County of Sonoma
Permit & Resource Management Department

Programmatic Cannabis Program Update
Frequently Asked Questions
July 9, 2024

General Plan Amendment

Cannabis classified as "controlled agriculture."

Under the proposed General Plan amendment, cannabis would be reclassified as "controlled agriculture." An agricultural crop can be grown for many different purposes and does not have to be a food crop to be classified as agriculture. The General Plan Agricultural Resources Element defines agriculture, "as an industry which produces and processes food, fiber, plant materials and which includes the raising and maintaining of farm animals including horses, donkeys, mules and similar livestock."

Currently, cannabis cultivation and associated uses are treated as commercial uses under the General Plan. Within the zoning code cannabis is further defined as an agricultural product separately from other agricultural crops, therefore existing policies for agriculture and agriculture related activities do not directly apply to cannabis. However, with the permitting and regulation of cannabis, the County finds that cannabis production has many similarities to traditional agricultural production and for those reasons cannabis production is generally compatible with the General Plan policies of the Agricultural Resources Element.

The proposed General Plan Amendment would redefine cannabis as "controlled" agriculture, which would be a subset of agriculture. The majority of policies related to agriculture in the General Plan would apply equally to cannabis uses. However, the "controlled" designation would recognize that cannabis remains classified as a controlled substance under the Controlled Substances Act, and therefore it is appropriate to subject cannabis to certain additional regulations and limitations compared to other agricultural uses.

Applicability of the Agricultural Resources Element.

The policies and objectives in the Agricultural Resources Element of the General Plan apply only to the three agricultural land use categories which include Land Extensive Agriculture (LEA), Land Intensive Agriculture (LIA) and Diverse Agriculture (DA). The Resources and Rural Development (RRD) land use category is not an agricultural designation.

The Resources and Rural Development land use category and corresponding zoning district are applied to protect land for resource management, while also accommodating agricultural production activities and low-density residential development. Policies and objectives which apply to the Resources and Rural Development Land Use Designation can primarily be found in the Natural Resource section of the Land Use Element and the Open Space and Resource Conservation Element of the General Plan.

Cannabis License

Tracking & Local Authorization.

The addition of Chapter 4, Cannabis License provides the County with a mechanism for registering cannabis businesses. A Cannabis License would allow the County to track cannabis uses and provide local authorization to the State Department of Cannabis Control when operators apply for a state cannabis license. Because the proposed land use ordinance would remove term limits and allow cannabis uses by right in the Industrial and Commercial zoning districts, information on which cannabis businesses were operating in the County may not be known without a cannabis license. Further, Chapter 4 provides for monitoring and inspection to ensure cannabis land uses operate in compliance with all applicable laws and regulations, to protect the regulated industry from competing illicit market operations, and to maintain the public health, safety, and welfare of each community and the county as a whole. Exhibit B, Chapter 4, Cannabis License, is not being republished at this time, to allow staff additional time to consider potential revisions.

Sonoma County Code Amendments

Organization of the new cannabis ordinance.

Exhibits A and A1 would modify the language of the General Plan Agricultural Resources Element.

The following exhibits would be codified (incorporated into the Sonoma County Code). Within the exhibits, red underline = new text, darker red underline text = new text as of the July 1st publication and strikethrough = removed text. = removed text.

- Exhibit B: Chapter 4, Cannabis License Ordinance
- Exhibit C: Article 04, Section 26-04-020, Definitions
- Exhibit D-1: Cannabis Land Use Table
- Exhibit D-2: Article 18. Section 26-18-020 – Ag Crop Production & Cultivation
- Exhibit D-3: Article 18. Section 26-18-115 – Cannabis Cultivation
- Exhibit D-4: Article 18. Section 26-18-270 – Cannabis Events
- Exhibit D-5: Article 20. Industrial Manufacturing and Processing Use Standards
- Exhibit D-6: Article 22. Section 26-22-120 – Periodic Special Events
- Exhibit D-7: Article 26. Retail Use Standards

Exhibits which will not be codified.

- Exhibit E is not a part of the proposed Ordinance and would not become part of county code. Exhibit E is a comparison table of the existing code versus the proposed Ordinance and has been included to aid in understanding of the proposed changes for the public.
- Exhibit F provides potential policy options for a pipeline provision for all approved uses, whether operating or not, and all land use applications currently in the permitting process. A pipeline provision is generally a paragraph within the adopting zoning ordinance that is not codified (i.e., displayed in the county code) because it only applies to a discrete number of applications and permits for a short period of time.

Elimination of term limits.

Cannabis land use permits would no longer be term-limited. Cannabis land use permits would run with the land and could be used by subsequent businesses.

Definitions.

Some of the County's proposed cannabis-related definitions mirror the definitions in the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) (Bus. & Prof. Code Section 26000 et seq.) and related regulations (14 CCR 15000 et seq.) while others differ. The State Department of Cannabis Control (DCC) has a different regulatory focus than the County. The County regulates the overall land use, i.e., where it is appropriate to locate specific land uses, and when it is appropriate to require discretionary review of the land use. Whereas the state regulates the details of how cannabis and cannabis products are produced, packaged, labeled, and sold.

The proposed ordinance uses simpler definitions and use classifications where adequate to address the land use and environmental effects of the use. Using cannabis cultivation as an example, the DCC has 17 different license types for cannabis cultivation, based on the method of production and lighting used (i.e., outdoor, indoor, mixed light, nursery, processor), and the number of plants grown or size of the canopy area (specialty cottage, specialty, small, medium, large). Whereas the proposed County Ordinance would only differentiate cannabis cultivation by whether the cultivation takes place outdoors or within a structure with a maximum canopy allowance based on parcel size. Permit review will look at the impacts of the specific proposal (e.g., number of employees and truck trips, amount of water used, etc.) and so there is no added value to, for example, separating permit types by size classifications or mixed-light wattage distinctions.

Copying state law definitions is less desirable because they change over time and are not controlled by the County. Item 6 of the Cannabis Program Update Framework consider administrative adaptability as the industry, environment, and state and federal regulations will continue to evolve over time. The proposal seeks to ensure that County definitions can remain consistent and do not conflict with changing DCC definitions and license types. The proposed ordinance definitions are intended to be broad and inclusive to ensure that County definitions do not preclude any DCC license types while also allowing flexibility to adapt to any future changes to state regulations.

License types.

The current ordinance proposal would allow all license types currently allowed by the Department of Cannabis Control (DCC) and also incorporates flexibility to allow future license types that are similar in use and impact to those currently established. By allowing all license types, the ordinance proposes uses that are currently prohibited in the County, such as consumption lounges, events, and volatile manufacturing.

Permit Processing.

Discretionary vs Ministerial.

Article 4 of the Sonoma County Zoning Code defines discretionary actions as the following, *"Action by the county by which individual judgement is used as a basis to approve or deny an application."* Ministerial actions are defined as, "*A governmental decision involving little or no personal judgment by the decision maker as to the wisdom or manner of carrying out a project. The decision maker merely applies the law to the facts as presented but uses no special discretion or judgement in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the decision maker cannot use personal, subjective judgement in deciding whether or how a project should be carried out."*

The County regulates land use through the zoning code by zoning district. Each district includes two general use category types: permitted uses ("P" in Zoning Code Land Use Tables) and conditional uses ("C" in Zoning Code Land Use Tables). Permitted uses have been determined to be consistent with the purpose of the zoning district and are generally less intensive in nature and have little or no environmental or neighborhood impacts. Permitted uses can either be allowed by right or subject to a ministerial zoning permit. Where no permit is required, uses are still required to comply with ministerial code standards. Where a zoning permit is required, the permit is approved or denied based on compliance with fixed measurable standards including but not limited to development standards like setbacks, building heights, and lot coverage.

Conditionally permitted uses are generally more intensive in nature and may have environmental or neighborhood impacts if not designed and operated appropriately. Conditionally permitted uses may be compatible with the intent of the zoning district but still require a site-specific analysis which allows for conditions of approval to be imposed on the project to further ensure compatibility and protection of environmental resources. A use permit is a discretionary approval, meaning the County decision makers exercise judgment in determining whether a specific proposed use is appropriate in that location. Use permits are subject to public notice and compliance with CEQA.

Permit Streamlining.

When the Board of Supervisors adopted the Cannabis Program Update Framework (March 15, 2022), they directed staff to evaluate methods to streamline cannabis permitting. The proposed ordinance incorporates three different streamlining pathways.

Uses allowed by right (i.e., no land use permit required, just a cannabis license). The proposed Ordinance allows for uses by right in the Industrial and Commercial zones where such uses are similar to and compatible with other land uses allowed by right in that zoning district. Uses allowed by right are designated with a "P" in Zoning Code Land Use Tables. Although uses permitted by right do not require a land use permit, other ministerial permits, such as design review or building permits may be required.

Ministerial permits (i.e., Zoning Permit). Ministerial zoning permits are another route to allow for a faster and simpler permit process. Zoning permits are designated with a "P*" in Zoning Code Land Use Tables. To obtain a zoning permit, an applicant must only demonstrate that the proposed project meets set ministerial standards. In some cases, ministerial standards require submission of technical information or reports, but the scope of such reports is limited to documentation that standards are met. Once information has been submitted to satisfactorily demonstrate compliance with standards, the permit is issued. All ministerial permits are approved and issued administratively, and they do not require compliance with California Environmental Quality Act (CEQA) or a public hearing. In the proposed ordinance, replanting an existing cultivated area with cannabis, known as a crop swap, would be allowed with a ministerial zoning permit.

EIR permit streamlining/CEQA tiering (i.e., Use Permit with no or limited site-specific environmental review). The CEQA guidelines provide a framework for agencies to tier from a programmatic Environmental Impact Report (EIR) (CEQA Guidelines Sections 15168, 15152). Streamlining under CEQA allows a local agency to rely on a previously certified EIR to approve a subsequent discretionary action. A primary project component of the cannabis program update is to use the programmatic EIR to develop a checklist to streamline environmental review for discretionary permits. The checklist would outline specific project activities studied in the programmatic EIR and any prescribed mitigation measures

associated with those activities. Applications which propose only project activities included within the scope of the EIR and which incorporate prescribed measures from the checklist would be approved without additional project-specific environmental review or with only minimal additional environmental review.

Cannabis Events.

The proposed ordinance includes two separate categories of events: “Cannabis Events" associated with a cannabis use permit or that require a separate use permit due to event frequency, and "Periodic Special Events" for proposed events not associated with a cannabis use permit.

Periodic Special Events. Periodic Special Events are currently regulated under Sec 26-22-120 of the Zoning Code, and are allowed by zoning permit in all Zoning Districts (AR, AS, C0, C1, C2, C3, DA, K, LC, LEA, LIA, M1, M2, M3, MP, PC, R1, R2, R3, RR, RRD, and TP), except prohibited in vacation rentals unless a use permit is obtained. Proposed zoning code changes will allow events which involve the sale or consumption of cannabis to be permitted under the Periodic Special Events code. Except for including cannabis consumption within allowed event activities, no changes to how Periodic Special Events are allowed or permitted would result from the proposed ordinance update. A periodic special event zoning permit requires approvals by various other Permit Sonoma divisions and County Departments, including Building (building code compliance), Permit Sonoma Sanitation (portable toilets, trash, and noise), Encroachment (public right of way review), Fire Prevention (emergency services), Sonoma County Environmental Health (food service, including preparation or handling of food), Sonoma County Sheriff (traffic and safety) and California Highway Patrol (if located on a state highway). The approval process for a Periodic Special Event zoning permit includes public notice to surrounding landowners. As with all cannabis uses, a Periodic Special Event involving cannabis would require a state license from DCC. Periodic Special Events by zoning permit are limited to an average of two per year in any two-year period.

Cannabis Events. Cannabis Events would be regulated under new Zoning Code Section 26-18-270 (Exhibit D4). Cannabis Events could be proposed as part of a cultivation use permit or centralized processing use permit in the agricultural zoning districts (LIA-Land Intensive Agriculture, LEA-Land Extensive Agriculture, and DA-Diverse Agriculture) and the Resources and Rural Development Zoning District (RRD). Cannabis events not associated with an onsite cultivation or centralized processing operation could also be proposed within those four zoning districts with a Cannabis Events use permit. Cannabis Events under Sec. 26-18-270 would not be allowed in Residential, Commercial, or Industrial zoning districts; however, periodic special events, as described above, are allowed in those zoning districts. In addition, consumption lounges are proposed to be allowed with storefront retail operations (i.e., dispensaries) in commercial zoning districts, which would provide a mechanism for retail operators to interact directly with customers.

The Cannabis Events code section is intended to establish standards and maximum allowances for cannabis visitor serving uses similar to permitting of events at wineries. Although the code allows, for example, up to 104 small scale event days, the actual scope of visitor-serving uses for any given site would be determined through the use permit process involving a site-specific analysis to determine the appropriate number, size, and scale of events for that site. Additional restrictions and requirements may also be imposed by Conditions of Approval, where appropriate.

The proposed ordinance changes related to visitor-serving event uses are intended to: 1) allow cannabis and cannabis products to be incorporated into the existing periodic special events permitting process, and 2) provide opportunities to cultivators and processors on agricultural and resource lands to promote their products in a similar way to other agricultural promotional events.

Cannabis Cultivation

Neighborhood Compatibility.

Minimum lot size and setbacks in LEA, LIA, DA and RRD.

The current ordinance proposal would establish a minimum lot size of 5 acres for cannabis cultivation and processing uses in the agricultural zoning districts (LIA-Land Intensive Agriculture, LEA-Land Extensive Agriculture, and DA-Diverse Agriculture) and the Resources and Rural Development Zoning District (RRD). No minimum lot size is proposed for cannabis uses in commercial or industrial zoning districts, other than development standards which apply to all land uses in those zoning districts.

