

Resolution Number 21-01

County of Sonoma
Santa Rosa, California

April 15, 2021
ORD20-0005

RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, RECOMMENDING TO THE BOARD OF SUPERVISORS TO ADOPT (1) PROPOSED NEW CHAPTER 38 ZONING REGULATIONS TO EXPANDED MINISTERIAL PERMITTING BY THE DEPARTMENT OF AGRICULTURE WEIGHTS AND MEASURES FOR COMMERCIAL CANNABIS CULTIVATION IN LEA, LIA, DA, AND RRD AGRICULTURAL AND RESOURCE ZONING DESIGNATIONS, (2) AND PROPOSED AMENDMENTS TO EXISTING CHAPTER 26 ZONING REGULATIONS TO ALIGN WITH PROPOSED NEW CHAPTER 38, AND ADD DEFINITIONS AND OTHER AMENDMENTS AS NECESSARY FOR CLARIFICATION

WHEREAS, opportunities in the County of Sonoma for commercial cannabis cultivation are important to promote agricultural diversity and a robust and sustainable local economy;

WHEREAS, establishing clear regulations to guide land use permitting for commercial cannabis cultivation is essential to encourage legal cannabis market participation, discourage illegal market participation, and ensure commercial cannabis cultivation is located on appropriate parcels;

WHEREAS, in October 2015, the state enacted the Medical Cannabis Regulation and Safety Act (Medical Cannabis Act) to provide a regulatory framework for medical cannabis businesses;

WHEREAS, on November 8, 2016, the voters of California passed the Adult Use of Marijuana Act (Adult Use Cannabis Act);

WHEREAS, on June 27, 2017, the state passed Senate Bill 94 which consolidated regulations into the Medicinal and Adult-Use Cannabis Regulation and safety Act (Cannabis Act), which related the current state cannabis regulatory structure;

WHEREAS, on December 20, 2016, the Board of Supervisors adopted Ordinance number 6189 to amend Chapter 26 allow personal cultivation of cannabis and permit cultivation of commercial medical cannabis and support land use in various zoning districts, adopting new definitions and establishing special use regulations;

WHEREAS, on April 10, 2018, the Board of Supervisors conducted a Cannabis Ordinance Study Session and adopted a resolution of intent to update the existing Cannabis Ordinances, which included the County's Cannabis Health Ordinance and Tax Ordinance;

WHEREAS, the cannabis land use ordinance amendment process was divided into two phases. The first phase had a limited scope that focused on aligning with requirements of state law. The second phase had a broader scope for ordinance amendments developed over an extended period. The scope of the second phase was designed to achieve multiple goals developed through extensive input from the public and collaboration with the Cannabis Advisory Group (CAG), initially convened in 2017, at the direction of the Board of Supervisors. The last meeting of the CAG was held on June 26, 2019 and its recommendations were submitted to staff and the Board of Supervisors. The recommendations focused on ordinance revisions that would ensure the competitiveness of small operators with large corporate entities in the region, while also ensuring neighborhood compatibility with a focus on protecting sensitive receptors;

WHEREAS, on October 16, 2018, consistent with the first phase, the Board of Supervisors adopted Ordinance number 6245 amending Chapter 26 to allow adult use cannabis in Sonoma County for the full cannabis supply chain, enhance neighborhood compatibility, add new definitions and make minor non-substantive amendments to harmonize with California state law and regulations where appropriate;

WHEREAS, on December 17, 2019, consistent with the second phase, the Board of Supervisors directed staff to develop and propose amendments that would expand opportunities for ministerial commercial cannabis cultivation to be administered through the Department of Agricultural / Weights and Measures in order to treat cannabis similarly to other agricultural uses like wine grapes;

WHEREAS, in May 2020, the County Administrator's Office, in collaboration with the Department of Agriculture / Weights and Measures and Permit Sonoma, began developing ordinance amendments consistent with the Board's December 17, 2019 direction and with consideration to all of the recommendations of CAG and the Board's Cannabis Ad Hoc, for application outside of the coastal zone;

WHEREAS, staff additionally proposed an amendment to the Agricultural Resources Element of the Sonoma County General Plan Amendment to explicitly include cannabis cultivation within the meaning of agricultural use as used in the General Plan, as part of the proposed policy and code update;

WHEREAS, the County contracted with Rincon Consultants to conduct environmental review of the proposed policy and code update;

WHEREAS, on January 31, 2021, in order to encourage early engagement and promote transparency, staff released a preliminary working draft of Chapter 38 and the IS/MND for public review prior to the official publishing of proposed hearing drafts of Chapter 38, amendments to Chapter 26, amendment to the General Plan, and IS/MND for public review on February 16, 2021;

WHEREAS, on February 12, 2021, the Notice of Completion and Draft IS/MND for the project was received by and filed with the State Clearinghouse. The 30-day public review period began on February 16, 2021;

WHEREAS, on February 16, 2021, the County published a Notice of Intent to Adopt an Initial Study/ Mitigated Negative Declaration (IS/MND) for the project in the Press Democrat, and also alerted all interested parties on file with the County by email of the availability of the IS/MND. The County made publicly available copies of the proposed ordinance amendments, general plan amendment, and the Initial Study and draft Subsequent Mitigated Negative Declaration (SMND) and technical studies, project materials, and associated documents by request and on its cannabis program website <https://sonomacounty.ca.gov/cannabis-program/>;

WHEREAS, on March 8, 2021, staff conducted virtually held two ninety-minute public workshop and listening sessions to review key policy changes and to receive comments and questions from the public regarding the proposed changes;

WHEREAS, the requirements of AB 52 and SB 18 related to tribal consultation for this project will be satisfied before the Board of Supervisors considers or takes action on the proposed project, SMND, or general plan amendment;

WHEREAS, on March 8, 2021, a Planning Commission public hearing notice was published in the Press Democrat and emailed to all those interested parties on file with the County;

WHEREAS, on March 11, 2021, consistent with the practice of the Sonoma County Planning Commission, the staff report, draft resolution, and public comments received to date were made publicly available on the Planning Commission's website <https://sonomacounty.ca.gov/Planning-Agency/Full-Calendar/> seven days prior to the noticed hearing scheduled for March 18, 2020, before the Planning Commission;

WHEREAS, on March 12, 2021, staff conducted two additional virtually held ninety-minute public workshop and listening sessions to review key policy changes and to receive comments and questions from the public regarding the proposed changes;

WHEREAS, on March 18, 2021, the Sonoma County Planning Commission held a public hearing facilitated virtually through Zoom, allowing videoconference or telephonic access and participation, pursuant to California Governor Executive Orders N-25-20 and N-29-20, on the proposed zoning ordinance amendments, both the proposed changes to Chapter 26 and the proposed new chapter 38, and the proposed general plan amendment, reviewed the staff report, received a staff presentation, and comments from the public, closed the public hearing and continued the meeting to March 25, 2021;

WHEREAS, the Planning Commission held a continued meeting on March 25, 2021, to deliberate on the proposed ordinance amendments and general plan amendment, provided direction to staff to make changes to the proposed ordinances and resolution, and continued to the meeting to April 15, 2021;

WHEREAS, the Planning Commission held a continued meeting on April 15, 2021, on the proposed ordinances and resolution;

WHEREAS, consistent with California Government Code Section 65855, the Planning Commission's recommendation to the Board of Supervisors on the proposed ordinance amendments will be transmitted with applicable findings in support thereof,

WHEREAS, consistent with California Government Code Section 65354, the Planning Commission's recommendation to the Board of Supervisors on the proposed general plan amendment will be transmitted to the Board of Supervisors on a majority vote of the commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of Sonoma does hereby find and resolve as follows:

1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

2. Record

The Record of Proceedings ("Record") upon which the Planning Commission makes its recommendation includes, but is not limited to:

(1) General Plan 2020, and its Agricultural Resource Element in particular, (2) the FEIR certified for the General Plan 2020, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) the Initial Study/Mitigated Negative Declaration for the Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment, (4) Exhibit A of this Resolution including the draft zoning ordinance amendments to Chapter 26, incorporated herein, (5) Exhibit B of this Resolution including the draft zoning ordinance addition of Chapter 38, incorporated herein, (6) Exhibit C of this Resolution including the draft general plan amendment to the Agricultural Resources Element, incorporated herein, (7) all staff reports, County files and records and other documents prepared for and/or submitted to the Commission relating to the Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment project, (8) all documentary and oral evidence received at public hearings and meetings or submitted to the County relating to the project, and (9) all matters of common knowledge to the Commission and the County, including, but not limited to, county, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the county and its surrounding areas.

3. Compliance with the California Environmental Quality Act (CEQA)

The Planning Commission of the County of Sonoma has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment, and based on its independent judgement and analysis determines that the MND was prepared in accordance with the CEQA and that based on the whole record, including public comments received during the public review process, finds there is not substantial evidence that the project will have a significant effect on the environment. In particular, the Planning Commission has reviewed the Mandatory Findings of Significance (Section 21; of the Subsequent Mitigated Negative Declaration) and concurs with the findings that the Project will have a less than significant impact on the environment for the reasons specified as more fully described in this resolution;

4. Findings

- (1) The proposed amendments to the County of Sonoma's zoning regulations are necessary and desirable to protect the public health, safety and environmental resources, provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety, protection of sensitive uses, and nuisance factors related to the commercial cannabis cultivation industry are adequately addressed.
- (2) The proposed ordinance amendments are consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural industry, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water. If cannabis cultivation is not redefined as "agriculture" the proposed ordinance remains consistent with the General Plan because cannabis cultivation, as strictly regulated and limited by the ordinance, is highly compatible with agricultural production on land designated for agricultural use, continues to be limited in scope and scale so that conventional agricultural remains the primary use, and furthers the overall goals, objectives, policies and programs of the General Plan as stated herein.

BE IT FURTHER RESOLVED that the Planning Commission hereby recommends adoption of the Subsequent Mitigated Negative Declaration. The Planning Commission certifies that the Subsequent Mitigated Negative Declaration has been completed, reviewed, and considered, together with comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Subsequent Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission.

BE IT FURTHER RESOLVED, that the Planning Commission recommends that the Board of Supervisors adopt the proposed amendments to Chapter 26, and the addition of Chapter 38 to Sonoma County's zoning regulations;

BE IT FURTHER RESOLVED, that the Planning Commission does not recommend that the Board of Supervisors adopt the proposed General Plan Amendment to include cannabis within the meaning of "agriculture," and "agricultural use" as used in the Sonoma County General Plan;

BE IT FURTHER RESOLVED, that the Planning Commission recommends that the Board immediately direct staff to investigate a more comprehensive update of commercial cannabis permitting, also including cannabis uses in the commercial and industrial zoning districts, as the next phase of the County's Cannabis Program in conjunction with preparation of an environmental impact report;

BE IT FURTHER RESOLVED, that the Planning Commission directs staff to transmit the recommendations as stated herein to the Board of Supervisors as required by law; and

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary of the Planning Commission as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of Permit Sonoma, 2550 Ventura Avenue, Santa Rosa, CA 95403.

THE FOREGOING RESOLUTION was introduced by Commissioner Mauritsen who moved its adoption, seconded by Commissioner Reed, and adopted on roll call by the following vote:

Commissioner Reed:	Aye
Commissioner Belforte:	Aye
Commissioner Mauritsen:	Aye
Commissioner Davis:	No
Commissioner Carr:	No

Ayes: 3	Noes: 2	Absent: 0	Abstain: 0
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WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and

SO ORDERED.

EXHIBIT

CHAPTER 26 OF THE SONOMA COUNTY CODE

I. Amendments to Definitions (Section 26-02-140)

“Class I Bikeway” means bike paths or shared use paths, which provide a completely separated right-of-way designated for the exclusive use of bicycles and pedestrians with crossflows by motorists minimized, as defined by California Streets and Highway Code Section 890.4(a).

II. Amendments to Zoning Districts

The following Subsections of Chapter 26 of the Sonoma County Code are amended for Permitted Uses as follows:

Section 26-04-010(p) – LIA Land Intensive Agriculture

Section 26-06-010(t) – LEA Land Extensive Agriculture

Section 26-08-010(s) – DA Diverse Agriculture

Section 26-10-010(II) – RRD Resources and Rural Development

“Commercial cannabis ~~medical~~ uses in compliance with Chapter 38 Sections 26-88-250 through 26-88-256;”

III. Amendments to Cannabis Land Use Ordinance

A. Sonoma County Code Chapter 26 Section 26-88-250 (Commercial cannabis uses) is amended as follows:

- (a) Purpose. This section provides the development and operating standards for commercial cannabis activities to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine, and provide opportunities for economic development.
- (b) Applicability. Except as provided in Chapter 38 of the Sonoma County Code, cCommercial cannabis activities shall be permitted only in compliance with the requirements of Sections 26-88-250 through 26-88-256 and all other applicable requirements for the specific type of use and those of the underlying base zone.
- (c) Limitations on Use. Except as provided in Chapter 38 of the Sonoma County Code, tThe following limitations apply to all commercial cannabis activities.
 - (1) Commercial cannabis uses for non-medical cannabis for adult use is prohibited, unless a use permit is obtained.

