



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

Brent Schultz, Director
Planning and Building Services
Phone: 707-234-6650
FAX: 707-463-5709
Ft. Bragg 707-964-5379
FB Fax: 707-961-2427

cannabisprogram@mendocinocounty.org

www.mendocinocounty.org/government/cannabis-cultivation

Cannabis Program

Mendocino County Cannabis Ordinance

(MCCO) Sec. 10A.17.100(A)(2) Policy

PURPOSE

The purpose of this policy is to satisfy the requirements of MCCO Sec. 10A.17.100(A)(2) by creating the required policy in consultation with the California Department of Fish and Wildlife (CDFW) in order to provide a process to evaluate the potential impact to sensitive species on proposed Cannabis Cultivation Permit locations and receive a determination from CDFW, if necessary, in order to issue a Mendocino County Cannabis Cultivation Permit.

AUTHORITY

MCCO Sec. 10A.17.100(A)(2) requires that the Cannabis Cultivation Program may only issue a Cannabis Cultivation Permit after qualified County staff review the proposed permit location and identify where habitat suitable for sensitive species may exist. The ordinance also requires the County to consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species at the proposed Permit location. Upon consultation, CDFW may recommend (1) approval of the proposed development, (2) ask to conduct a site inspection or (3) request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a Permit. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against during Phases 1 and 2 permitting. A formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the issuance of this policy, consultation with CDFW for a determination shall not be required if the Cannabis Program can make the determination. During Phase 3 permitting, all applications will be referred to CDFW for a determination.

Commented [LA1]: I think this is where the draft "standard conditions" CDFW staff put together a year or two ago may come in handy. They may not need to be in the policy (separate document incorporated by reference?) and likely may need refreshing every couple of years. The standard conditions should be something CDFW and the County agree to.

PROCEDURE

The following will be required of each Phase 1 and Phase 2 Mendocino County Cannabis Cultivation Permit Applicant and a cultivation permit will not be issued until such time as the applicant can demonstrate that there will be a less than significant impact to sensitive species for the permit location:

1. Each Applicant seeking a Mendocino County Cultivation Permit for a particular cultivation location will complete a "Sensitive Species Habitat Questionnaire" (SSHQ) that is attached to the standard Mendocino County Cannabis Cultivation Package.
2. Applicants that have completed their permit application prior to the effective date of this policy and the development of the SSHQ, will be required to complete the SSHQ and undergo the necessary review before a permit may be issued.

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3. During the permit application review process, the Cannabis Program shall review the information provided in the SSHQ and any other resource information available to the Program to determine if the information shall be referred to CDFW pursuant to MCCO Sec. 10A.17.100(A)(2).
4. If the Cannabis Program finds that a determination from CDFW is necessary under this policy, any relevant documentation shall be referred to CDFW.
5. CDFW will review the information received from the Cannabis Program and respond in writing with either a determination that there will be a less than significant impacts to sensitive species for the proposed cultivation permit location or that the applicant will need to provide further studies and information to satisfy CDFW. CDFW may also request an inspection of the proposed cultivation permit location if they deem it is necessary to aid them in making their determination.
6. Pursuant to MCC Sec. 10A.17.090, any referral to or consultation with an agency other than the County of Mendocino shall state that a response must be returned within thirty (30) days of the date of the referral.
7. Any required responses from applicants, after proper notice, for information needed to fulfill the requirements for a determination required by MCC Sec. 10A.17.100(A)(2), will be on the same timeline as any other request for information as set by policy of the Cannabis Program.
8. A Cannabis Cultivation Permit will not be issued to an applicant that cannot demonstrate there will be a less than significant impact to sensitive species at their proposed Cannabis Cultivation Permit location.

This policy is developed in consultation between The Mendocino County Cannabis Program and the California Department of Fish and Wildlife.

Policy Approved: _____ Date: _____
Brent Schultz
Director of Planning and Building Services

Commented [LA2]: I think we need to either specify in the policy, or in a separate document (which can be updated over time), what resources County staff must refer to, and what is required of "qualified staff." I know that for a while, cannabis program staff did not have access to CNDDDB, which is unacceptable for anyone conducting environmental review. And CNDDDB, while not rocket science, requires some understanding of what it is and is not, and how to use it appropriately.

Commented [LA3]: There should be an internal form at the County that the staff person completes and signs, documenting how the decision is made.

Commented [LA4]: Should we specify what this would be based on?

Original Policy Date:
Revision Date: