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OFFICIAL RECORDS
Katrina Bartolomie - Clerk-Recorder
Mendocino County, CA

# Notice of Determination

**To:**
☒ Office of Planning and Research
*U.S. Mail:* PO Box 3044, Sacramento, CA 95812-3044
*Street Address:* 1400 Tenth St., Rm 113, Sacramento, CA 95812

☒ County Clerk:
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482

**From:**
Mendocino County Planning & Building
860 North Bush Street
Ukiah, CA 95482
Contact: JESSE DAVIS
Phone: 707-234-6650

Lead Agency (if different from above):
_____
Address: _____
_____
Contact: _____
Phone: _____

***SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resource Code.***

State Clearinghouse Number (if submitted to State Clearinghouse): 2016112028

Project Title: County of Mendocino – Mendocino Cannabis Cultivation Regulation

Project Applicant: County of Mendocino

Project Location (include county): County of Mendocino – Inland Areas

Project Description: Amendments to Mendocino County Code Chapter 10A.17 – Mendocino Cannabis Cultivation Ordinance, and Chapter 20.242 – Cannabis Cultivation Sites. Multiple changes are proposed, including transferability of permits, reducing the minimum parcel size for nurseries from 10 to 5 acres, extending the phaseout of generators, providing for a limited extension of the Phase One Sunset Provision for Residential Districts, modifying the types of permits that may be applied for during Phase Two, and postponing the start of Phase Three until July 1, 2020.

This is to advise that the County of Mendocino (Lead Agency) has approved the above described project on October 1, 2019, adopted an addendum to the adopted Mitigated Negative Declaration and made the following determinations regarding the above described project.

1. The project [☐will ☒will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
   ☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative declaration is available to the General Public at: www.mendocinocounty.org/pbs, 860 N. Bush Street, Ukiah CA 95482, and 120 W. Fir Street Ft. Bragg, CA 95437.

Signature (Public Agency): [signature] Title: Senior Planner

Date: 10-04-2019 Date Received for filing at OPR: _____

POSTED FROM 10/4/19 TO 11/6/19

# ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION

***FOR***

MENDOCINO COUNTY

MENDOCINO CANNABIS CULTIVATION REGULATION

***SCH NO. 2016112028***

***DRAFT***

Date: June 29, 2019

**Modified Project Description and Project History**

The Mendocino County Board of Supervisors (County) adopted a Mitigated Negative Declaration (MND) (SCH# 2016112028) for Ordinance No. 4381, known as the Medical Cannabis Cultivation Regulations, which added Chapters 10A.17 and 20.242 to the Mendocino County Code, on March 21, 2017. Since that time, the County has approved multiple modifications for minor changes, including one change that renamed the project title to the Mendocino Cannabis Cultivation Regulations. Previous modifications have had separate addenda filed under the previous and current title.

The current project involves modifications to the previously adopted ordinance, including several procedural or administrative changes to Chapters 10A.17 and 20.242 per direction of the 2018 and 2019 Cannabis Ad Hoc Committees. Specific changes include the following:

- Omitting the general limitation that previously prohibited the cultivation of cannabis in any location where the cannabis plants are visible from the public right of way or publicly traveled public roads;
- Amending the minimum legal parcel size for a Type 4 (Nursery) Permit from ten (10) acres to a minimum of five (5) acres (excluding industrial zoning districts);
- Modifying the requirements related to the use of generators; specifically, extending the timeframe of when the permittee must install an alternative power source to meet at least one-half (½) of the combined power requirements from the date of initial application (from twelve (12) months to four (4) years), and to require the cultivator commit, at the time of re-issuance of the permit, to expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit (from the end of the second permitted year to within two years of the renewal at the end of the 4 year period);
- Allowing for permits to be transferred to another person, subject to specific requirements, which were previously generally non-transferable under the ordinance;
- Amending which permit types (adding Type C-B, 1B, and 2B Permits for mixed-light cultivation) will be accepted beginning on January 1, 2018, under Phase Two in the Limited Industrial (I-1), General Industrial (I-2), and Pinoleville Industrial (P-I) zoning districts;
- Amending the start date of Phase Three from January 1, 2020, to July 1, 2020; and
- Revising the sunset provision for residential districts, to include additional allowances related to indoor cultivation sites (Types C-A, 1A or 2A) within two (2) miles of the Coastal Zone Boundary which, as of May 14, 2019, have been issued a Permit (and issued any required permit pursuant to Chapter 20.242) or have applied for a Permit and are under Permit review (and applied for and are under review for any permit required pursuant to Chapter 20.242). For such parcels, the sunset period will be extended by two years, until June 30, 2022, subject to the modification of the existing administrative or use permit for the indoor cultivation site.