- (2) Commercial cannabis activities shall only be allowed in compliance with all applicable county codes, including but not limited to, grading, building, plumbing, septic, electrical, fire, hazardous materials, and public health and safety.
 - (3) The permit holder shall comply with all laws and regulations applicable to the type of use and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state, or other agencies having jurisdiction over the type of operation. The permit holder shall provide copies of other agency and department permits, licenses, or certificates to the review authority to serve as verification for such compliance.
 - (4) Permits for commercial cannabis activities shall only be issued where written permission from the property owner ~~or landlord~~ is provided. Written permission must be signed by the property owner accompanied by a certificate of acknowledgment for the signature, which must be in the form set forth in California Civil Code section 1189.
 - (5) ~~Tasting, promotional activities, and events related to commercial cannabis activities are prohibited~~ may be permitted under this Chapter. Applicants must demonstrate compliance with state cannabis licensing requirements for the type of event, and all other applicable state, federal, and local laws, including permit conditions. Farm stands for cannabis are prohibited.
 - (6) Commercial cannabis activities are prohibited from using volatile solvents, including but not limited to Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂, or other dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene, as determined by the fire marshall.
- (d) Permit Requirements. Except as provided in Chapter 38 of the Sonoma County Code, Commercial cannabis activities shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements. No other type of commercial cannabis activities are permitted except as specified in Table 1A-D. The county may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of the county code. Commercial cannabis activities shall also be subject to permit requirements and regulations established by the Sonoma County Department of Health Services.
 - (e) Term of Permit. Except as provided in Chapter 38, Zoning permits for commercial cannabis activities shall be issued for a limited term not to exceed one (~~5~~⁴) year from the date of permit approval. Use permits for commercial cannabis activities may be approved for a limited term of up to five (5) years from the date the use permit certificate is issued, after all pre-operational conditions of the use permit have been met. Limited term permits shall expire and have no further effect unless a complete application for renewal is submitted prior to the expiration date. No property interest, vested right, or entitlement to receive a future permit to conduct a commercial cannabis activity shall ever inure to the benefit of such permit holder.
 - (f) Health and Safety. Commercial cannabis activity shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or

other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

- (g) Taxes. Permit holders shall comply with Sonoma County Code Section 35, the Sonoma County Cannabis Business Tax Ordinance, and any additional taxes that may be enacted by the voters or any additional regulations that may be promulgated.
- (h) Operator Qualifications. Cannabis operators must meet the following qualifications:
 - (1) Cannabis operators and all employees must be at least twenty-one (21) years of age.
 - (2) Cannabis operators shall be subject to background search by the California Department of Justice. Permits for commercial cannabis activities shall not be approved for operators with serious or violent felony convictions, as specified in subdivision (c) of Section 1192.7 of the Penal Code and subdivision (c) of Section 667.5 of the Penal Code.
 - (3) Cannabis operators must have authority to legally bind the person applying for and/or operating pursuant to a permit.
 - (4) Cannabis operators must meet the definition of a cannabis business owner.
- (i) Weights and Measures. All scales used for commercial transactions shall be registered for commercial use and sealed by the Department of Agriculture/Weights and Measures.
- (j) Tracking. Permit holders shall comply with any track and trace program established by the county and state agencies. Permit holders must maintain records tracking all cannabis and cannabis products and shall make all records related to commercial cannabis activity available to the county upon request.
- (k) Inspections. Premises shall be subject to inspections by appropriate local and state agencies, including but not limited to the Department of Agriculture/Weights and Measures and Permit and Resource Management Department. Premises ~~shall~~ may be inspected at scheduled or unscheduled (unannounced) ~~random~~ times for conformance with the county code and permit requirements. The inspection shall be conducted during regular business hours. If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may temporarily suspend the permit and order the permit holder to immediately cease operations.
- (l) Monitoring. Permit holders shall be subject to monitoring. A fee may be adopted by the board of supervisors and collected by the agency having jurisdiction or the county tax collector to pay for monitoring and enforcement.
- (m) Appeals. Appeals of any permit issuance or denial issued by the Department of Agriculture/Weights and Measures shall be subject to review and appeal procedures pursuant to Chapter 36. Appeals of any permit issuance or denial issued by PRMD shall be subject to review and appeal procedures pursuant to Chapter 26.
- (n) Exercise of Permit and Notification of Changes. Permits are issued to and held by the person engaged in commercial cannabis activity, and specific to the premises for which it was issued. A permit holder shall, at all times, have one (1) cannabis operator. Prior written notice must be provided to the agency having jurisdiction for any changes to ownership or cannabis operator, and any changes must comply with applicable code requirements. New cannabis operators shall be required to participate in an orientation and/or exam(s), as determined by

the agency having jurisdiction. Permit holders shall notify the agency having jurisdiction prior to any of the following:

- (1) A new person meeting the definition of cannabis business owner of the permit holder.
 - (2) Change in business entity type of the permit holder.
 - (3) Change in legal business name of the permit holder.
 - (4) A new person serving as operator of the permit holder.
 - (5) A new property owner of the parcel on which the premises is located.
- (o) Permit Renewal. Applications for permit renewal may be administratively approved by the agency having jurisdiction only if:
- (1) The use has been conducted in accordance with this section, with the operation's approved plan, and with all applicable use permit conditions of approval;
 - (2) There are no outstanding violations related to health, safety, land use, or tax; and;
 - (3) The requirements of Section 26-92-040 are met.
- (p) Indemnification of County. At the time of submitting an application for a permit pursuant to Sections 26-88-250 through Section 26-88-256, the applicant, and, if different than applicant, the lawful owner(s) of the property on which applicant seeks approval to engage in any commercial cannabis activity, shall agree, as part of the application, to defend, indemnify and hold harmless the county and its agents, officers, attorneys and employees from any claim, action or proceeding brought against the county or its agents, officers, attorneys or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, appeal boards or board of supervisors, which action is brought within the applicable statute of limitations. The indemnification shall include damages awarded against the county, if any, costs of suit, attorney fees and other costs and expenses incurred in connection with such action.

Table 1A: Allowed Cannabis Uses and Permit Requirements for Agricultural and Resource Zones

Land Use	Maximum Cultivation Area Per Parcel (square feet or plant)	Minimum Parcel Size	Land Intensive Agriculture	Land Extensive Agriculture	Diverse Agriculture	Resources Rural Development	Timber Preserve	Special Use Regulations ³
			LIA ^{1,4}	LEA ^{1,4}	DA ^{1,4}	RRD ^{1,4}	TP	
Cannabis Uses								

Personal Cultivation	100 sq ft including up to 6 plants for adult use, per residence	None	P	P	P	P	P	
Commercial Cannabis Uses								
Cottage	25 plants	10 ae	ZP	ZP	ZP	MUP	—	
Specialty Outdoor	5,000 sq-ft. or 50 plants	10 ae	CUP	ZP	ZP	CUP	—	
Small Outdoor	5,001—10,000	10 ae	CUP	ZP	ZP	CUP	—	
Medium Outdoor Cultivation	10,001—43,560 <u>Up to 10% of the parcel</u>	10 ac	CUP	CUP	CUP	CUP	—	26-88-250— 26-88-254
Nursery Outdoor	<u>Up to 10% of the parcel</u> Limited as Expressed Above		CUP	CUP	CUP	CUP	—	
Indoor Cultivation								
Cottage	500	10 ae	ZP ²	ZP ²	ZP ²	MUP ²	—	
Specialty Indoor	501—5,000	10 ae	CUP ²	CUP ²	CUP ²	CUP ²	—	
Small Indoor	5,001—10,000	10 ae	—	—	—	—	—	
Medium Indoor	10,001—22,000 <u>Up</u>	10 ac	— <u>CUP²</u>	— <u>CUP²</u>	— <u>CUP²</u>	— <u>CUP²</u>	—	

<u>Cultivation</u>	<u>to 10% of the parcel</u> <u>/ New lot coverage limited</u>							
Nursery Indoor	Limited as Expressed Above-<u>Up to 10% of the parcel / New lot coverage limited</u>		CUP ²	CUP ²	CUP ²	CUP ²	—	
Mixed Light Cultivation								
Cottage	2,500	10 ac	ZP ²	ZP ²	ZP ²	MUP	—	
Specialty Mixed Light	2,501—5,000	10 ac	CUP ²	CUP	CUP	CUP	—	
Small Mixed Light	5,001—10,000	10 ac	CUP ²	CUP	CUP	CUP	—	
Medium Mixed Light <u>Cultivation</u>	10,001—22,000-<u>Up to 10% of the parcel / New lot coverage limited</u>	10 ac	— <u>CUP²</u>	— <u>CUP</u>	— <u>CUP</u>	— <u>CUP</u>	—	
Nursery Mixed Light	Limited as Expressed Above-<u>Up to 10% of the parcel / New lot</u>	<u>10 ac</u>	CUP ²	CUP	CUP	CUP	—	

	<u>coverage limited</u>						
Centralized Processing		10 ac	CUP ²	CUP ²	CUP ²		
Distributor-Transport Only ³		10 ac	MUP	MUP	MUP	MUP	

Type of Permit Required	
ZP	Permitted Use if standards met CEQA exempt; Zoning Permit and Building Permit only
MUP	Minor Use Permit or Hearing Waiver; CEQA applies unless Cat Exempt; can add conditions
CUP	Use Permit — noticed hearing before Planning Commission; CEQA; can add conditions
—	Use not allowed

Notes:

- 1 Commercial Cannabis Uses on properties with a Land Conservation (Williamson Act) Act Contract are subject to Uniform Rules for Agricultural Preserves.
- 2 Within existing previously developed areas, including hardscape, or legally established structures built (finalized) prior to January 1, 2016. No net increase in impervious surface.
- 3 Distributer-Transport Only restricts the licensee to only transporting cannabis goods that the licensee has cultivated or manufactured.
- 4 See Chapter 38 of the Sonoma County Code for Ministerial Commercial Cannabis Cultivation Permit Requirements in LIA, LEA, DA, and RRD zone districts.

[Tables 1B and 1C of Section 26-88-250 to remain unchanged.]

B. Sonoma County Code Chapter 26 Section 26-88-254 (Cannabis cultivation - commercial) is amended as follows:

- (a) Purpose. This section establishes development criteria and operating standards for commercial cannabis cultivation as allowed by the base zone in compliance with Section 26-88-250, Commercial Cannabis Uses.
- (b) Applicability. Except as provided in Chapter 38 of the Sonoma County Code, ~~This section shall apply to all commercial cannabis cultivation, including but not limited to, outdoor, indoor, and mixed light cultivation and associated drying, curing, grading, and trimming facilities including centralized processing facilities.~~ Except as provided in Chapter 38 of the Sonoma County Code, Commercial cannabis cultivation operations shall comply with this section in addition to the requirements of Section 26-88-250, Commercial Cannabis Uses.
- (c) Permit Requirements. Except as provided in Chapter 38 of the Sonoma County Code, ~~Commercial cannabis cultivation shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements. Zoning permits for outdoor cultivation may be issued by the Department of Agriculture/Weights, and Measures. Zoning permits and use permits for all other cultivation activities shall be issued by the permit and resource management department.~~ New structures, roads, and fences or conversion of existing structures or shipping containers, or similar structures, to cannabis cultivation shall be subject to design standards maintained by the review authority.
- (d) Limitations on Use. Except as provided in Chapter 38 of the Sonoma County Code, ~~All~~ cultivation shall be conducted and maintained in compliance with this section and the best management practices for cannabis cultivation issued by the ~~agricultural~~ Agricultural ~~Commissioner.~~ Commissioner. The Agricultural Commissioner shall establish and publish the applicable best management practices and shall enforce the provisions of this section for outdoor cultivation areas and management of pesticides and fertilizers for all cultivation types. Permanent structures used in cultivation shall be subject to permits issued by the permit and resource management department and other agencies having jurisdiction and shall be conducted and maintained in compliance with this code.
- ~~(e) Multiple Permits. Multiple cultivation permit applications will be processed concurrently. Multiple cultivation permits may be issued to a single person, provided that the total combined cultivation area within the county does not exceed one (1) acre. For the purposes of this provision, the entire cultivation area of a permit shall be attributed in full to each person who meets the definition of cannabis business owner of the permit holder.~~
- (f) Development Criteria.
- (1) Minimum Lot Size. A minimum lot size of ten (10) acres is required for all commercial cannabis operations in the agricultural and resource zones (LIA, LEA, DA, RRD).
 - ~~(2) Multi Tenant Operations. Multiple permits may be issued for multi tenant operations on a single parcel provided that the aggregate cultivation area does not exceed the maximum area allowed for the cultivation type and parcel size in compliance with Table 1A-D Allowed Cannabis Uses and Permit Requirements.~~
 - (23) Square Footage Cultivation Area Limitations in Industrial Zones. In industrial zoning districts, ~~The~~ total combined square footage of the cultivation area shall not exceed the maximum size thresholds as defined in Table 1CA-D ~~1A-D~~ Allowable Cannabis Uses and Permit Requirements which provides the maximum size per parcel.

(3) Cultivation Area Limitations in Agricultural and Resource Zones. In agricultural and resource zoning districts the following restrictions apply:

a. Cultivation Area. The cannabis cultivation area is limited to ten percent (10%) or less of the parcel. Cultivation area associated with specific cultivation types, including outdoor cultivation, and indoor and mixed light cultivation in existing or new or expanded permanent structures, is not otherwise specifically limited.

b. Limit on New or Expanded Permanent Structures.

1. Definitions. A new permanent structure is a structure legally constructed on or after January 1, 2021. An expanded permanent structure is an addition or expansion to an existing permanent structure that results in a modification to the building footprint or an expansion of the square footage of the structure.

2. Parcels Up To 20 Acres. For a parcel that is at least ten acres, but no more than 20 acres in size, all new building coverage for the purpose of or in support of commercial cannabis cultivation cannot exceed 43,560 square feet. New building coverage means building coverage legally constructed on or after January 1, 2021.

3. Parcels Greater Than 20 Acres. For a parcel that is greater than 20 acres in size, all new building coverage for the purpose of or in support of commercial cannabis cultivation cannot exceed 43,560 square feet or 50% of the maximum lot coverage prescribed by the base zone, whichever is greater. New building coverage means building coverage legally constructed on or after January 1, 2021.

(4) Propagation and Vegetative Production Area.

a. Vegetative and other non-flowering propagative cannabis plant material may be cultivated for on-site use, subject to land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements.

b. Additional propagation and vegetative production area may be considered with a use permit, not to exceed twenty-five percent (25%) of the permitted cultivation area, provided this plant material is kept in a separate, unique area away from flowering plants.

(5) Cannabis Processing. No more than nine (9) centralized cannabis processing facilities shall be permitted in agricultural zones within the unincorporated county at any one (1) time and shall be allowed to process cannabis from onsite and within the local area. All other processing is limited to on-site cultivation use only.

(6) Property Setbacks - Outdoor. Outdoor cultivation areas and all structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. Outdoor cultivation areas shall not be visible from a public right of way or a Class I Bikeway. Outdoor cultivation areas shall be setback a minimum of one hundred feet (100') from property lines and a minimum of three hundred feet (300') from residences and business structures on surrounding properties.

Outdoor cultivation sites shall be setback a minimum of one thousand feet (1,000') from ~~the property line of a parcel with a school~~ providing education to K-12 grades, a public park, childcare centers, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use. This park setback may be reduced with a use permit when it is determined that an actual physical equivalent separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park. Public park shall have the same meaning as defined in Chapter 38 of the Sonoma County Code.

- (7) Property Setbacks - Indoor. All structures used for indoor cultivation shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.

Indoor cultivation within agricultural and resource zones shall be setback a minimum of six hundred feet (600') from a school providing education to K-12 grades. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

- (8) Property Setbacks- Mixed Light. Mixed light structures shall be setback a minimum of one hundred feet (100') from property lines and a minimum of three hundred feet (300') from residences and business structures on surrounding properties in agricultural and resource zones. Mixed Light structures in industrial zones shall be setback three hundred feet (300') from residences on surrounding properties.

Mixed light structures in all zones shall be setback a minimum of one thousand feet (1,000') from a school providing education to K-12 grades, a public park, childcare centers, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use. This park setback may be reduced with a use permit when it is determined that an actual physical equivalent separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park.

- (9) Airport Compatibility. All cannabis operations shall comply with the comprehensive airport land use plan.
- (10) Building Requirements. All structures used in commercial cultivation shall comply with all applicable sections of the county code.
- (11) Biotic Resources. Proposed cultivation operations, including all associated structures, shall require a biotic resource assessment at the time of application that demonstrates that the project is not located within, and will not impact sensitive or special status species habitat, unless a use permit is obtained. Any proposed cultivation operation, including all associated structures, located within adopted federal critical habitat areas must have either all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species, or a biotic assessment concluding that the project will not result

in "take" of a protected wildlife species within the meaning of either the federal or California Endangered Species Acts.

- (12) Conversion of Timberland. Cannabis cultivation activities, including associated structures, may only be located within a non-forested area that was in existence prior to December 20, 2016, and there shall be no tree removal or timber conversions to accommodate cultivation sites, unless a use permit is obtained.
- (13) Property Setbacks - Riparian Corridor Stream Conservation Areas. Structures used for cultivation shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone). Outdoor cultivation areas shall conform to the agricultural Riparian Corridor setback set forth in Section 26-65-040. Outdoor cultivation areas shall conform to the wetland setback set forth in Section 36-16-120, unless a use permit is obtained.
- (14) Cultural and Historic Resources. Cultivation sites shall avoid impacts to significant cultural and historic resources by complying with the following standards. Sites located within a historic district shall be subject to review by the landmarks commission, unless otherwise exempt, consistent with Section 26-68-020 and shall be required to obtain a use permit. Cultivation operations involving ground disturbing activities, including but not limited to, new structures, roads, water storage, trenching for utilities, water, wastewater, or drainage systems shall be subject to design standards and referral to the Northwest Information Center and local tribes. A use permit will be required if mitigation is recommended by the cultural resource survey or local tribe.

The following minimum standards shall apply to cultivation permits involving ground disturbance. All grading and building permits shall include the following notes on the plans:

If paleontological resources or prehistoric, historic-period or tribal cultural resources are encountered during ground-disturbing work at the project location, all work in the immediate vicinity shall be halted and the operator must immediately notify the agency having jurisdiction of the find. The operator shall be responsible for the cost to have a qualified paleontologist, archaeologist and tribal cultural resource specialist under contract to evaluate the find and make recommendations in a report to the agency having jurisdiction.

Paleontological resources include fossils of animals, plants or other organisms. Historic-period resources include backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse. Prehistoric and tribal cultural resources include obsidian and chert flaked-stone tools (e.g., projectile points, knives, choppers), midden (culturally darkened soil containing heat-affected rock, artifacts, animal bone, or shellfish remains), stone milling equipment, such as mortars and pestles, and certain sites features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe.

If human remains are encountered, work in the immediate vicinity will stop and the operator shall notify the agency having jurisdiction and the Sonoma County Coroner immediately. At the same time, the operator shall be responsible for the cost to have a

qualified archaeologist under contract to evaluate the discovery. If the human remains are determined to be of Native American origin, the Coroner must notify the Native American Heritage Commission within twenty-four (24) hours of this identification.

- (15) **Farmland Protection.** Where a commercial cultivation site is located within an agricultural zone (LIA, LEA, DA), the operation shall be consistent with General Plan Policy AR-4a. Indoor and mixed light cultivation facilities shall not remove agricultural production within important farmlands, including prime, unique and farmlands of statewide importance as designated by the state farmland mapping and monitoring program, but may offset by relocating agricultural production on a 1:1 ratio.

If the premises is located on a site under a Land Conservation Act (Williamson Act) contract, the use must comply with the Land Conservation Act contract, any applicable land conservation plan, and the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, including provisions governing the type and extent of compatible uses listed therein.

- (16) **Fire Code Requirements.** The applicant shall prepare and implement a fire prevention plan for construction and ongoing operations and obtain any permits required from the fire and emergency services department. The fire prevention plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.
- (17) **Grading and Access.** Cultivation sites shall be prohibited on natural slopes steeper than fifteen percent (15%), as defined by Section 11-22-020, unless a use permit is obtained. Grading shall be subject to a grading permit in compliance with Chapter 11 of the county code.
- (18) **Hazardous Materials Sites.** No commercial cannabis activity shall be sited on a parcel listed as a hazardous materials site compiled pursuant to Government Code Section 65962.5, unless a use permit is obtained.
- (19) **Lighting.** All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- (20) **Runoff and Stormwater Control.** Runoff containing sediment or other waste or by-products shall not be allowed to drain to the storm drain system, waterways, or adjacent lands. Prior to beginning grading or construction, the operator shall prepare and implement a storm water management plan and an erosion and sediment control plan, approved by the agency having jurisdiction. The plan must include best management practices for erosion control during and after construction and permanent drainage and erosion control measures pursuant to Chapter 11 of the county code. All cultivation operators shall comply with the best management practices for cannabis cultivation issued by the agricultural commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.
- (21) **Security and Fencing.** A site security plan shall be required. All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to

Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video must use standard industry format to support criminal investigations. Lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by non-invasive fire resistant vegetation and fenced with locking gates with a Knox lock. No outdoor or mixed light cultivation sites located on parcels adjacent to public parks or Class I Bikeways shall be visible from trails or public access points. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.

(22) Ridgetop Protection. Cannabis cultivation and permanent or temporary structures shall be set back a minimum of fifty (50) feet from the delineated slope break of descending existing slopes greater than ~~fifty (50)~~thirty (30) percent for more than fifty (50) feet in slope length.

(g) Operating Standards.

- (1) Compliance Inspections. All cultivation sites shall be subject to on-site compliance inspections by agencies having jurisdiction. The inspection shall be conducted during regular business hours.
- (2) Air Quality and Odor. All indoor and mixed light cultivation operations in permanent structures and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold. Cannabis odor from a permanent structure must not be detectable offsite. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.
- (3) Energy Use. Electrical power for indoor cultivation, mixed light operations, and processing including but not limited to illumination, heating, cooling, and ventilation, shall be provided by any combination of the following: (i) on-grid power with one hundred percent (100%) renewable source; (ii) on-site zero net energy renewable source; or (iii) purchase of carbon offsets of any portion of power not from renewable sources. Any offsets shall be generated in California pursuant to a protocol accepted by the County that ensures they are real, permanent, quantifiable, verifiable, enforceable, and additional. The use of generators for indoor and mixed light cultivation is prohibited, except for portable temporary use ~~in emergencies only.~~ during a local, state, or federally declared emergency or disaster, which causes normal sources of power to be unavailable or inadequate for permitted cannabis uses.
- (4) Hazardous Materials. All cultivation operations that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks, and AB 185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the fire prevention division, certified unified program agency (CUPA) of Sonoma County Fire and Emergency Services Department, or agricultural commissioner.

- (5) Hours of Operation. Outdoor harvesting activities and indoor or mixed light cultivation and processing activities may be conducted seven (7) days a week, twenty-four (24) hours per day as needed. Deliveries and shipping, and outdoor processing activities, shall be limited to the hours from 8:00 a.m. to 5:00 p.m., unless a use permit is obtained.
- (6) Noise Limits. Cultivation activities shall not exceed the general plan noise standards Table NE-2, measured in accordance with the Sonoma County noise guidelines.
- (7) Occupational Safety. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, and the California Agricultural Labor Relations Act.
- (8) ~~—Waste Management. A waste management plan addressing the storing, handling, and disposing of all waste by-products of the cultivation and processing activities in compliance with the best management practices issued by the agricultural commissioner shall be submitted for review and approval by the agency having jurisdiction. The plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose, or reuse the wastes in compliance with best management practices and county standards. All garbage and refuse on the site shall be accumulated or stored in non absorbent, water tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh day in a manner prescribed by the solid waste local enforcement agency. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from cannabis operations must be properly stored and secured to prevent access from the public.~~
—Waste Management. An applicant must submit a waste management plan addressing the storing, handling, and disposing of all waste by-products that complies with the department's best management practices and includes the following: (a) volumes and types of waste generated; (b) operational measures to manage and dispose, or reuse the wastes; (c) storage for garbage and refuse in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids; (d) sufficient storage so that no refuse container is filled beyond the capacity to completely close the lid; (e) proper disposal of stored waste at least every seven (7) calendar days; and (f) prevention of public access to cannabis waste; and (g) storage, reuse, and disposal plan for plastic sheeting or similar materials used to cover hoop houses.
- (9) Waste Water Discharge. A waste water management plan shall be submitted identifying the amount of waste water, excess irrigation and domestic wastewater anticipated, as well as disposal. All cultivation operations shall comply with the best management practices issued by the agricultural commissioner and shall submit verification of compliance with the waste discharge requirements of the state water resource control board, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, graywater or bio-retention treatment systems. If discharging to a septic system, a system capacity evaluation by a qualified sanitary engineer shall be included in the management plan. All domestic waste for employees

shall be disposed of in a permanent sanitary sewer or on-site septic system demonstrated to have adequate capacity.

(10) Water Source. An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Water use includes, but may not be limited to, irrigation water, and a permanent potable water supply for all employees. Trucked water shall not be allowed, except as provided below and for emergencies requiring immediate action as determined by the director. The onsite water supply shall be considered adequate with documentation of any one (1) or a combination of the following sources:

- a. Retail Water. Documentation from a retail water supplier demonstrating and concluding that adequate supplies are available to serve the proposed commercial cannabis use. Municipal Water: A municipal water supplier as defined in California Water Code Section 13575. The applicant shall provide documentation from the municipal water source that adequate supplies are available to serve the proposed use.
- b. Recycled Water. Documentation from a recycled water supplier demonstrating and concluding that adequate recycled water supplies are available to serve the non-potable needs of the proposed commercial cannabis use. Recycled water may not be used to meet potable water needs. Recycled Water: The use of recycled process wastewater or captured rainwater from an onsite use or connection to a municipal recycled water supply for non-potable use, provided that an adequate on-site water supply is available for employees and other uses.
- c. Surface Water. Documentation of adequate water supply from a legal water right, registration, stored rainwater or other surface water source that is exempt from State regulation. Surface Water: An existing legal water right and, if applicable, a Streambed Alteration Agreement issued by the California Department of Fish and Wildlife.
- d. Groundwater Well:
 1. The site is located in Groundwater Availability Zone 1 or 2, and not within an area for which a groundwater management plan has been adopted or within a high or medium priority basin as defined by the state department of water resources; or
 2. Within Groundwater Availability Zone 3 or 4, or an area for which a groundwater management plan has been adopted or designated high or medium priority basin, the proposed use would:
 - a. The proposed use would not result in a net increase in water use on site through implementation of water conservation measures, rainwater catchment or recycled water reuse system, water recharge project, or participation in a local groundwater management project; or
 - b. Trucked recycled water may be considered for the cultivation area with a use permit, provided that adequate on-site water supplies are available for employees and other uses; or

- c. A qualified professional prepares a hydro-geologic report providing supporting data and analysis and certifying that the onsite groundwater supply is adequate to meet the proposed uses and cumulative projected land uses in the area on a sustained basis, and that the operation will not:
 - 1. result in or exacerbate an overdraft condition in basin or aquifer;
 - 2. result in reduction of critical flow in nearby streams; or
 - 3. result in well interference at offsite wells.
- (11) Groundwater Monitoring: Water wells used for cultivation shall be equipped with a meter and sounding tube or other water level sounding device and marked with a measuring reference point. Water meters shall be maintained in a calibrated state and documentation shall be submitted to the permit and resource management department at least once every five (5) years. Static water level and total quantity of water pumped shall be recorded quarterly and reported annually. Static water level is the depth from ground level to the well water level when the pump is not operating after being turned off. Static water level shall be measured by turning the pump off at the end of the working day and recording the water level at the beginning of the following day before turning the pump back on. Groundwater monitoring reports shall be submitted annually to the permit and resource management department by January 31 of each year. The annual report shall include water meter readings, the total quarterly quantities of water pumped from well(s) used in processing, and static water levels.
- (12) Groundwater Monitoring Easement: Prior to the issuance of any permit for commercial cannabis cultivation pursuant to this chapter, an easement is required to be recorded to provide Sonoma County personnel access to any on-site water well serving the proposed use and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted for this purpose Monday through Friday from 8:00 a.m. to 5:00 p.m. Easements conveyed to the county under this section shall be signed and accepted by either the director of permit and resource management or the agricultural commissioner. All easement language is subject to review and approval by the agency having jurisdiction and county counsel prior to recordation.

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CHAPTER 38
SONOMA COUNTY COMMERCIAL CANNABIS CULTIVATION IN
AGRICULTURAL & RESOURCE AREAS ORDINANCE

Article 02. General.

Sec. 38.02.010. - Title.

This chapter is known as and may be cited as the Sonoma County Commercial Cannabis Cultivation in Agricultural and Resource Areas Ordinance.

Sec. 38.02.020. - Purpose.

This chapter is adopted to (1) regulate commercial cannabis cultivation within the agricultural and resource zoning districts in the unincorporated area of the county established by chapter 26 of the Sonoma County Code; (2) promote agricultural diversity and sustainable local economy; and (3) establish ministerial standards for those activities that:

- A. Protect the public health, safety, and welfare of the county;
- B. Protect the county's environmental and natural resources;
- C. Protect biotic resources and wildlife habitat;
- D. Protect farmland and timberland;
- E. Protect cultural and historic resources;
- F. Promote fire safety;
- G. Protect against erosion, and the pollution of watercourses;
- H. Maintain natural and existing drainage patterns;
- I. Promote security, lighting control, and screening from public views, and protect aesthetics;
- J. Protect air quality and promote odor control;
- K. Promote energy conservation and use of renewable energy;
- L. Promote waste and wastewater management;
- M. Promote water conservation and groundwater recharge, and protect critical watersheds;

Sec. 38.02.030. - Administration.

This chapter shall be administered under the direction of the Board of Supervisors, by and through the Agricultural Commissioner.

Sec. 38.02.040. Applicability.

- A. Compliance required. The provisions and ministerial permit requirements of this chapter shall apply to all commercial cannabis cultivation occurring in agricultural and resource zoning districts in the unincorporated area of the county. Commercial cannabis cultivation in an agricultural or resource zone that does not qualify for a ministerial permit under this chapter 38, may qualify for a discretionary use permit pursuant to chapter 26 of the Sonoma County Code. Notwithstanding any other provision of this Code, issuance of ministerial permits for commercial cannabis cultivation is governed by this chapter 38. Discretionary permits for commercial cannabis cultivation may be issued pursuant to chapter 26. A person must obtain an appropriate cannabis cultivation permit prior to cultivating cannabis, or preparing a site for cultivation, in an agricultural or resource zoning district in the unincorporated area of the County. Applicants and permittees must comply with the standards required by this chapter and department's best management practices for commercial cannabis cultivation for ministerial permits issued pursuant to this chapter.
- B. Liability. Nothing in this chapter, nor the issuance of a permit pursuant to this chapter, nor compliance with the provisions of this chapter or with any permit conditions, shall relieve any person from responsibility for damage to other persons or property, or impose any liability upon the county, its officers, agents, or employees, for damage to other persons or property.
- C. Other laws and permits. Nothing in this chapter shall eliminate the need for any person undertaking commercial cannabis cultivation from having to comply with local, state, and federal law. Permittees must obtain any other permits, approvals, licenses, or authorizations required by this code or state or federal agencies to commercially cultivate cannabis. Permittees shall provide copies of other agency and department permits, licenses, or certificates to the Agricultural Commissioner to serve as verification for such compliance.

Sec. 38.02.050. - Interpretations.

- A. Authority to interpret. The Agricultural Commissioner shall have the authority to interpret the provisions of this chapter. Whenever the Agricultural Commissioner determines that the meaning or applicability of any requirement of this chapter is subject to interpretation, the Agricultural Commissioner may issue an official written interpretation. The Agricultural Commissioner may also refer any issue of interpretation to the board of supervisors for determination.

- B. Language. When used in this chapter, the words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory. “Should” is not mandatory but is strongly recommended; and “may” is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The words “include,” “includes,” and “including” shall mean “including but not limited to.”
- C. Time limits. Whenever a number of days is specified in this chapter, or in any permit, or notice provided in compliance with this chapter, the number of days shall be construed as calendar days, unless business days are specified. A time limit shall extend to 5 p.m. on the following business day where the last of the specified number of days falls on a weekend, county-observed holiday, or other day the county is not open for business.
- D. State law references. Where this chapter references applicable provisions of state law, the reference shall be construed to be to the applicable state law provisions as it may be amended from time to time.

Sec. 38.02.060 – Best Management Practices.

The Agricultural Commissioner may adopt, amend, or rescind best management practices to implement or make specific the standards in Article 12 of this chapter. The best management practices shall reference or detail only fixed standards and objective measurements that do not require the exercise of discretion by the Agricultural Commissioner. Failure by any person to comply with any applicable best management practice adopted or amended pursuant to this section shall be a violation of this chapter. The best management practices adopted or amended pursuant to this section shall be compiled by the Agricultural Commissioner and made available to the public.

Sec. 38.02.070 – Legislative Intent.

- A. Ministerial provisions; exception. It is the intent of the board of supervisors that the provisions of this chapter and the best management practices adopted pursuant to Section 38.02.060 shall be ministerial within the meaning of the California Environmental Quality Act and the State CEQA Guidelines. It is the further intent of the board of supervisors that the review of permit applications and the issuance of permits pursuant to this chapter shall be ministerial acts, except in the case of discretionary permit applications processed in accordance with chapter 26 of the Sonoma County Code by the Permit and Resource Management Department.
- B. Interpretation and application. This chapter and the best management practices adopted pursuant to Section 38.02.060 shall be interpreted, administered, and construed in light of the legislative intent expressed in Subsection A. If any provisions, sentences, or words in this chapter or any best management practice adopted pursuant to Section 38.02.060 are ambiguous or capable of more than one interpretation, staff shall interpret, administer, and construe them as conferring only ministerial authority. Staff shall not exercise personal judgment, special discretion or judgment, or personal, subjective judgment in

deciding whether or how projects should be carried out, except in the case of discretionary permit applications processed in accordance with chapter 26 of the Sonoma County Code by the Permit and Resource Management Department.

- C. Ministerial system of regulation. It is the intent of the board of supervisors in enacting this chapter to establish and maintain a ministerial system of regulation for commercial cannabis cultivation in the agricultural and resource zoning districts in the unincorporated area of the county, consistent with the strong policy direction from the board of supervisors to promote agricultural diversity and a sustainable local economy, not unduly complicate and discourage legal commercial cannabis cultivation, and be protective of the environment, and consistent with the strong policy in the general plan to expedite the processing of agricultural-related permits.

Article 04. – Commercial Cannabis Cultivation in Agricultural and Resource Areas Permits.

Sec. 38.04.010. – Permit Requirement.

All commercial cannabis cultivation in the agricultural and resource zoned areas of the incorporated area of the county requires either a ministerial permit issued pursuant to this chapter 38, or a discretionary use permit issued pursuant to chapter 26 of this code. A commercial cannabis cultivation permit is required prior to commencing any commercial cannabis cultivation or related work, including work in preparation for cultivating cannabis.

Article 6. - Permit Application Filing and Processing.

Sec. 38.06.010. – Purpose.

This article provides procedures and requirements for the preparation, filing, and initial processing of the ministerial permit applications, including permit renewal applications, governed by this chapter.

Sec. 38.06.020. - Authority Over Ministerial Permitting.

The Agricultural Commissioner is authorized to accept and process ministerial permit applications and to issue ministerial permits for commercial cannabis cultivation within the agricultural and resource zoning districts in the unincorporated area of the county consistent with the requirements of this chapter 38. This chapter does not authorize the Agricultural Commissioner to issue discretionary use permits for commercial cannabis cultivation. Discretionary use permits are governed by chapter 26, which is administered by the Permit and Resource Management Department. This chapter 38 is intended to govern only ministerial permits for commercial cannabis cultivation within the agricultural and resource zoning districts of the unincorporated county.

Sec. 38.06.030. - Permit Application Preparation and Filing.

- A. Pre-application contact. A prospective applicant is encouraged to contact the Agricultural Commissioner before completing and filing a permit application to determine the information and materials required for application filing. The provision of information by the Agricultural Commissioner shall not be construed as a recommendation for either approval or disapproval of an application. Any failure by the Agricultural Commissioner to identify all required information and materials shall not constitute a waiver of those requirements.
- B. Permit application contents. Permit applications shall be filed with the department on a county application form. Each permit application shall include all required fees and deposits, all plans and specifications, maps, reports, assessments, and other information and materials required by the department's list of required contents for a commercial cannabis cultivation permit application, and any other plans and specifications, maps, reports, and other information and materials the Agricultural Commissioner deems necessary to verify compliance with this chapter. The permit application must also include a signed declaration acknowledging that agricultural operations on neighboring properties may employ farming practices that have the potential to be detrimental to cannabis cultivation.
- C. Eligibility for filing or withdrawing; property owner authorization. A permit application may only be filed or withdrawn by an applicant who is the owner of the parcel on which the cannabis cultivation site is proposed, an authorized agent of the owner, or other person with the written consent of the owner. If the applicant is not the owner of the legal parcel on which the cannabis cultivation site is located, then the owner must authorize cannabis cultivation on the site in a form acceptable to the Agricultural Commissioner, and the applicant must submit that owner authorization with the application. The authorization document or written consent must be signed by the owner of the parcel with a certificate of acknowledgment for the owner's signature, which must be in the form set forth in California Civil Code section 1189.
- D. Applicant's agent. In addition to the requirements of subdivision C. above, where the applicant is a legal entity, the applicant's authorized agent, or other person with the written consent of the applicant, is permitted to file or withdraw an application. The authorization document or written consent must be signed by a person with authority to bind the legal entity applicant, with a certificate of acknowledgment, which must be in the form set forth in California Civil Code section 1189.

Sec. 38.06.040. - Application Fees.

- A. Fee schedule. The board of supervisors shall establish a schedule of fees for the processing of permit applications, including permit renewal applications, required by this chapter.

- B. Refunds and withdrawals. The required application fees cover county costs for staff time and the other activities involved in processing permit applications. Therefore, no refund due to disapproval or expiration shall be allowed. In the case of a withdrawal, the Agricultural Commissioner may refund any application fees and deposits remaining after covering county costs for staff time and the other activities involved in processing the permit application before it was withdrawn.

Sec. 38.06.050. - Indemnification.

- A. Applicant agreement. At the time of submitting a permit application, the applicant and property owner shall agree, as part of the permit application, to defend (with legal counsel of the county's selection), indemnify, and hold harmless the county and its agents, officers, attorneys, and employees, from any claim, action, or proceeding brought against the county or its agents, officers, attorneys, or employees to attack, set aside, void, or annul, an approval of the county concerning the permit application, which action is brought within the applicable statute of limitations. The required indemnification shall include damages awarded against the county, if any, costs of suit, attorneys' fees, and other costs and expenses incurred in connection with the action.
- B. County notification of applicant and property owner. In the event that a claim, action, or proceeding referred to in Subsection A is brought, the county shall promptly notify the applicant and property owner of the existence of the claim, action, or proceeding and shall cooperate fully in the defense of the claim, action, or proceeding.

Sec. 38.06.060. - Initial Permit Application Review.

The Agricultural Commissioner shall review each permit application for completeness and accuracy before it is accepted as complete and officially filed. The Agricultural Commissioner's determination of completeness shall be based on the department's list of required application contents and any additional instructions provided to the applicant in any pre-application contact, and/or during the initial review period. No permit application shall be deemed complete, and processing shall not commence on any permit application, until all required fees and deposits have been paid, and all required plans and specifications, maps, reports, and other information and materials have been submitted to the Agricultural Commissioner and reviewed to determine compliance with this chapter, including peer review where necessary to determine compliance with this chapter.

- A. Notification of applicant when permit application is incomplete. The Agricultural Commissioner shall inform the applicant in writing within 30 days of filing when a permit application is incomplete. The letter shall specify the additional information required to make the permit application complete.
- B. Withdrawal of application. If an applicant fails to provide the additional information specified in the Agricultural Commissioner's letter providing notice of an incomplete permit application within 120 days following the date of the letter, the permit application shall be deemed withdrawn without any further action by the Agricultural Commissioner.

The Agricultural Commissioner may grant one 90-day extension, if the applicant files a written request with the Agricultural Commissioner before expiration of the original 120-day period. After the withdrawal of a permit application, future consideration by the Agricultural Commissioner shall require the submittal of a new permit application and associated fees.

