

Sonoma County Planning Commission Hearing

March 18, 2021

SONOMA COUNTY ADMINISTRATOR'S OFFICE
DEPARTMENT OF AGRICULTURE/WEIGHTS & MEASURES
PERMIT SONOMA

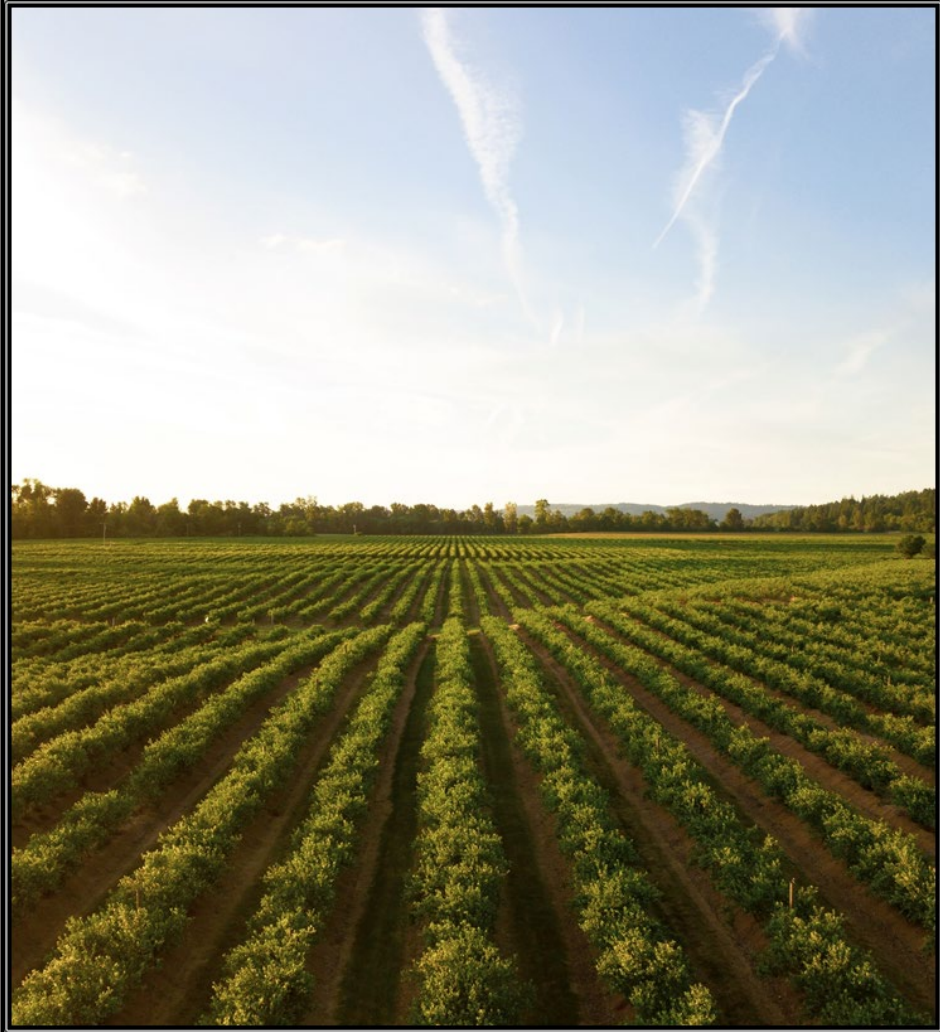


SONOMA COUNTY CANNABIS





*Nobody has the ability
to make things
perfect,
but we all are given
chances to make
it better*



Consideration of amendments to the County Code, Chapter 26 and new Chapter 38, to allow expanded ministerial permitting of commercial cannabis cultivation in agricultural and resource zoned areas.

Consideration of a General Plan Amendment is proposed to revise the Agricultural Resources Element to explicitly recognize cannabis cultivation as an agricultural use.



The Form of Today's Presentation

- This iteration looks different
- How did we get here?
- Why the changes?
- Look and feel of the proposed changes
- Constraints



The Flow of Today's Presentation

- Summary
- Background
- Ordinance Implementation
- Project Description
 - Why a GPA
 - CEQA
- Overview of Changes
- Feedback



Summary: What was the Direction?

Under Board Ad-Hoc guidance County staff propose to amend the Zoning Code to accomplish the following goals:

- 1. Streamline Permitting:** provide for more ministerial permitting of cultivation using objective standards.
- 2. Restructure Responsibility:** All ministerial permits for cannabis cultivation in agricultural and resource zones issued by the AWM, Building permits, like use permits, would continue to be issued by Permit Sonoma



Background: State Law

- October 2015: Medical Cannabis Regulation and Safety Act (Medical Cannabis Act) enacted
- November 2016: California voters pass Adult Use of Marijuana Act (Adult Use Cannabis Act) legalizing non-medical adult use cannabis.
- June 2017: SB 94 consolidates regulations in Medical Cannabis Act and Adult Use Cannabis Act into Medicinal and Adult-Use Cannabis Regulation and Safety Act (Cannabis Act).
- November 2017: Three state cannabis licensing authorities issue comprehensive emergency regulations creating current cannabis regulatory structure.



Background:

Sonoma County Cannabis Ordinance

- 2016: Board of Supervisors directs staff to develop comprehensive cannabis ordinance, Cannabis Ad Hoc committee formed by Board of Supervisors, and Cannabis Ad Hoc committee and staff conduct community outreach.
- November 2016: Planning Commission makes recommendations based on public comment, staff work, and Board direction.
- December 2016: Board holds series of workshops and public hearings to consider proposed policy.
- December 20, 2016: Board considers Planning Commission's November, 2016 recommendation and adopts comprehensive local program to permit and regulate cannabis.



Ordinance Implementation

- July, 2017 County Departments begin accepting applications for supply chain activities
- April, 2018: Board conducts Ordinance scoping session and resolves to amend ordinance
- December, 2019: Board approves direction for staff to implement certain changes related to cannabis program and its management
- May 2020: County Administrator's Office collaborates with Agricultural Commissioner (AWM) and Permit Sonoma to began drafting Ordinance update
- January 2021: County staff released preliminary working drafts of proposed ordinance language and Subsequent Mitigated Negative Declaration



Project Description

- **What is the main change?**

- Expands ministerial permitting for cultivation, retaining discretionary use permit options

- **Why the change?**

- To promote agricultural diversity
- To promote a sustainable local economy
- To provide certainty
- To protect the public health, safety, welfare, and the environment



Why a General Plan Amendment?

- Agricultural alignment recognizes cannabis cultivation is consistent with County agricultural sector activities.
- Regulation of this activity over time has increased understanding of cultivation.
- Staff finds that Cannabis cultivation activity is more akin to traditional agricultural activity than not.
- Cannabis most closely resembles annual row crop production, cut flower, and nursery operations.



The CEQA Process

- Initial Study and Mitigated Negative Declaration were prepared to evaluate impacts proposed updated ordinance and general plan amendment
- Several study areas were identified for potential impacts if not mitigated
- Proposed mitigation measures would reduce anticipated impacts to a less than significant level

December 2019 Update: Cannabis Ad Hoc Recommendations

On December 17, 2019, the Board of Supervisors received an update on the Cannabis Ad Hoc Committee and accepted recommendations for program improvements.

The Board of Supervisors approved recommendations for staff to explore changes in the following areas: penalty relief program, cultivation, and the timeline for these recommendations. These changes include an assessment of penalty relief applications, permitting process improvements, code enforcement, and updates to the ordinance toward ministerial permitting.

Staff will begin work on the following items:

- Complete an assessment of each penalty relief project application and establish a path to resolution
- Schedule projects identified for original jurisdiction for hearing at future Board of Supervisors meetings (30 day notification)
- Investigate amending the Cannabis Land Use Ordinance to that cannabis cultivation may be allowed with a ministerial permit issued by the Department of Agriculture / Weights & Measures (AWM), while associated building permits would continue to be issued by Permit Sonoma; and including amendments that would streamline the permitting process
- Transition code enforcement of regulated market from Permit Sonoma to AWM
- Shift priorities from a countywide environmental impact review toward changes that do not require that level of environmental review
- Develop a business plan and timeline for program improvements and transition of responsibilities

Please note: Amendments to the Cannabis Land Use Ordinance will proceed through a public hearing process, with opportunities for public input. The Board of Supervisors will also review the business plan and timeline.



Discussion of Proposed Changes

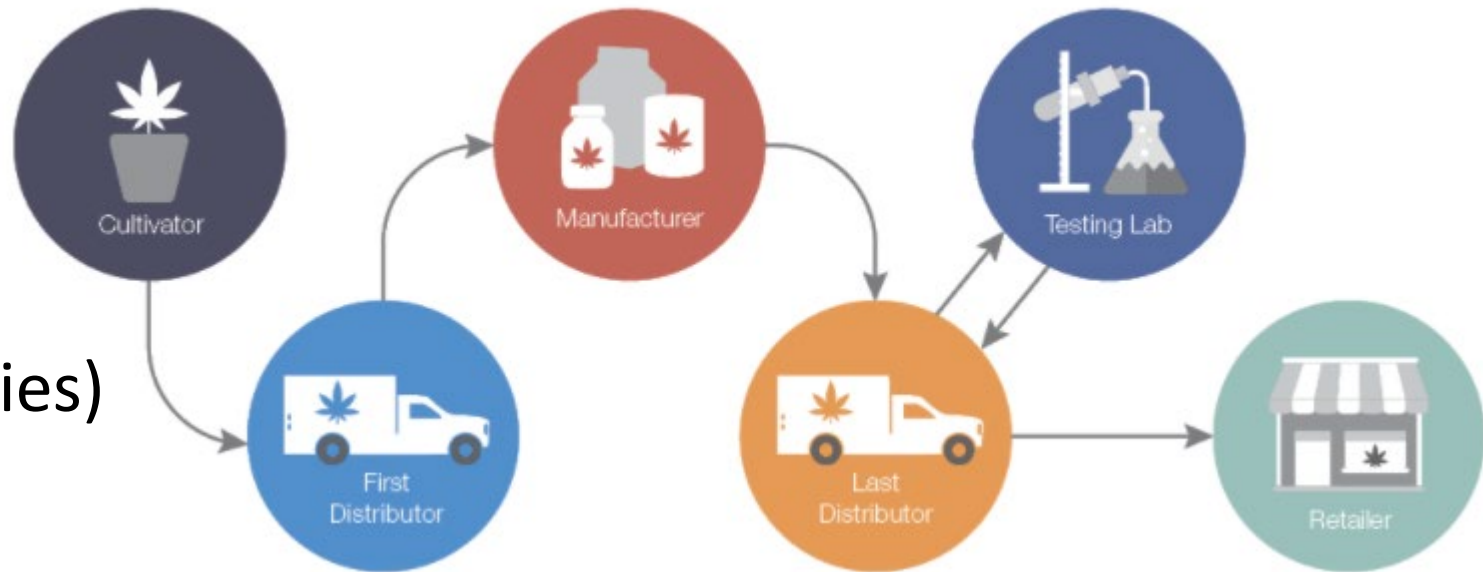
Proposed policy update involves three components:

1. **General Plan Amendment** to recognize the definition of “agriculture” includes “cannabis”
2. **New Chapter 38** to the County Code governing ministerial land use permits for cannabis cultivation in agricultural and resource zoned areas
3. **Revisions to Chapter 26** of the County Code to align with new Chapter 38