These changes do not substantially change the project description, discussion of environmental impacts or the adopted mitigation measures, and could not reasonably have a significant impact on the environment.

**Purpose**

Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously adopted Negative Declaration (ND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent ND have occurred. Section 15162 states that when an ND has been adopted for a project, no subsequent ND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

*1. Substantial changes are proposed in the project which require major revisions of the previous ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*

*2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*

*3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous ND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous ND; B) significant effect previously examined will be substantially more severe than shown in the previous ND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous ND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

No substantial changes are proposed which would require major revisions to the previously approved Mitigated Negative Declaration. None of the proposed changes to the project will increase the severity of previously identified significant effects. The proposed changes will not result in a new environmental effect.

No additional mitigation is required. The proposed changes do not affect the effectiveness of the mitigation measures as there will be no additional environmental impacts associated with the changes.

**Explanation of Decision Not to Prepare a Supplemental Mitigated Negative Declaration**

See Purpose section above. In every impact category analyzed in this review, the projected consequences of the proposed ordinance changes are either the same or less than significantly increased compared to the project for which the Mitigated Negative Declaration was adopted. Based upon this review, the following findings are supported:

**Findings**

1. For the modified project there are no substantial changes proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No new significant effects or increase of severity of effects are anticipated.

Omitting the general limitation that previously prohibited the cultivation of cannabis in any location where the cannabis plants are visible from the public right of way or publicly traveled public roads will not change the anticipated environmental impacts. Under the original wording of the Chapter 10A.17 cannabis plants were not to be visible from a public road however the MND acknowledged that other cannabis infrastructure such as new structures, fencing, and grading may be visible. Allowing for plants to be visible consistent with other related infrastructure is not incompatible with rural residential or agricultural uses and does not present a new unique aesthetic impact. In addition, any existing or proposed cultivation would be required to follow all applicable laws and regulations, including the provisions of Chapters 10A.17 and 20.242 of the Mendocino County Code, thereby alleviating any potential impacts.

Amending the minimum legal parcel size for a Type 4 (Nursery) Permit from ten (10) acres to a minimum of five (5) acres (excluding industrial zoning districts) does not present new significant effects, as the existing or proposed nursery would continue to be required to comply with all applicable laws and regulations, including the provisions of Chapters 10A.17 and 20.242 of the Mendocino County Code. The MND did not rely on the ten (10) acre minimum to reduce any environmental effect.

Within the MND the use of generators was noted as a contributor to air quality impacts, and wildfire hazards, as well as a source of increased ambient noise and hazardous materials at cultivation sites. Phasing out the use of generators as the primary source of power was documented in the MND as a performance standard that reduced baseline impacts in these areas. Modifying the requirements related to the use of generators, limited to extending the timeframe of when the permittee must install an alternative power source to meet at least one-half (½) of the combined power requirements (from twelve (12) months to four (4) years) and fully meet the combined needs of the cultivation operations and any required legal dwelling unit (from the end of the second permitted year to within two years of the renewal at the end of the 4 year period), does not present new significant effects. The change does not constitute a significant time increase, as the ordinance already allowed a cultivator at least up to 3 years for a cultivator to meet the alternative power source requirement, and an alternative power source would still be required. Although the analysis in the MND did rely on phasing out the generators, a specific timeframe was not the crucial factor in determining level of significance. Even with a delay in the phasing out of generators, there are additional requirements in the Ordinance that regulate their placement and how hazardous materials are handled that decrease impacts associated with their use. Therefore, no new potential impacts are anticipated.