Sec. 38.06.070. - Expiration of Permit Application.

If a permit is not issued within one year following the filing of a permit application, the permit application shall expire and be deemed withdrawn, without any further action by the Agricultural Commissioner. The Agricultural Commissioner may grant one 180-day extension, if the applicant files a written request with the Agricultural Commissioner before expiration of the original one-year period and shows that the extension is warranted due to a lawsuit, staff error, or other circumstances beyond the control of the applicant. After the expiration of a permit application, future consideration by the Agricultural Commissioner shall require submittal of a new permit application and associated fees. Where a new permit application is filed within 180 days following the expiration of the original permit application, the applicant may resubmit the original plans and specifications and the new permit application shall be processed based on the provisions of this chapter in effect at the time the expired permit application was initially submitted. No expired permit application shall be renewed in this fashion more than once.

Article 08. - Permit Review Procedures.

Sec. 38.08.010. – Purpose.

This article provides procedures for the final review and approval or disapproval of ministerial permit applications, including permit renewal applications, governed by this chapter.

Sec. 38.08.020. – Permit Approval and Issuance.

The approval of a permit application and issuance of a commercial cannabis cultivation permit by the Agricultural Commissioner shall occur as follows:

- A. Criteria for approval. A ministerial permit application will be approved and a ministerial commercial cannabis cultivation permit issued when the Agricultural Commissioner determines that the proposed commercial cannabis cultivation complies with all applicable provisions of this chapter, all other applicable provisions of this code, and the requirements of any applicable county land use approvals.
- B. Permit holder. An approved commercial cannabis cultivation permit shall be issued to the applicant.
- C. Effect of permit and approved plans and specifications.
 - 1. Compliance with plans and specifications required. All work for which a commercial cannabis cultivation permit is issued within the agricultural and

resource zoning districts of the unincorporated county under this chapter shall be done in compliance with the approved plans and specifications and the recommendations of required reports. The approved plans and specifications shall not be changed without the written approval of the Agricultural Commissioner.

2. Modifications. Proposed modifications to the approved plans and specifications shall be submitted to the Agricultural Commissioner in writing, together with all necessary technical information and design details. A proposed modification shall be approved only if the Agricultural Commissioner determines that the modification complies with the provisions of this chapter for issuance of the ministerial commercial cannabis cultivation permit, other applicable provisions of this code, and the requirements of any applicable county land use approvals.

Article 10. - Permit Implementation, Time Limits, and Extensions.

Sec. 38.10.010. – Purpose.

This article provides requirements for the implementation of the permits required by this chapter, including time limits and procedures for granting extensions of time.

Sec. 38.10.020. - Effective Date of Permit.

A commercial cannabis cultivation permit shall become effective on the date of ministerial permit application approval.

Sec. 38.10.030. – Time limit, Renewal, and Expiration.

- A. Time limit. Commercial cannabis cultivation permits shall expire five years from the date of issuance.
- B. Renewal. Once a permit is issued and prior to its expiration, the permittee may apply to renew the permit by submitting a renewal application in a form established by the Agricultural Commissioner and application fee. No permit or permit renewal shall issue without payment of all required fees. The same standards apply to issuance of permits and permit renewals under this Chapter, except that setback requirement do not apply to permit renewal applications that do not propose changes to the cannabis cultivation activity or cannabis cultivation site. An applicant for permit renewal shall indicate proposed changes to the permitted cannabis cultivation activity and cannabis cultivation site, if any, in the permit renewal application.
- C. Effect of expiration. After the expiration of a commercial cannabis cultivation permit, or expiration of a permit renewal, no further cannabis cultivation may occur at the cannabis cultivation site until a new permit authorizing cannabis cultivation is obtained.

Sec. 38.10.040. – Decisions Final.

All decisions of the Agricultural Commissioner under this chapter are final, subject only to judicial review.

Sec. 38.10.050. – Conduct of Cannabis Cultivation Under Permit

Permits for commercial cannabis cultivation in agricultural and resource zoning districts in the unincorporated county shall be subject to the following requirements.

- A. Responsibility for compliance. The permittee shall be responsible for ensuring that the commercial cannabis cultivation is conducted in compliance with the approved plans and specifications and the standards in Article 12.
- B. Notification of change in ownership-parcel. The permittee shall notify the Agricultural Commissioner fourteen (14) days in advance of any change in ownership of the parcel for which the permit was issued prior to expiration of the permit, and any changes must comply with applicable code requirements. Notification of a change in ownership of the parcel shall also be provided within fourteen (14) days of the change of ownership, including the name and contact information of the new owner and the date of the change in ownership.
- C. Notification of legal entity changes –permittees. Permits are issued to and held by the person engaged in commercial cannabis activity, and specific to the parcel for which it was issued. For permittees that are legal entities, written notice must be provided to the Department of any changes to the name, control, or status of the legal entity, within fourteen (14) days of the change, describing the change and the date it occurred.
- D. Inspection. Permitted commercial cannabis cultivation shall be subject to inspection as required by the Agricultural Commissioner. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or other provisions of this code. Inspections presuming to give authority to violate or cancel the provisions of this chapter or other provisions of this code shall not be valid.
 - 1. Site access. During the term of the permit, the permittee shall provide and secure access to the cannabis cultivation site for inspection by inspectors designated by the Agricultural Commissioner, including inspectors with the Department of Agriculture/Weights and Measures or Permit and Resource Management Department, or other state or local agency, during regular business hours. A permittee’s failure to provide or secure access to inspectors is a violation of the permit.
 - 2. Special inspections and certifications. The Agricultural Commissioner may require special inspections and certifications to verify compliance with an issued permit.

Article 12. – Standards for Commercial Cannabis Cultivation.

Sec. 38.12.010. - Purpose.

Unless a use permit is required or this chapter provides otherwise, a commercial cannabis cultivation permit, including a permit renewal, must be issued for a cannabis cultivation site if the standards set forth in this article are met.

Sec. 38.12.020. – Parcel Requirements.

- A. Legal parcel. A cannabis cultivation site must be located on a single legal parcel.
- B. Zoning District. A cannabis cultivation site must be located on a parcel with one of the following zoning designations pursuant to chapter 26:
 - 1. Land Intensive Agriculture (LIA)
 - 2. Land Extensive Agriculture (LEA)
 - 3. Diverse Agriculture (DA)
 - 4. Resources and Rural Development (RRD)
- C. Split zoning. Cannabis cultivation is not permitted on a single legal parcel with split zoning, unless all zoning designations for the split zoned parcel are listed in subsection B. of Section 38.12.020.
- D. Minimum lot size. A cannabis cultivation site must be located on a parcel that is ten or more acres in size.
- E. Hazardous materials site. A cannabis cultivation site must be located on a parcel that is not listed as a hazardous materials site compiled pursuant to Government Code Section 65962.5.

Sec. 38.12.030. – Limitation on Canopy and Structures.

- A. ~~Canopy Limitations. Cannabis Cultivation Site and Canopy Limits.~~
 - 1. ~~4. Overall 10% Limit. The cannabis cultivation site is limited to ten percent (10%) or less of the parcel.~~
 - 2. ~~Limit on Hoop House Canopy. Hoop house cultivation canopy is limited to one acre per parcel.~~
 - 4.3. ~~Other Canopy. Besides the hoop house cultivation canopy limit in Subsection (A)(2), no other canopy is specifically limited, including outdoor cultivation, and indoor and mixed light cultivation in existing or new or expanded permanent structures. Outdoor and Hoop House. Outdoor cultivation and hoop house cultivation canopy cover are limited to ten percent (10%) or less of the parcel.~~
 - 2. ~~Existing Permanent Structures. Indoor cultivation and greenhouse cultivation canopy in an existing permanent structure is not limited. An existing permanent structure is a structure that is legally constructed prior to January 1, 2021, and~~

~~includes those structures that have been or will be reconstructed or renovated, provided there is no modification to the building footprint, nor expansion of the square footage of the structure.~~

~~3. New or Expanded Permanent Structures. Indoor cultivation and greenhouse cultivation canopy in new or expanded permanent structures is limited by Subsections B and C of Section 38.12.030, below. A new permanent structure is a structure legally constructed on or after January 1, 2021. An expanded permanent structure is an addition or expansion to an existing permanent structure, as defined above in paragraph 2 of subsection A of Section 38.12.030, that results in a modification to the building footprint or an expansion of the square footage of the structure.~~

B. Limit on New or Expanded Permanent Structures.

1. Parcels Up To 20 Acres. For a parcel that is at least ten acres, but no more than 20 acres in size, all new building coverage for the purpose of or in support of commercial cannabis cultivation cannot exceed 43,560 square feet. New building coverage means building coverage legally constructed on or after January 1, 2021.

2. Parcels Greater Than 20 Acres. For a parcel that is greater than 20 acres in size, all new building coverage for the purpose of or in support of commercial cannabis cultivation cannot exceed 43,560 square feet or 50% of the maximum lot coverage prescribed by the base zone, whichever is greater. New building coverage means building coverage legally constructed on or after January 1, 2021.

C. Permits for Structures. Permanent structures used in commercial cannabis cultivation shall be subject to permits issued by the permit and resource management department and other agencies having jurisdiction and shall be conducted and maintained in compliance with this code.

Sec. 38.12.040. – Setbacks.

A. Setbacks for Outdoor and Hoop House Cultivation.

1. Property line setback. ~~For a cultivation site with o~~Outdoor or and hoop house cultivation, ~~the cultivated area~~ must be set back a minimum of 100 feet from the property lines of the parcel on which the cannabis is cultivated. Distance is measured in a straight line from the nearest point of canopy to the nearest point of the property line.

2. Neighboring structures. ~~For a cultivation site with o~~Outdoor or and hoop house cultivation, ~~the cultivated area~~ must be set back a minimum of 300 feet from residences and business structures on any parcel other than the parcel on which the permitted cannabis is cultivated. Distance is measured in a straight line from the nearest point of canopy to the nearest exterior wall of the residence or business structure.

3. Residential zoning districts. Outdoor and hoop house cultivation must be set back a minimum of 400 feet from a property line that abuts a parcel with a residential zoning designation under Chapter 26 (AR, RR, R1, R2, R3). Distance is measured in a straight line from the nearest point of canopy to the nearest point of the adjoining residential property line.
- ~~3.4. Sensitive uses. For a cultivation site with e~~Outdoor or and hoop house cultivation, ~~the cultivated area~~ must be set back a minimum of 1,000 feet from the property line of a parcel with a school providing education to K-12 grades, a public park; ~~Class I Bikeway~~, a day care center, or an alcohol or drug treatment facility. Distance is measured in a straight line from the nearest point of canopy to the nearest point of the property line shared with the sensitive use.
- ~~4.5. Scenic corridor. Hoop house cultivation is not allowed within a scenic corridor setback, Section 26-64-030.~~

- B. Setbacks for Indoor and Greenhouse Cultivation and Associated Structures. Except for hoop houses, the setbacks for which are governed by subsection A of this section above, any structure used for or in support of cannabis cultivation must comply with setback requirements contained in chapter 26 for a parcels base zone and any applicable combining zone.
- C. ~~For purposes of this chapter, distance shall be measured from the nearest point of the property line of the parcel that contains the proposed or permitted commercial cultivation to the nearest point of the property line of the enumerated use using a direct straight line measurement.~~ New adjacent uses. A new adjacent use does not affect the continuation of an existing use that was permitted and legally established under the standards of this chapter.

Sec. 38.12.050. –Protection of Historic and Cultural Resources.

- A. Historic District. Cannabis cultivation and related activities proposed within the Historic Combining District, Section 26-68, of Chapter 26 of the Sonoma County Code, shall be subject to review by the landmarks commission, unless otherwise exempt, consistent with Section 26-68-020, and shall be required to obtain a use permit.
- B. Historic Resource Survey. For cannabis cultivation and related activities involving alteration, modification, or demolition of a structure over 45 years old, applicant must submit a historic resource survey demonstrating and concluding that all impacts to significant cultural and historic resources will be avoided.
- C. Cultural Resource Survey. Applicant must submit a cultural resources survey with any application proposing ground disturbing activity. Cannabis cultivation and related activities, involving ground disturbance, including but not limited to construction of new structures, roads, water storage, and trenching for utilities, water, wastewater, or drainage systems, shall be subject to design standards and referral to the Northwest Information Center and local tribes. A use permit will be required if mitigation is recommended by the cultural resource survey or local tribe.