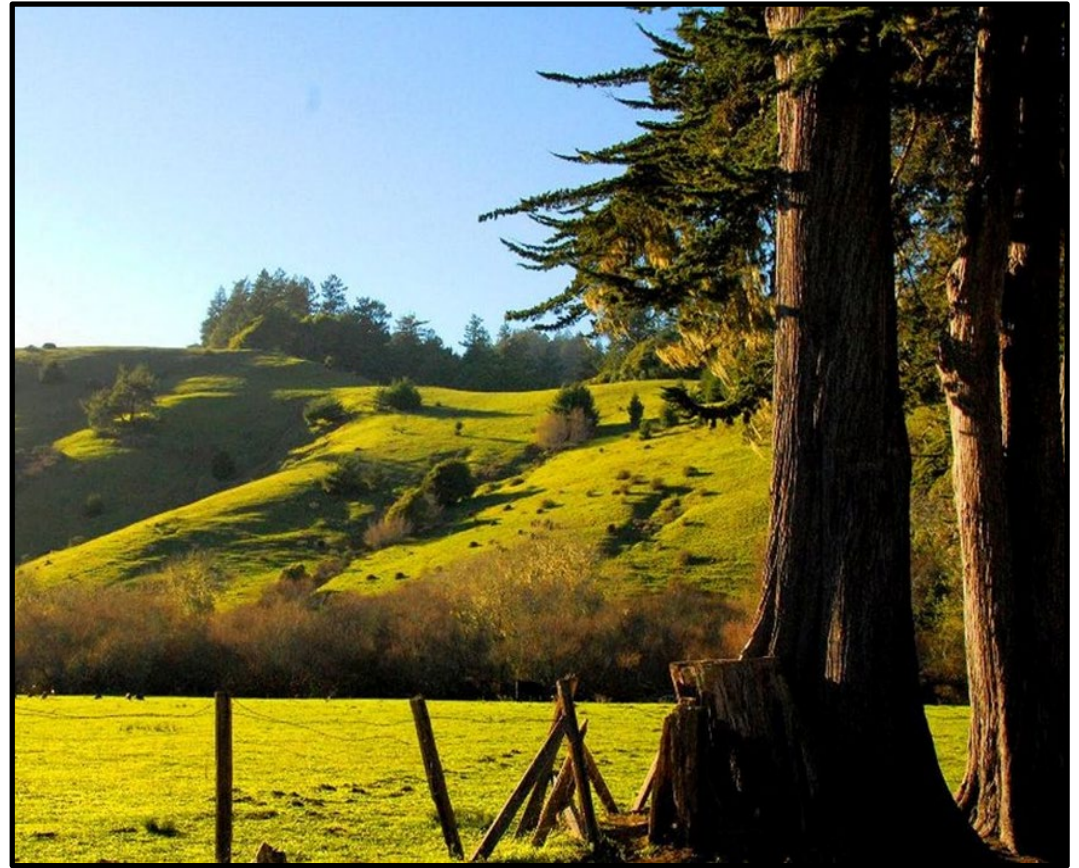
The Supply Chain

- Cultivation (outdoor, indoor, mixed light, nursery)
- Manufacturing (concentrates, edibles, lotions, etc.)
- Transport
- Distribution
- Testing
- Retail (dispensaries)



Highlights of Proposed Chapter 38

- Several Sections with minimal changes
- Three sections with moderate changes
- Five sections with substantial changes



Minimal or No Changes



- No change to minimum lot size
- Biotic Resources: clarification but no change to standard
- Riparian Corridor setbacks remain
- No change to prohibition on timberland conversion
- Clarification, but no change to farmland protection
- Addition of protections for trees based on size
- Slope: Addition of ridgetop protections
- Odor: prevent offsite detection
- Stormwater/Runoff: erosion and sediment control plan required





Moderate Changes

1. Cultural and Historic Resources
2. Fire Prevention
3. Design and Security



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Moderate Changes:

1. Cultural and Historic Resources

- Cultural resource survey always required for ground disturbance activities
- Historic resource survey required when 45+ year old structure involved
- Accidental discovery provisions expanded to include cultural resources



Moderate Changes:

2. Fire Prevention



- Clarifies requirements for fire prevention plan to show compliance with Chapters 13 and 13A, and all other applicable local and state standards
- Adds provision regulating use of hazardous materials



Moderate Changes:

3. Design and Security

- Establishment of objective ministerial design standards to ensure structures conform to the natural and agricultural setting
- Required security plan unchanged except motion sensor lighting not required
- Screening: fencing is only required to screen outdoor and hoop house cultivation





Substantial Changes

1. Canopy and Structure Limitations
2. Setbacks – Sensitive Uses
3. Water Use
4. Operating Requirements
5. Allowable Activities



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Substantial Changes:

1. Canopy and Structure Limitations

- Maximum outdoor cultivation area per parcel adjusted from 1 acre to 10% of the parcel
- Cultivation in temporary structures, like hoop houses, is classified as outdoor canopy area calculation
- New buildings are those legally constructed after January 1, 2021



Substantial Changes:

1. Canopy and Structure Limitations (cont'd)

- Indoor canopy limitations:
 - 43,560 sq ft (1 acre) limit on use of new or expanded permanent structures, like greenhouses, for cannabis cultivation, for parcels between 10 and 20 acres in size
 - 50% of maximum lot coverage limit on use of new or expanded structures for parcels over 20 acres
 - No limit on use of existing structures for cannabis



