



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

BRENT SCHULTZ, DIRECTOR
PHONE: 707-234-6650
FAX: 707-463-5709
FB PHONE: 707-964-5379
FB FAX: 707-961-2427
pbs@mendocinocounty.org
www.mendocinocounty.org/pbs

MEMORANDUM

DATE: October 13, 2020
TO: Honorable Board of Supervisors
FROM: Planning and Building Services
SUBJECT: Direction on Phase Three of the Cannabis Cultivation Ordinance - New Cannabis Cultivation Sites

Background:

On May 14, 2019, the Board of Supervisors reviewed the recommendations of the Cannabis Ad Hoc Committee and provided direction to staff to make certain changes to Chapters 10A.17 and 20.242 of Mendocino County Code. Those changes included transferability of permits, reduction of the minimum parcel size for nurseries, removal of the prohibition on plant visibility from a public right of way or publicly traveled private road, extension of the generator phase-out, a limited extension of the Phase One Sunset Provision for Residential Districts in proximity to the Coastal Zone, modification to the types of permits that may be applied for during Phase Two, and postponement of the start of Phase Three until July 1, 2020. Modifications to the existing ordinance were addressed at that time under Ordinance Amendment OA_2019-0002, which was approved by the Board of Supervisors on October 1, 2019.

Additionally on May 14, 2019, the Board of Supervisors provided direction to staff to review the allowance for new cannabis cultivation activities within the Range Land (RL) zoning district as part of Phase Three and to also consider expansion above 10,000 square-feet of cultivation area.

On December 10, 2019, Staff presented to the Board of Supervisors a memorandum detailing the reason that the RL district was removed from Table 2 for New Cannabis Cultivation Sites (MCC Section 20.242.060). The concern expressed in the Mitigated Negative Declaration (MND) (SCH No. 2016112028) for the Mendocino Cannabis Cultivation Regulations was regarding the conversion of agricultural or rangeland to non-agricultural uses through inadvertently incentivizing the development of dwelling units and subdivision of such lands (Page 34 of MND). A Mitigation Measure was adopted in response to this concern. On December 10, 2019, the Board received information on the potential for allowance of new cultivation sites in the Range Land (RL) zoning district and potential expansion above 10,000 square-feet of cultivation area. Staff presented a Draft Revised Table 2 at the December 2019 meeting for consideration of the Board of Supervisors that included allowances for cultivation in excess of 10,000 square-feet with the obtainment of a Major Use Permit. At the December 10, 2019 meeting the Board directed Staff to work with the Cannabis Cultivation Ad Hoc Committee on the proposed Draft Revised Table 2.

On May 19, 2020, the Board of Supervisors postponed the start of Phase Three to April 1, 2021 with the adoption of Ordinance No. 4463.

The Board of Supervisors has given direction to staff on consideration of a discretionary permit process for new cannabis cultivation activities (Phase Three) on May 14, 2019, December 10, 2019, February 25, 2020 and June 16, 2020. In addition, on August 4, 2020, the Board of Supervisors discussed a potential discretionary permit model for all Phases of the cultivation ordinance. Direction was provided to continue working through the challenges identified by Staff with the current permitting model for Phase One and Two applicants but to also explore and develop an example of what a discretionary permit model could look like. This memorandum and the item today will not address discretionary permits for Phase One and Two, direction is solely requested today in relation to Phase Three of the program.

Request for Direction:

At this time, direction from the Board of Supervisors is needed on implementation of Use Permits/Administrative Permits for all cultivation activities in Phase Three, and guidance is needed on past board directive to align permit categories with those of the California Department of Food & Agriculture (CDFA).

Direction will also be needed regarding the potential allowance of new cultivation sites in the Range Land (RL) zoning district and potential expansion above 10,000 square-feet of cultivation area. To ensure Phase Three is available on or close to April 1, 2021 Staff recommends any action to incorporate these two items be deferred, even if just temporarily. This is due to the fact that even with direction received at today's meeting, it will be difficult for Staff to complete an ordinance amendment to move to discretionary review by the Phase Three start date of April 1, 2021; which now is less than 6 months away. Incorporating RL and/or expansion above 10,000 square-feet will require additional analysis pursuant to the California Environmental Quality Act (CEQA) and may create delays to the start of the Phase Three program. To be clear, a deferral from the Board of Supervisors on these items now for the sake of expediency will not preclude their potential addition to the cannabis cultivation program in the future.

Staff is requesting direction from the Board on the following:

1. Type of discretionary permit required (Use Permits or Administrative Permits) for each permit category and zoning district on the Draft Revised Table 2 (refer to Attachment B of this Memorandum).
2. Confirmation of the Board's willingness to defer to a later date the potential inclusion of RL as part of Phase Three and expansion above 10,000 square-feet.
3. Allowance for scaling up to a larger cultivation size permit type given the acreage averages of surrounding parcels, similar to that allowed for existing cultivation sites. See *² and *³ on the Draft Revised Table 2 (Attachment B to this Memorandum). [Note: This was not a Board of Supervisors directive, but Staff presents this for consideration as Staff has found it to be beneficial with implementation of Phases One and Two.]
4. Aligning permit categories with the California Department of Food & Agriculture (CDFA). This should be reviewed in conjunction with items 5 and 6 below.
5. If the Board of Supervisors directs Staff to allow Specialty Indoor permit type, which would allow 501-5,000 square-feet of Cultivation area, then Staff recommends the Board of Supervisors also direct staff to make additional changes to either the Specialty Cottage Indoor permit type or the square footage allowance for a Specialty Indoor permit type. The two options are provided below:

Option 1: Delete the Specialty Cottage Indoor permit type that would allow 501-2,500 square-feet of Cultivation area as it would be duplicative and solely keep Specialty Cottage Indoor as 500 square-feet or less of Cultivation area.

Option 2: Change the square footage allowance on the Specialty Indoor permit type to 2,501-5,000 square-feet.

6. If the Board of Supervisors directs Staff to allow the Specialty Outdoor permit type, which would allow 501-5,000 square-feet of Cultivation area, then Staff recommends the Board of Supervisors also direct staff to make additional changes to either the square footage allowance for a Specialty Cottage Outdoor permit type or the square footage allowance for a Specialty Outdoor permit type. The two options are provided below:

Option 1: Limit the Specialty Cottage Outdoor permit type to 500 square-feet or less of Cultivation area.

Option 2: Change the square footage allowance on the Specialty Outdoor permit type to 2,501-5,000 square-feet.

ATTACHMENTS:

- A. Current Table 2 in MCC Section 20.242.060
- B. Draft Revised Table 2