

regulations adopted by the County related to cannabis for adult use pursuant to Proposition 64; or is being cultivated by an entity whose application for a permit pursuant to this Chapter has been submitted, accepted and is currently pending, and who has also submitted a sworn affidavit to the Agricultural Commissioner on a form prepared by the Agricultural Commissioner that includes, but is not limited to, an affirmation that they have met the requirements to obtain a permit or are actively in the process of fulfilling the requirements.

Section 10A.17.170 – Attorneys’ Fees

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this Section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Section exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

Section 10A.17.180 - Confidential nature of medical cannabis information – legislative intent

To the fullest extent authorized by State and Federal law, all use information received by and/or generated by the operation of this Chapter or prior iterations of cannabis cultivation ordinances of the County has always been intended to be treated and held by the County as confidential information. Notwithstanding the foregoing, information provided to the county may be released as required by law, judicial order, or subpoena, and could be used in criminal prosecution.

Section 10A.17.190 – Severability

If any provision of this Chapter, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Section are severable.

Section 2. Chapter 20.242 is hereby added to the Mendocino County Code to read as follows:

Chapter 20.242 Medical Cannabis Cultivation Site

- Section 20.242.010 Intent
- Section 20.242.020 Application
- Section 20.242.030 Definitions
- Section 20.242.040 Existing Medical Cannabis Cultivation Sites
- Section 20.242.050 New Medical Cannabis Cultivation Sites Located in Industrial Zoning Districts
- Section 20.242.060 New Medical Cannabis Cultivation Sites
- Section 20.242.070 Planning Approval Required to Cultivate Medical Cannabis

Section 20.242.010 - Intent

This 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 in this 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.

Section 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.

Section 20.242.030 – Definitions

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

Section 20.242.040 Existing Medical Cannabis Cultivation Sites

- (A) Referrals of applications to the Department for review 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) Cultivation sites, in conformance with the MCCO, may be allowed on 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 Small Outdoor	C-A Small Indoor, Artificial Light		C-B Small, Mixed Light	1 Medium Outdoor	1-A Medium Indoor, Artificial Light	1-B Medium Mixed Light	2 Large Outdoor	2-A Large Indoor, Artificial Light	2-B Large 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 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**	ZC	AP	UP	ZC	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

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

** Existing cultivation sites in the FL, TPZ and RL zoning districts are permitted subject to limitations of this section. Expansion of existing cultivation sites in the FL, TPZ and RL zoning districts is permitted, subject to the issuance of an Administrative Permit.

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

(1) Planning Permit Requirements:

- (a) Outdoor Cultivation (pursuant to a MCCO Type C Permit) not exceeding 2,500 square feet requires an approved Zoning Clearance.
- (b) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A Permit) not exceeding 500 square feet requires an approved Administrative Permit.
- (c) Indoor Artificial Light Cultivation (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 (pursuant to a MCCO Type C-B Permit) not exceeding 2,500 square feet requires an approved Zoning Clearance.
- (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.
- (D) An existing cultivation site, which qualifies for a MCCO permit, may continue within the FL (Forest Land), 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 may be expanded 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.
- (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.

Section 20.242.050 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 (General Industrial), and Pinoleville Industrial (P-I) 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 20.242.060.

Section 20.242.060 New Medical Cannabis Cultivation Sites

- (A) Except as provided in Section 20.242.050, 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.
- (C) Cultivation sites, operated in conformance with the MCCO, may be allowed on 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 Small Outdoor	C-A Small Indoor, Artificial Light		C-B Small Mixed Light	1 Medium Outdoor	1-A Medium Indoor, Artificial Light	1-B Medium Mixed Light	2 Large Outdoor	2-A Large Indoor, Artificial Light	2-B Large 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 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
	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

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

- (D) **Setback Reduction.** A reduction in the setback from a legal parcel line required by Section 10A.17.040 may be allowed with an Administrative 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 and the location of the medical cannabis cultivation site continues to comply with the required setback from an occupied legal residential structure.

Section 20.242.070 - 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.

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 Department shall review the MCCO permit application to confirm the medical cannabis cultivation site is allowed 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 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 Clean Water Act Section 404 permit from the Army Corps of Engineers or a 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.
 - (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 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 Clean Water Act Section 404 permit from the Army Corps of Engineers or a 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.