Substantial Changes:

2. Setbacks – Sensitive Uses

- Setback from sensitive use to be measured from sensitive use's property line to the boundary of the outdoor cultivation area
- Definition of certain sensitive uses clarified:
 - Class I bikeway
 - Parks
 - Daycare centers



Substantial Changes:

2a. Setbacks by Cultivation Type

- Outdoor and Hoophouses
 - 100 ft from property line of parcel on which cultivation is located
 - 300 ft from residences and business structures on other parcels
 - 1,000 ft from property line of a parcel with a sensitive use
- Indoor and Permanent ML
 - Permanent greenhouses and indoor will utilize base zoning setbacks



Substantial Changes:

3. Water Use

- Onsite water supply must be adequate and sustainable
- Can be satisfied via retail, recycled, surface, or groundwater
- Use of trucked water only during declared emergency when other supplies not adequate
- Groundwater monitoring required in alignment with state and local regulations



Substantial Changes:

3a. Water Use

- Groundwater protections
 - Net zero water plan
 - Not located in priority groundwater basin unless compliance with certain criteria
- Groundwater monitoring
 - Grant of access for well monitoring required but not recorded



Substantial Changes:

3b. Water Use (cont'd)

- Additional protections
 - When well is within 500 ft of a blue-line stream
 - Protection against well interference
 - Addition of standards governing minimum yield for groundwater



Substantial Changes:

4. Operating Requirements

- Permit term increasing from 1 year to 5 years with annual review and inspections



Substantial Changes:

5. Allowable Activities

- Self-distribution allowed under cultivation
- Allows propagation and vegetative production to serve onsite needs
- Multiple tenants may operate under one permit
- Cannabis-related events and activities not specifically prohibited
- 1 acre per person cap removed
- No distinction between medical and adult use cannabis businesses



Chapter 26 changes

- Are focused in sections 26-88-250 through 26-88-254 (portions relating to cultivation)
- Added and revised definitions
- Written permissions
- Inspection provisions
- Land Use Table changes to identify zoning for ministerial permitting
- Multiple permit distinctions and total canopy cover per lot
- Raised bar to be no less restrictive than Ch. 38
- Aligned existing standards in Ch. 26 with new standards found in Ch. 38



Amendments to Chapter 26

- Section 26-02-140: Amend definition of “agricultural crop” to delete exception for “cannabis or other controlled substances,... which shall be defined and classified separately.” This change will bring code in line with the proposed general plan amendment.
- Section 26-02-140: Amend definition of “crop production” to delete exception for “cannabis or other controlled substances, which shall be defined and classified separately.” This change will bring code in line with the proposed general plan amendment.
- Section 26-02-140: Amend definition of “farm stand” to prohibit cannabis. The definition already excludes sale of alcoholic products. This will bring Ch. 26 into alignment with proposed Ch. 38, which would disallow farm stands for cannabis sales at cultivation sites.
- Section 26-88-254(f)(8): Amend to add “Class I Bikeway” as a sensitive use from which cannabis cultivation would be set back 1000 feet. The proposed draft already includes addition of a definition of Class I Bikeway. This correction aligns Ch. 26 with Ch. 38 which includes Class I Bikeways as a sensitive use.



Proposed New Chapter 38

- Section **38-12-040** (mislabeled **36-12-040** in the public draft document) – Correct section C. regarding measurement of setback distances to reflect that setback is not to be measured property line to property line, but rather shall be measured from the nearest point of the cannabis cultivation area to the nearest point of the property line of the enumerated (sensitive) use using a direct straight-line measurement.
- Section 38-12.050 – Correct section D by adding a provision to address inadvertent discovery of paleontological resources, to align with current requirement in Chapter 26.



Recommendations

Recommend to the Board of Supervisors:

- Approve the proposed General Plan Amendment
- Changes to Chapter 26 of the Zoning Code
- Creation of Chapter 38 to govern ministerial permitting of cannabis cultivation in Ag and Resource zones





“Continuous improvement is better than delayed perfection” Mark Twain

Thank You

*Public comments
and feedback may
be directed to the
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may be mailed in*

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