D. Inadvertent Discovery, Protection of Human Remains, Archaeological Resources, and Tribal Cultural Resources.

Where human remains or archaeological or tribal cultural resources are discovered during ground disturbing work associated with permitted cannabis cultivation, all work shall be halted in the vicinity of the find, the permittee shall notify the Agricultural Commissioner, and the following shall occur before work is resumed under the permit:

1. Human remains. If human remains or suspected human remains are discovered, the permittee shall notify the county coroner and comply with all state law requirements, including Health and Safety Code section 7050.5 and Public Resources Code section 5097.98, to ensure proper disposition of the human remains or suspected human remains, including those identified to be Native American remains.
2. Archaeological or Tribal Cultural Resources. If archaeological or tribal cultural resources or suspected archaeological or tribal cultural resources are discovered, the Agricultural Commissioner shall notify the State Historic Preservation Officer and the Northwest Information Center at Sonoma State University, and the permittee shall retain a qualified archeologist or qualified tribal cultural resource specialist, as applicable, to evaluate the find to ensure proper disposition of the archaeological or tribal cultural resources or suspected archaeological or tribal cultural resources. All costs associated with the evaluation and mitigation of the find shall be the responsibility of the permittee. The Agricultural Commissioner shall also provide notice of the find to any tribes that have been identified as having cultural ties and affiliation with the geographic area in which the archaeological or tribal cultural resources or suspected archaeological or tribal cultural resources were discovered, if the tribe or tribes have requested notice and provided a contact person and current address to which the notice is to be sent. The Agricultural Commissioner is authorized to consult with and solicit comments from notified tribes to aid in the evaluation, protection, and proper disposition of the archaeological or tribal cultural resources or suspected archaeological resources. The need for confidentiality of information concerning the archaeological and tribal cultural resources or suspected archaeological and tribal cultural resources shall be recognized by all parties involved in the consultation. For the purposes of this section, archaeological resources include historic or prehistoric ruins, burial grounds, pottery, arrowheads, midden, or culturally modified soil deposits. For purposes of this section tribal cultural resources includes sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are listed, or determined to be eligible for listing, in the national or state register of historical resources, or listed in a local register of historic resources. Artifacts associated with prehistoric ruins include humanly modified stone, shell, bone, or other cultural materials such as charcoal, ash, and burned rock indicative of food procurement or processing activities.

Prehistoric domestic features include hearths, fire pits, or floor depressions; mortuary features are typically represented by human skeletal remains.

Sec. 38.12.060. - Tree, Timberland, and Farmland Protection.

A. Tree Protection.

1. Non-Forested Area Required. Cannabis cultivation and associated development must be located on a site/land that was non-forested as of December 20, 2016; ~~unless the applicant complies with subsections 2 and 3, below, for proposed tree removal.~~
2. ~~Trees Generally. No tree greater than 20 inches at diameter breast height can be removed to accommodate cannabis cultivation or associated development. Cannabis cultivation and related development must avoid any tree greater than 20 inches at diameter breast height by a distance of 1.5 times the radius of the dripline. [PLACEHOLDER FOR GRAPHIC]~~
3. ~~Protected Trees. No protected tree greater than 9 inches at diameter breast height can be removed to accommodate cannabis cultivation or related development.~~
- 4.2. Tree Avoidance. Any tree that cannot be removed under subsection 2 or 3, above, must be avoided by a distance of 1.5 times the radius of the dripline. Tree Removal Prohibited. No tree can be removed to accommodate the cannabis cultivation site unless a report by a certified arborist or registered professional forester is submitted concluding one of the following: 1) the tree is dead or likely to promote the spread of insects or disease; 2) the tree poses a potential hazard to life or property; or 3) tree removal is necessary to maintain defensible space around an existing permanent structure.

B. Farmland Protection.

1. Farmlands.
 - a. ~~A new permanent structure, or the expansion of an existing permanent structure, for or in support of indoor or mixed light cultivation cannot be sited within important farmlands, including prime, unique, and farmlands of statewide importance as designated by the state farmland mapping and monitoring program.~~
 - b. ~~A new permanent structure, or the expansion of an existing permanent structure, for or in support of indoor or mixed light cultivation cannot remove irrigated agricultural production on a parcel, unless (1) the irrigated agricultural production is offset at another location on the parcel at a 1:1 ratio, and (2) the parcel does not contain important farmlands, as described in subsection B.1.a., above.~~
 - c. ~~As used in subsection B.1.a and B.1.b, above “new permanent structure,” means a permanent structure legally constructed on or after January 1, 2021; an “expanded permanent structure,” means an addition or expansion~~

~~to an existing permanent structure that results in a modification to the building footprint or an expansion of the square footage of the structure; and “irrigated agricultural production,” means the land is or has been used for irrigated agricultural production at any point in the four years prior to the date of the permit application.~~

2. 2. Previously Developed Areas. New and expanded permanent structures and impervious surfaces within the cannabis cultivation site must be sited within previously developed areas. “Previously developed areas” includes areas covered by structures, pavement, decks less than 30 inches in height, and heavily trafficked and highly compacted areas such as unpaved parking lots and driveways. “Impervious surface” means a surface that will be compacted or covered with a layer of impervious material so that it is completely or highly resistant to infiltration by water, including streets, sidewalks, and parking lots.
3. Agricultural Production. An application for a cannabis cultivation site that is located within an agricultural zone (LIA, LEA, DA) must be consistent with General Plan Policy AR-4a, in that the primary use of the parcel shall be agricultural production and related processing, support services, and visitor serving uses.

2.4. Land Conservation Act. If a cannabis cultivation site is located on a parcel restricted by a Land Conservation Act (Williamson Act) contract, all uses and structures must comply with the Land Conservation Act contract, any applicable land conservation plan, and the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, including provisions governing the type and extent of compatible uses, and the California Land Conservation Act, commencing at section 51200 of the California Government Code.

Sec. 38.12.070. – Protection of Biotic Resources.

A. Habitat and Special Status Species.

1. An application under this chapter shall include a biotic resource assessment prepared by a qualified biologist that ~~demonstrates~~ concludes that the cannabis cultivation ~~site area and related structures and development~~ will not impact sensitive or special status species habitat; and
2. If the cannabis cultivation ~~site is area and related structures and development are~~ located within a designated critical habitat area, then one of the following criteria must be met:
 - a. The biotic assessment concludes that “take” of a listed species within the meaning of the federal and California Endangered Species Acts is not reasonably foreseeable; or

- b. Applicant obtains all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species.
- 3. A use permit will be required if the qualified biologist in the biotic resources assessment required by this chapter recommends mitigation measures.
- B. Riparian Corridor Setbacks. New permanent structures must be located outside the Riparian Corridor Steam Conservation Area, Section 26-65. Outdoor and hoop house cultivation canopy must conform to the agricultural setback set forth in Section 26-65-040. ~~Cannabis cultivation and related structures and development must comply with all provisions of the Riparian Corridor combining zone district, pursuant to Section 26-65, of Chapter 26 of the Sonoma County Code, including setback requirements.~~
- C. Biotic Habitat Areas. Cannabis cultivation and related structures and development cannot be located within the Biotic Habitat Combining Zone, pursuant to Section 26-66, of Chapter 26 of the Sonoma County Code.
- D. Wetlands Setbacks. Outdoor and hoop house canopy must comply with the wetlands setbacks in Section 36-16-120, of Chapter 36, of the Sonoma County Code. All other development must comply with the wetlands setbacks in Section 11-14-110, of Chapter 11, of the Sonoma County Code.

Sec. 38.12.080. – Fire Protection and Hazardous Materials

- A. Fire Code Requirements. An application under this chapter shall include a fire prevention plan for construction and ongoing operations. The fire prevention plan must state how the development will comply with chapters 13 and 13A of this code, and all other applicable local and state standards, including those governing emergency vehicle access and turn-around at the facility site, vegetation management and fire break maintenance around all structures.
- B. Hazardous Materials. All cultivation activities that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks, and AB 185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the fire prevention division, certified unified program agency (CUPA) of Sonoma County Fire and Emergency Services Department, or Agricultural Commissioner.

Sec. 38.12.090. – Slope and Grading Limitations.

- A. Slope Limitation. A cannabis cultivation site is only allowed on a slope of 15% or less, as that term is defined by Section 11-22-020, of Chapter 11, of the Sonoma County Code.
- B. Grading Limits. Grading for outdoor and hoop house cultivation canopy must comply with Chapter 36 of the Sonoma County Code. Grading for construction must comply with Chapter 11 of the Sonoma County Code.

- C. Ridgetop Protection. ~~A c~~Cannabis cultivation site shall be set back a minimum of fifty (50) feet from the delineated slope break of descending existing slopes greater than ~~fifty~~ thirty (~~50~~30) percent for more than ~~fifty~~ thirty (~~50~~30) feet in slope length.

Sec. 38.12.010. –Design, Lighting, Security and Screening

- A. Design. A new, reconstructed, or expanded permanent structure utilized for commercial cannabis cultivation must meet objective ministerial design standards adopted by the Board of Supervisors. Design standards must ensure new, reconstructed, or expanded structures conform to the natural and agricultural setting through set standards, including maximum building height, maximum square footage, exterior materials, and prohibition on the use of glare producing materials for greenhouses and other structures.
- B. Lighting.
1. Lighting requirements. All lighting used at a permitted cannabis cultivation site must be fully shielded, downward casting, and not spill over onto neighboring properties or the night sky. Indoor and mixed light structures must be fully contained so that little to no light escapes.
 2. Lighting plan. Applicant shall submit with the application a lighting plan demonstrating how the requirements of subsection B.1, above, will be met.
- C. Security.
1. Security requirements. Security measures implemented at permitted cannabis site shall at a minimum include the following:
 - a. Motion-sensor security cameras;
 - b. Standard industry format surveillance video to support criminal investigations;
 - c. Maintenance of surveillance video for a minimum of 30 days;
 - d. Alarms for safety of persons and theft protection;
 - e. Emergency access in compliance with fire safe standards; and
 - f. Locking doors on all structures to prevent free access.
 2. Site security plan. Applicant shall submit with the application a security plan demonstrating how the requirements of subsection C.1, above, will be met. The security plan should be a stand-alone document, and specifically should not be combined with a lighting plan or any other plan.
 3. Prohibitions.
 - a. Firearms and other weapons are prohibited at the cannabis cultivation site.
 - b. Security cameras must not be pointed at or record activity on surrounding parcels.
 4. Confidentiality. Pursuant to Government Code Section 6255(a), site specific security plans required and submitted to the county pursuant to this chapter, are not subject to public disclosure as the public interest in withholding a site security

plan from public disclosure outweighs the public interest in disclosure because satisfaction of the minimum security requirements under this chapter is verifiable by other means, and because public disclosure of site specific security details would present unreasonable risks to site security, law enforcement, and public safety.

D. Fencing, Screening, Visibility

1. Fencing. ~~An outdoor or and~~ hoop house cultivation ~~area canopy~~ must be fully fenced with locking gates that allow emergency access. Razor wire and similar fencing is not permitted.
2. Screening. Fencing that is visible from a public right of way or Class 1 Bikeway must be screened. Applicant must demonstrate that 75% of the fence will be screened within 5 years from the date of permit approval. Vegetative screening can only include non-invasive fire resistant vegetation.
3. Visibility. No outdoor canopy can be visible from a public right of way. No outdoor canopy located on a parcel adjacent to a public park or Class I Bikeway, can be visible from trails or public access points.
4. Fencing, Screening, and View Protection Plans. Applicant shall submit with the application one or more plans demonstrating how the requirements of subsection D.1 through D.3 will be met.

Sec. 38.12.110. - Air Quality, Odor, Noise, Occupational Safety.

- A. Dust Control. Applicant must submit a dust control plan for the site that incorporates the department's best management practices for dust control, and includes use of dust control measure on access roads and during all ground disturbing activities.
- B. Filtration and Ventilation. A permanent structure containing cannabis must be equipped with an odor control filtration and ventilation system to control odors, humidity, and mold. ~~Odor shall be controlled in a way that prevents cannabis odor from being detected off of the parcel containing the cannabis cultivation site.~~ Cannabis odor from a permanent structure must not be detectable offsite. An applicant shall submit with the application an odor control plan demonstrating how the requirements of this subsection will be met.
- C. Energy Use.
 1. Power Source. Electrical power for indoor and greenhouse cultivation must be provided by an on-grid or on-site 100% renewable energy source, unless carbon credits are purchased to offset power used that is not from renewable sources. Any offsets shall be generated in California pursuant to a protocol accepted by the County that ensures they are real, permanent, quantifiable, verifiable, enforceable, and additional.
 2. Generators. A generator for cannabis cultivation is only permitted under this chapter in response to and during a local, state, or federally declared emergency or disaster, which causes normal sources of power to be unavailable or inadequate

for cannabis cultivation purposes. Except as allowed in this subsection C.2., use of generators for cannabis cultivation is prohibited.

- D. Noise Limits. Applicant must submit a noise control plan for the site that incorporates the department's best management practices for noise control, and demonstrates that cultivation activities will not exceed the general plan noise standards Table NE-2, measured in accordance with the Sonoma County noise guidelines.
- E. Occupational Safety. Permittees shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, including federal and state wage and hour laws, CAL/OSHA, OSHA, and the California Agricultural Labor Relations Act.

Sec. 38.12.120. Waste Management.

- A. Waste Management. An applicant must submit a waste management plan addressing the storing, handling, and disposing of all waste by-products that complies with the department's best management practices and includes the following:
 - 1. Volumes and types of waste generated;
 - 2. Operational measures to manage and dispose, or reuse the wastes;
 - 3. Storage for garbage and refuse in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids;
 - 4. Sufficient storage so that no refuse container is filled beyond the capacity to completely close the lid;
 - 5. Proper disposal of stored waste at least every seven (7) calendar days; ~~and~~
 - 6. Prevention of public access to cannabis waste.; and
 - 7. Storage, reuse, and disposal plan for plastic sheeting or similar materials used to cover hoop houses.

Sec. 38.12.130. Waste Water and Runoff.