Allowing for permits to be transferred to another person, subject to specific requirements, which were previously non-transferable under the ordinance (except in certain circumstances), would not present new significant effects. The MND did not rely on the existing language to reduce any environmental effects. Allowance for broader transferability would result in the continuation of the existing use, but such use and any future modifications would be subject to the terms and conditions of the Permit and all applicable laws and regulations. Therefore, no new potential impacts are anticipated.

The addition of Permit Types C-B, 1B, and 2B for mixed-light cultivation to the permit types that will be accepted beginning on January 1, 2018, under Phase Two would not present new significant effects, as the cultivation would require compliance with all applicable laws and regulations, including the provisions of Chapters 10A.17 and 20.242 of the Mendocino County Code. In addition, the development of new cultivation sites within industrial zoning districts during Phase Two would be largely similar to the size and intensity of other manufacturing uses allowed in these districts.

Amending the start date of Phase Three from January 1, 2020, to July 1, 2020, would not present new significant effects, as only the start date would change and all other provisions would still be required.

Revising the sunset provision for residential districts would not present new significant effects. Only indoor cultivation sites (Types C-A, 1A, or 2A), within two miles of the Coastal Zone boundary and that have been issued a Permit (and issued any required permit pursuant to Chapter 20.242) or have applied for a Permit and are under Permit review (and applied for and are under review for any permit required pursuant to Chapter 20.242) as of May 14, 2019, may be issued and/or renew the Permit until June 30, 2022, subject to the modification of the existing administrative or use permit for the indoor cultivation site. The existing provision, including the expiration date of three (3) years following the effective date of the Medical Cannabis Cultivation Regulations, would continue to apply to all other permits within the residential districts. Sunset provisions were adopted to address community compatibility concerns raised during the public hearing process. The sunset provisions were not relied upon to reduce any environmental impacts identified in the MND. Any sites permitted in these areas are still required to adhere to the provisions of Chapters 10A.17 and 20.242 of the Mendocino County Code. The change does not result in new or unanticipated impacts.

2. For the modified project no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

   Based on the discussion in Finding 1, above, no new significant environmental effects resulting from the proposed ordinance amendment are anticipated. Further, there are no changes in circumstances or new information that would otherwise warrant any subsequent environmental review under Public Resources Code section 21166 or CEQA Guidelines section 15162.

3. For the modified project there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

   There has been no new information of substantial importance which was not known and could not have been known at the time the previous MND was complete. The baseline conditions describing the overall impacts of existing cannabis cultivation remain the same.

4. The proposed changes do not constitute a change in the level of significance previously discussed in the original MND. As such, it is concluded that: the current project will not have one or more significant effects not discussed in the previous MND. Furthermore, significant effects previously examined will not be substantially more severe than shown in the previous MND. There are no mitigation measures or alternatives previously found not to be feasible that would in fact be feasible and would substantially reduce one or more significant effects of the project.

   As described above, the proposed changes do not involve changes to, or analysis of any mitigation measures. No new potential impacts have been identified requiring new mitigation measures to be developed.

5. Finally, there are no mitigation measures or alternatives identified in this analysis which are considerably different from those analyzed in the previous MND, and which would substantially reduce one or more significant effects on the environment.

   The proposed amendments do not involve changes to, or analysis of any mitigation measures.

**Conclusion**

Based on these findings it is concluded that an Addendum to the adopted Mitigated Negative Declaration is appropriate to address the requirements under CEQA for the proposed ordinance changes.