chapter 20.242

Section 20.242.040 -Former
This section has been deleted because similar provisions either already existed in or could be moved to Chapter 10A.17.

Section 20.242.040 – Revised
This section contains the zoning requirements for MCCO permit types for existing cultivation sites in Table 1. Certain provisions have been deleted because similar provisions exist or have been moved to Chapter 10A.17, in particular, provisions regarding relocation and setbacks.

Rural Residential, lot size 2 acres, has been deleted from Table 1. Pursuant to Board direction, this places any such lots into the exception language of paragraph (C), which refers to the requirements of Chapter 10A.17. An asterisk has been placed next to Rural Residential, lot size 5 acres, to reflect that under Table 1, only parcels with a minimum conforming size of 5 acres are permitted; lot sizes less than 5 acres would also be subject to the exception language of paragraph (C).

Table 1 has been revised pursuant to Board Direction to eliminate medium outdoor cultivation sites from the Industrial zoning districts.

Staff is recommending changes to Table 1, MCCO Permit Type C-A, for 501 – 2,500 square feet, for the Forestland and Timberland Production zoning districts, to elevate the planning permit from an administrative permit to a minor use permit. This is to create conformance with all other zoning districts which require a minor use permit.

The paragraph regarding planning permit requirements has been deleted as these issues are largely covered by Chapter 10A.17. In addition, the Board has provided direction that existing cultivation sites that may have been smaller than the permit types being considered by the Board are able to go to the full permit size, subject to meeting all MCCO requirements.

The referral to CalFire regarding conversion to timberland has been removed, since Chapter 10A.17 now includes language prohibiting removal of timber species.

Language regarding transferability of permits has been added, so that planning permits are treated similarly as MCCO permits.

Section 20.242.070
Certain provisions have been deleted because similar provisions exist or have been moved to Chapter 10A.17, in particular, provisions related to the watershed assessment requirement and setbacks.

Table 2 has been revised pursuant to Board Direction to eliminate medium outdoor cultivation sites from the Industrial zoning districts.

Section 20.242.080
The provision regarding zoning clearances has been modified to reflect that the Department of Planning and Building Services will confirm the legal parcel on which the cultivation site is located.

Added to the administrative permit findings list is the finding requirement for the dwelling unit exception for parcels in the Rural Residential, lot size 10 acres, zoning district.

RECOMMENDATION:

Staff recommends that, following the public hearing and taking testimony from the general public, the Board of Supervisors: (1) Adopt a Resolution Adopting Amendments to the Mendocino County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts Related to the Cultivation of Cannabis; (2) Adopt a Resolution Adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Medical Cannabis Cultivation Regulation; and (3) Introduce and Waive First Reading of an Ordinance Adopting Chapter 10A.17 – Medical Cannabis Cultivation Ordinance and Chapter 20.242 – Medical Cannabis Cultivation Site

ATTACHMENTS:
1) Redline Draft of Revised Mendocino County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts

2) Resolution Adopting Amendments to the Mendocino County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts Related to the Cultivation of Cannabis
   a) Exhibit A: Mendocino County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts

3) Redline Draft Initial Study and Environmental Checklist for the Mendocino County Medical Cannabis Cultivation Regulation

4) Resolution Adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for the Medical Cannabis Cultivation Regulation
   a) Exhibit A: Initial Study/Mitigated Negative Declaration
   b) Exhibit B: Mitigation Monitoring and Reporting Program

5) Redline Draft of Chapter 10A.17 – Medical Cannabis Cultivation Ordinance

6) Redline Draft of Chapter 20.242 – Medical Cannabis Cultivation Site

7) Ordinance Adopting Chapter 10A.17 – Medical Cannabis Cultivation Ordinance and Chapter 20.242 – Medical Cannabis Cultivation Site