- A. Waste Water Discharge. Applicant must submit a wastewater management plan that complies with the department's best management practices and the following requirements:
 - 1. Identify the estimated amount and disposal of waste water, excess irrigation and domestic wastewater, and provide data to support the estimate;
 - 2. Include verification of compliance with or waiver from the waste discharge requirements of the state water resource control board;
 - 3. Direct excess irrigation water or effluent to a sanitary sewer, septic, irrigation, graywater or bio-retention treatment system;
 - 4. If discharging excess irrigation to a septic system, include a system capacity evaluation by a qualified sanitary engineer that demonstrates the system has adequate capacity;

5. Dispose of domestic wastewater discharge from employees in a permanent sanitary sewer or on-site septic system demonstrated by a system capacity evaluation by a qualified sanitary engineer to have adequate capacity.
- B. Runoff and Storm Water Control. Applicant must submit with the application a storm water management plan and an erosion and sediment control plan that ensure runoff containing sediment or other waste or by-products does not drain to the storm drain system, waterways, or adjacent lands. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, graywater or bio-retention treatment systems. The storm water management plan must include the department's best management practices for storm water management. The erosion control plan must include the department's best management practices for erosion control during and after construction and permanent drainage and erosion control measures pursuant to Chapter 11.

Sec. 38.12.140. Water Use.

- A. Water Source. An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Water use includes, but may not be limited to, irrigation water, and a potable water supply for all employees. Trucked water shall not be allowed, except as provided in this section 38.12.140. The onsite water supply shall be considered adequate with documentation of any one (1) or more of the following sources:
1. Retail Water. Documentation from a retail water supplier demonstrating and concluding that adequate supplies are available to serve the proposed commercial cannabis use.
 2. Recycled Water. Documentation from a recycled water supplier demonstrating and concluding that adequate recycled water supplies are available to serve the non-potable needs of the proposed commercial cannabis use. Recycled water may not be used to meet potable water needs.
 3. Surface Water. Documentation of adequate water supply from a legal water right, registration, stored rainwater or other surface water source that is exempt from State regulation, and, if applicable, a Streambed Alteration Agreement issued by the California Department of Fish and Wildlife.
 4. Groundwater well, ~~subject to all standards and requirements listed below:~~
 - a. Groundwater Availability Zones 1 and 2. Documentation that the well serving the cannabis cultivation site is located in Groundwater Availability Zone 1 or 2, and not within a Priority Groundwater Basin. ~~Documentation of a net zero water plan prepared by a qualified professional demonstrating and concluding that the proposed use would not result in a net increase in onsite groundwater use; or documentation of one of the following:~~
 - b. _____

~~a.~~

~~1) Priority Groundwater Basin. If the groundwater well is within a Priority Groundwater Basin, then provide one of the following:~~

- ~~1) Documentation of a net zero water plan prepared by a qualified professional demonstrating and concluding that the proposed use would not result in a net increase in onsite groundwater use; or~~
- ~~2) A hydrogeologic report prepared by a qualified professional demonstrating and concluding that the commercial cannabis use will not result in or exacerbate any of the following conditions of a basin or aquifer, consistent with the California Sustainable Groundwater Management Act (SGMA):~~
 - ~~i. Chronic lowering of groundwater levels;~~
 - ~~ii. Reduction of groundwater storage;~~
 - ~~iii. Seawater intrusion;~~
 - ~~iv. Degraded water quality;~~
 - ~~v. Land subsidence;~~
 - ~~vi. Depletions of interconnected surface water.~~

~~2) If the groundwater well is not located in a Priority Ground Water Basin, then demonstrate compliance with subdivisions b. through d., below, of subsection 4. of section 38.12.140.~~

~~b. If the groundwater well is within 500 feet of a blue line stream, then documentation of one of the following:~~

- ~~1) A net zero water plan prepared by a qualified professional demonstrating and concluding that the proposed use would not result in a net increase in onsite groundwater use;~~
- ~~2) The groundwater well is within 500 feet of the Russian River or Dry Creek; or~~
- ~~3) The groundwater well is within Groundwater Availability Zone 1 or 2.~~

~~e. If the groundwater well is within Groundwater Availability Zone 3 or 4, then documentation of a dry season well yield test demonstrating minimum yield to support the combined groundwater use of existing and proposed uses in accordance with all of the following:~~

- ~~1) Minimum yield to support residential water use must be established in accordance with Sec. 7-12 of this code;~~
- ~~2) Minimum yield to support all other uses must equal five (5) gallons per minute per one (1) acre foot of annual groundwater demand demonstrated through a 12 hour test;~~

~~3) The test must be conducted from July 15 to October 1, or during an extended test period established by the Agricultural Commissioner due to delay of rainy season.~~

~~4) The test must be performed by or under the direction of a licensed water well drilling contractor (C57), pumping contractor (C61/D21), a registered civil engineer, or a registered geologist.~~

~~d. Protection Against Well Interference. If the groundwater well is within Groundwater Availability Zone 3 or 4, then documentation of an assessment of drawdown for all non project wells within 500 feet of the well demonstrating maximum drawdown of 10 feet over a 24 hour simulation period, using industry standard method(s) appropriate to the project aquifer. The assessment must be performed by or under the direction of a licensed water well drilling contractor (C57), pumping contractor (C61/D21), a registered civil engineer, or a registered geologist.~~

~~5. Trucked Water. Trucked water for cannabis cultivation permitted under this chapter only in response to and during a local, state, or federally declared emergency or disaster, which causes all other water supplies to be unavailable or inadequate for cannabis cultivation purposes.~~

B. Groundwater Monitoring by Permittee.

1. Monitoring Required. Groundwater wells used for cannabis cultivation on the permitted site must be equipped with a calibrated water meter and sounding tube, or other water level sounding device, and marked with a measuring reference point.
2. Reporting. For each groundwater well serving the cannabis cultivation site, the permittee must submit a report annually to the Agricultural Commissioner or his or her designee, by January 31 of each year following the date of permit issuance. The report must include quarterly or more frequent water meter readings, quantity of water pumped, and static water levels, since the date of permit issuance, or over the immediately preceding twelve (12) month period, whichever is less.

C. Groundwater Monitoring – County Access.

1. Access for Inspections. The permittee and property owner must grant access to county staff for periodic groundwater monitoring inspections during the term of the permit. The grant of access shall be in writing and in a form acceptable to County Counsel. The grant of access shall provide county staff access to any onsite groundwater well and any required monitoring well to verify and collect water meter readings and groundwater level measurements. The grant of access is not recorded.
2. Transfer of Obligation to Provide Access. On any subsequent sale or transfer of the property or cannabis business, the permittee and property owner shall secure

from the new owner or owners the timely written transfer, in a form acceptable to County Counsel, of the obligation to provide county staff access to any onsite groundwater well and any required monitoring well to collect water meter readings and groundwater level measurements.

Article 14. Operating Requirements and Allowable Activities

Sec. 38.14.010. Operating Requirements

In addition to maintaining compliance with the standards in Article 12, in order to operate, a permittee must comply with the following:

- A. **Cannabis Business Taxes.** A permittee must maintain compliance with Sonoma County Code Chapter 35, the Sonoma County Cannabis Business Tax Ordinance, and any additional taxes specific to the cannabis industry that may be enacted by the voters.
- B. **Active State Cannabis License.** A permittee must maintain an active state cannabis license as defined in this chapter. A permittee must submit a copy of each new, renewed, and modified state cannabis license to the Agricultural Commissioner.
- C. **Inspections.** A permittee must submit to an annual compliance inspection, which is in addition to any groundwater related monitoring inspection. The Board of Supervisors may adopt a fee to cover the cost of the annual inspection.

38.14.020. Activities Allowed with a Ministerial Permit

- A. **Hours of Operation.** Deliveries and shipping, and outdoor processing activities, are allowed only from 8:00 a.m. to 5:00 p.m. All other activities associated with the cannabis cultivation are allowed 7 days per week, 24 hours per day.
- B. **Processing.** Only cannabis grown on-site may be processed on-site by the permittee. Processing is required to be indoors.
- C. **Self-Transport.** A permittee is allowed to transport cannabis and cannabis products cultivated or produced onsite to a person holding a cannabis license, as defined in this chapter, and as otherwise permitted by law.
- D. **Propagation and Vegetative Production.** Vegetative and propagative plant material can only be cultivated on-site for on-site use. Such plant material must be kept in a separate, unique area away from flowering plants. Propagation that is not indoors is limited to 25% of the ~~cultivation area~~ canopy. Structures utilized for propagation are subject to the limitations stated in Section 38.12.030 of this chapter.
- E. **Multiple Tenants.** More than one person may be a permittee and operate under a single cannabis permit so long as each person maintains an active state cannabis license, as

defined in this chapter, on file with the Agricultural Commissioner in accordance with Sec. 38.14.010(B).

- F. Events. Activities involving public access to the cannabis site, including cultural events, special events, tours, tastings, and similar activities, are not prohibited by this chapter. Applicants must obtain and comply with all laws and regulations applicable to such activities, before conducting such activities, including any permit requirements under chapter 26 of this code.

Article 16. - Enforcement.

Sec. 38.16.010. – Purpose.

This article establishes provisions that are intended to ensure compliance with the requirements of this chapter and permits issued pursuant to this chapter, and provide for the protection of the public health, safety, and welfare of the county.

Sec. 38.16.020. – Decisions in Compliance with Chapter.

All departments, officials, and employees of the county assigned the authority or duty to issue permits shall comply with the provisions of this chapter.

- A. Permits in conflict with chapter. Permits that would be in conflict with the provisions of this chapter shall not be issued.
- B. Permits deemed void. Any permit issued in conflict with the provisions of this chapter, or in error, shall be void and of no effect.
- C. County may refuse to issue permits. The county shall not issue any permit sought pursuant to this chapter where the property upon which the activity is proposed is in violation of this code.

Sec. 38.16.030. – Authority for Enforcement.

- A. Enforcement responsibility. The Agricultural Commissioner is authorized to enforce the provisions of this chapter and permits issued pursuant to this chapter. The Agricultural Commissioner may initiate proceedings to suspend, revoke, or modify permits issued pursuant to this chapter, act as enforcing officer for the purposes of exercising the authority provided in Sections 1-7.1, 1-7.3, and 1-7.6 of this code, and issue letters of correction, notices of violation, notices of proposed action, stop work orders, and citations for any violations of this chapter or any permit issued pursuant to this chapter.
- B. Authority to inspect. The Agricultural Commissioner is authorized, at scheduled or periodic unscheduled (unannounced) times during regular business hours, , to enter upon and inspect any property where cannabis cultivation is conducted, to determine whether the activity complies with the provisions of this chapter and any applicable permits issued

pursuant to this chapter. These inspections may include the taking of photographs, samples, or other physical evidence, and the making of video and/or audio recordings. If the property owner or permittee refuses permission to enter and/or inspect, the county may seek an inspection warrant pursuant to Section 36.26.060.A.

Sec. 38.16.040. – Administrative Enforcement Action.

Where the Agricultural Commissioner determines that an activity has been or is being performed in violation of the provisions of this chapter or any permit issued pursuant to this chapter, the Agricultural Commissioner may initiate an administrative enforcement action pursuant to Section 1-7.3 of this code and seek the imposition of civil penalties and costs, including attorney's fees.

Sec. 38.16.050. – Violations.

- A. Violation of provisions. Any activity performed contrary to the provisions of this chapter shall constitute a violation of this chapter and a public nuisance.
- B. Violation of permit requirement. The violation of any requirement of a permit issued pursuant to this chapter shall constitute a violation of this chapter and a public nuisance.

Sec. 38.16.060. – Legal Remedies.

The county may undertake any of the following legal actions to correct and/or abate any violation(s) of this chapter or any permit issued pursuant to this chapter.

- A. Inspection warrants. The county counsel may apply to the court for an inspection warrant to enter upon and inspect property and/or collect samples.
- B. Civil actions. The county counsel may apply to the court for injunctive relief, abatement, civil penalties and costs, and any other remedies available under law.
- C. Criminal actions and penalties.
 - 1. Any person violating or causing the violation of any provision(s) of this chapter or any permit issued pursuant to this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable in compliance with Section 1-7 of this code.
 - 2. Each and every day during any portion of which any violation(s) of this chapter or any permit issued pursuant to this chapter is committed, continued, or allowed to continue by the person shall be deemed a separate offense.
- D. Citations.

1. Any person violating or causing the violation of any provision(s) of this chapter or any permit issued pursuant to this chapter may be issued an administrative citation by the Agricultural Commissioner.
2. Any person issued an administrative citation shall be liable for and shall remit payment of any fine(s) assessed in connection with the citation in compliance with Section 1-7.6 of this code.
3. Any person issued an administrative citation may appeal the citation to a hearing officer in compliance with Section 1-7.6 of this code.

Sec. 38.16.070. – Stop Work Order.

- A. Issuance of stop work order. Any activity performed in violation of the provisions of this chapter or any permit issued pursuant to this chapter shall be subject to the issuance of a stop work order.
- B. Violation of stop work order. Any violation of a stop work order shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by this article and this code.

Sec. 38.16.080. – Suspension or Revocation.

The Agricultural Commissioner may suspend or revoke a permit issued pursuant to this chapter if the Agricultural Commissioner determines any of the following:

- A. Circumstances under which the permit was issued have changed and the public health, safety, and welfare require the suspension or revocation;
- B. The permit was issued on the basis of inaccurate or incomplete information; or
- C. One or more of the requirements of the permit have not been substantially fulfilled or have been violated.

Sec. 38.16.090. – Remedies are Cumulative.

- A. Cumulative, not exclusive. All remedies contained in this chapter for the handling of violations or enforcement of the provisions of this chapter or any permit issued pursuant to this chapter shall be cumulative and in addition to any other remedies available under law.
- B. Other remedies. Should a person be found guilty and convicted of a misdemeanor for the violation of any provision(s) of this chapter or any permit issued pursuant to this chapter, the conviction shall not prevent the county from pursuing any other remedies available under law to correct the violation(s).

Sec. 38.16.100. – Additional Permit Processing Fee.

Any person who performs any activity requiring a permit under this chapter without first obtaining the required permit shall pay the permit processing fees required for the correction of the violation(s), and any applicable civil penalties and costs, including attorney’s fees, before being granted a permit for the activity.

Sec. 38.16.110. – Reinspection fees.

- A. A reinspection fee shall be imposed on any person who receives a letter of correction, notice of violation, or stop work order requiring a follow-up inspection(s).
 - 1. The fee shall not apply to the original inspection to document the violation(s) or to the first scheduled compliance inspection made after the issuance of the letter of correction, notice of violation, or stop work order; and
 - 2. The fee shall apply to each subsequent inspection or reinspection conducted when the particular violation for which the inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the letter of correction, notice of violation, or stop work order.
- B. The reinspection fee is intended to compensate for the actual cost of providing county inspections or reinspections, and is not a penalty for violating this chapter, any permit issued pursuant to this chapter, or this code.
- C. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this chapter, any permit issued pursuant to this chapter, or this code, or costs incurred by the county for the abatement of a public nuisance.

Article 18. - Glossary.

Sec. 38.18.010. - Purpose.

This article provides definitions of terms and phrases used in this chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this article conflict with definitions in other provisions of this code, these definitions shall control for the purposes of this chapter. If a word is not defined in this article, or in other provisions of this code, the Agricultural Commissioner shall determine the correct definition.

Sec. 38.18.020. - Definitions of specialized terms and phrases.

As used in this chapter, the following terms and phrases shall have the meanings ascribed to them in this section, unless the context in which they are used clearly requires otherwise. The definition of a term or phrase applies to any of that term’s or phrase’s variants. All citations to local, state, or federal law refer to the act, statute, or regulations as may be amended from time to time.

“Agricultural Commissioner” means the Agricultural Commissioner-sealer of the county or his or her authorized representative.

“Agricultural crop” means any cultivated crop grown and harvested for commercial purposes.

“Agricultural production” means raising an agricultural crop or animals for food or fiber.

“Applicant” means a person who is applying for a permit to cultivate commercial cannabis in Sonoma County pursuant to this Chapter.

“Best Management Practice” means program, technology, process, siting criteria, operational method, or engineered system, which when implemented prevents, controls, removes, or reduces pollution or other adverse environmental effects.

“Biotic Resource Assessment” means a report prepared by a professional biologist in compliance with department guidelines to identify and evaluate biotic resources, listed species, and waterbodies present on a site.

“Blue line stream” means a stream that appears as a broken or solid blue line (or a purple line) on a United States Geological Service (USGS) topographical map.

“Building” see "structure."

“Building coverage,” means the percentage of total lot area covered by structures, not including pavement, driveways, uncovered decks less than thirty inches (30") in height, or roof overhangs less than two feet (2') wide.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis is classified as an agricultural product separately from other agricultural crops.

“Cannabis cultivation” means any activity involving the propagation, planting, growing, and harvesting, drying, curing, grading, or trimming of cannabis. Cannabis cultivation does not include retail “nursery use”. Cannabis cultivation includes wholesale “nursery use”. Cannabis cultivation does not include “cannabis dispensary” or “cannabis testing laboratory” uses. Cannabis cultivation

does not include use of any farm stand for temporary or seasonal sales and promotion of cannabis or cannabis products.

“Cannabis cultivation site” means the area(s) designated in the permit materials where cannabis cultivation and activities and ground disturbance for or in support of cannabis cultivation occur. ~~site where commercial cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed or where all or any combination of those activities occurs.~~

“Cannabis dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale.

“Cannabis distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

“Cannabis License” means an active license issued by the State of California, Bureau of Cannabis Control, pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), commencing with California Business and Professions Code section 26000, et seq.

“Cannabis Product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“Cannabis testing laboratory” means a laboratory, facility, or entity in the state of California that offers or performs tests of cannabis or cannabis products.

“Cannabis Transport” means the physical movement of cannabis or cannabis products from one licensed premises to another licensed premises.

“Canopy” means the area(s) identified and authorized by a permit issued pursuant to this chapter, including areas utilized by nurseries, but excluding areas utilized by processors, which will contain mature plants at any point in time, as follows:

- (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
- (2) Canopy may be noncontiguous but each unique canopy area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and
- (3) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

“California Environmental Quality Act (CEQA)” means Public Resources Code section 21000 et seq.

“**Class I Bikeway**” means bike paths or shared use paths, which provide a completely separated right-of-way designated for the exclusive use of bicycles and pedestrians with crossflows by motorists minimized, as defined by California Streets and Highway Code Section 890.4(a).

“**Day care center**” means a day care center as defined by California Health and Safety Code Section 1596.76.

“**Department**” means the Department of Agriculture/Weights & Measures of the county.

“**Department’s Best Management Practices for Commercial Cannabis Cultivation**” means the best management practices adopted or amended by the Agricultural Commissioner pursuant to Section 38.02.060.

“**Dried flower**” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“**Expanded permanent structure**” means an addition or expansion to an existing permanent structure that results in a modification to the building footprint or an expansion of the square footage of the structure.

“**Flowering**” means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.

“**General Plan**” means the Sonoma County General Plan.

“**Greenhouse**” means a permanent structure, including glasshouses, conservatories, hothouses, or other similar rigid structures for indoor or mixed-light propagation and growing of cannabis, constructed with a translucent roof and/or walls.

“**Ground Disturbance**” means any activity that disturbs or compacts the ground.

“**Groundwater Availability Zone**” means an groundwater availability area depicted on Sonoma County’s Groundwater Availability Map maintained by the Permit and Resource Management Department.

“**Hoop House**” means a temporary structure used for season extension or crop protection that is erected for less than 180 days in a twelve month period, less than 12 feet in height, constructed of light frame materials, and covered with shade cloth or clear, flexible plastic that is readily removable. A hoop house may or may not have associated temporary electrical, plumbing, or mechanical equipment.

“**Immature**” means a cannabis plant that has a first true leaf measuring greater than one half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one half inch wide at its widest point (if vegetatively propagated), but which is not flowering.

“Indoor cultivation” means the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.

“Kief” means the resinous trichomes of cannabis that have been separated from the cannabis plant.

“Licensed Premises” means the structure or structures and land covered by an active commercial cannabis license issued by the State of California Bureau of Cannabis Control.

“Licensee” means a person holding a cannabis license.

“Light deprivation” means the use of any technique to eliminate natural light in order to induce flowering.

“MAUCRSA” means “the Medicinal and Adult Use Cannabis Regulation and Safety Act” commencing with section 26000 of the California Business and Professions Code.

“Mature” means a cannabis plant that is flowering.

“Mixed-light cultivation” means cultivation of mature cannabis within a permanent or temporary structure that allows use of natural light, such as a greenhouse, hoop house, glasshouse, conservatory, hothouse, or similar structure, and using a lighting method described by subsection (1) or (2) below:

- (1) Natural light and light deprivation and one of the artificial lighting models listed below:
 - (A) “Mixed-light Tier 1” without the use of artificial light or the use of artificial light at a rate above zero, but no more than six watts per square foot;
 - (B) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot; or
- (2) Natural light and one of the artificial lighting models listed below:
 - (A) “Mixed-light Tier 1” the use of artificial light at a rate above zero, but no more than six watts per square foot;
 - (B) “Mixed-light Tier 2” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

“New permanent structure” means a permanent structure legally constructed on or after January 1, 2021.

“Non-manufactured cannabis product” means flower, shake, leaf, pre-rolls, and kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

“Nonvolatile solvent” means any solvent used in the extraction process that is not a volatile solvent. For purposes of this Chapter, ‘nonvolatile solvents’ include carbon dioxide and ethanol.

“Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

“Nursery use” means production of only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

“Outdoor cultivation” means the cultivation of mature cannabis in the ground or in containers outdoors without the use of artificial lighting or light deprivation in the canopy area at any point in time. Artificial lighting is permissible only to maintain immature plants outside the canopy area.

“Parcel” means legal parcel.

“Permittee” means a person issued a ministerial permit to cultivate commercial cannabis in Sonoma County pursuant this Chapter.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit, and the plural as well as the singular.

“Pre-roll” means any combination of the following rolled in paper: flower, shake, leaf, or kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

“Priority Groundwater Basin” means a medium, high or very high priority groundwater basin, as identified by the California Department of Water Resources in California’s Groundwater (Bulletin 118), or other groundwater basin for which a Groundwater Sustainability Agency has formed.

“Process,” “Processing,” and “Processes” means all post-harvest activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.

“Processor” means a person who processes.

“Propagation” means the act or process of creating new plants through sexual or asexual reproductive methods.

“Propagative plant material” means live plants, seeds, seedlings, clones, cuttings, transplants, or other propagules used to establish plants for planting.

“Public park” means any recreation or playground area or facility, that is open and accessible to the public, with or without a fee, whether or not such area or facility is formally dedicated to such purpose.

“Recycled water supplier” means a recycled water supplier as defined by California Water Code Section 13575.

“Retail water supplier” means a retail water supplier as defined by California Water Code Section 13575.

~~“Site” means all or part(s) of a parcel where commercial cannabis cultivation is permitted.~~

“Slope” means an inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance (e.g., 2:1) or as a percentage (e.g., 50 percent). Slope shall be calculated using a method acceptable to the Agricultural Commissioner.

“State CEQA Guidelines” means California Code of Regulations, title 14, section 15000 et seq.

“Structure” means anything constructed or erected, the use of which requires location on the ground attachment to something having location on the ground. (Cross-reference: Section 26-02-140.)

“Tree” means a woody perennial plant, typically large with a well-defined stem carrying a definite crown, with a minimum diameter at breast height of five inches, and a minimum height of 15 feet. “Tree” does not mean a fruit- or nut-bearing tree.

“Tribe” means a California Native American tribe that is on the contact list maintained by the Native American Heritage Commission.

“Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

“Watts per square foot” means the sum of the maximum wattage of all artificial lights identified by an applicant in its permit application for use in a unique canopy area divided by the sum of the dimensions in square feet of the unique canopy area.

DRAFT
PROPOSED AMENDMENTS
TO AGRICULTURAL RESOURCES ELEMENT
OF THE
SONOMA COUNTY GENERAL PLAN

Proposed Amendments to Agricultural Resource Element to clarify that the meaning of “agriculture,” as used in the Sonoma County General Plan, includes cannabis.

See current definition of “agriculture” in the General Plan in the Glossary published online: <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/General-Plan/Glossary/>

See full Agricultural Resource Element published online: <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/General-Plan/Agricultural-Resources/>

* * * *

AGRICULTURAL RESOURCES ELEMENT

1. INTRODUCTION

1.1 PURPOSE

To acknowledge the importance of agricultural production in and to Sonoma County, an Agricultural Resources Element was added to the General Plan in 1989. The policies in this element have the same legal status as those in any State mandated element.

The Agricultural Resources Element defines agriculture as an industry which produces and processes food, fiber, plant materials, including cannabis, –and which includes the raising and maintaining of farm animals including horses, donkeys, mules, and similar livestock. The purpose of the element is to establish policies to insure the stability and productivity of the County's agricultural lands and industries. The element is intended to provide clear guidelines for decisions in agricultural areas. It is also intended to express policies, programs and measures that promote and protect the current and future needs of the agricultural industry. If future technology, and/or enterprises, of the agriculture industry require alternative and yet unforeseen policies and implementation mechanisms, those should be consistent with the County's commitment to encourage the maintenance of a healthy agriculture sector of the County's economy.

* * * *

GOAL AR-4:

Allow farmers to manage their operations in an efficient, economic manner with minimal conflict with nonagricultural uses.*

Objective AR-4.1:

Apply agricultural land use categories only to areas or parcels capable of the commercial production of food, fiber and plant material, including cannabis, or the raising and maintaining of farm animals including horses, donkeys, mules, and similar livestock. Establish agricultural production as the highest priority use in these areas or parcels. The following policies are intended to apply primarily to lands designated within agricultural land use categories.

* * * *

Policy AR-5g: Local concentrations of any separate agricultural support uses, including processing, storage, bottling, canning and packaging, agricultural support services, and visitor-serving and recreational uses as provided in Policy AR-6f, even if related to surrounding agricultural activities, are detrimental to the primary use of the land for the production of food, fiber and plant materials, including cannabis, and shall be avoided. In determining whether or not the approval of such uses would constitute a detrimental concentration of such uses, consider all the following factors:

- (1) Whether the above uses would result in joint road access conflicts, or in traffic levels that exceed the Circulation and Transit Element's objectives for level of service on a site specific and cumulative basis.
- (2) Whether the above uses would draw water from the same aquifer and be located within the zone of influence of area wells.
- (3) Whether the above uses would be detrimental to the rural character of the area.

In cases where the proposed processing use would process only products grown on site, such use would not be subject to this concentration policy.*

* * * *

Policy AR-6f: Local concentrations of visitor serving and recreational uses, and agricultural support uses as defined in Goal AR-5, even if related to surrounding agricultural activities, are detrimental to the primary use of the land for the production of food, fiber and plant materials, including cannabis, and may constitute grounds for denial of such uses. In determining whether or not the approval of such uses would constitute a detrimental concentration of such uses, consider all the following factors:

- (1) Whether the above uses would result in joint road access conflicts, or in traffic levels that exceed the Circulation and Transit Element's objectives for level of service on a site specific and cumulative basis.
- (2) Whether the above uses would draw water from the same aquifer and be located within the zone of influence of area wells.
- (3) Whether the above uses would be detrimental to the rural character of the area.*