Minimum lot size for cannabis uses was imposed by the first cannabis ordinance in 2016 (Ord. No. 6189) to address potential neighborhood compatibility issues based on data available at the time and limited environmental review (i.e., a Negative Declaration). Minimum lot sizes under that ordinance ranged from 2 acres to 10 acres for outdoor and mixed light cultivation, depending on the size of the canopy. In 2018, the minimum lot size was increased to 10 acres for all outdoor and mixed light cultivation, regardless of canopy size (Ord. No. 6245), which is the current minimum lot size. This increase was intended to improve neighborhood compatibility based on input from the public, but again involved limited environmental review (i.e., the 2018 ordinance amendments were determined to be exempt from CEQA) or data analysis.

The current program update work effort is again evaluating changes to improve neighborhood compatibility while balancing the goal of increasing economic opportunities for the industry where appropriate. Staff first attempted to address neighborhood compatibility through development of Rural Residential Enclaves, as presented at December 13, 2023, public informational meeting. As described in the *Rural Residential Enclave Discussion Paper November 2023*, the proposed enclaves were based on extensive data analysis and utilized geographic information systems (GIS) modeling technology to create enclave maps. After the public meetings, staff investigated changing various enclave model criteria suggested by commenters, but ultimately determined that, regardless of the criteria used in the enclave model, most enclaves were located within or immediately adjacent to concentrated residential development associated with residential zoning or were adjacent to incorporated city boundaries.

The current ordinance proposal requires a minimum 600-foot setback from all Residential Zoning Districts (i.e., Urban Residential (UR), Low, Medium, and High Density Residential (R1, R2 & R3), Rural Residential (RR), Agriculture and Residential (AR), and Planned Community (PC)), and from incorporated city boundaries. This setback proposal provides greater overall protection than the previously proposed enclaves, and focuses that protection on areas of concentrated residential development rather than relying solely on a county-wide minimum parcel size of 10 acres, which may be greater than required in areas which lack concentrations of residential development. The combination of setbacks plus a 5-acre minimum parcel size balances the policy goals of neighborhood compatibility with increasing opportunities for cannabis development in appropriate areas.

Only parcels of 5 acres or more that also meet all setback requirements would be eligible for cannabis uses; many 5-acre parcels would not qualify, and those that do would be limited to a relatively small

canopy size. Cannabis cultivation on a 5-acre parcel would be limited to 10% of the parcel size (i.e., a maximum of 21,780 square feet or half an acre of canopy), which could be further restricted by development standards, including cultivation setbacks. Similarly, various other agricultural uses have size, setback, and intensity limitations based on parcel size. For example, "Animal Keeping: Farm animals" sets limits on the number of farm animals allowed on a 2-acre or less parcel.

This proposal is not intended to protect residential zoning, but is intended to protect residential neighborhoods where concentrations of residences exist. Residential zoning districts are areas where both existing residential neighborhoods are located and where the County has placed a priority on the development of future residential uses. Thus, a residential zoning setback is an appropriate mechanism for maintaining compatibility with concentrated residential uses. Individual residences are not considered to be neighborhoods; see below for a discussion of setbacks, including the 100-foot property line setback intended to separate cannabis operations from individual residences on adjacent parcels.

Additionally, staff is conducting an equity analysis to ensure that the policies are consistent with and support the County's goals for racial equity and social justice. A smaller minimum parcel size would provide greater business opportunities to existing and potential cannabis operators across a wider range of socio-economic backgrounds, as larger parcels are typically more expensive to own or lease.

The Environmental Impact Report (EIR) will evaluate impacts associated with the proposed ordinance, including a 5-acre minimum parcel size. Because the 5-acre parcel size equates to a larger project than a 10-acre parcel size would (i.e., more eligible parcels), the EIR will be studying the maximum parcel-size-related impact; any reduced scope project based on a larger minimum parcel size would be within the scope of what the EIR studied, and could be selected for ultimate adoption by the Board of Supervisors.

Setbacks

The proposed Ordinance includes a 100-foot property line setback, a 600-foot setback from all residentially zoned parcels and incorporated city boundaries and continues to implement the 1,000-foot sensitive use setback. The combination of these setbacks is intended to balance competing priorities of neighborhood compatibility while increasing economic opportunities for the industry. The proposed setbacks achieve this objective by creating separation between cannabis and residential uses.

Cannabis cultivation setbacks are under new code Section 26-18-115(C)(4)(c) (Exhibit D3) and apply only in the agricultural zoning districts (LIA-Land Intensive Agriculture, LEA-Land Extensive Agriculture, and DA-Diverse Agriculture) and the Resources and Rural Development Zoning District (RRD). The 600-foot Residential Land Use setback and Incorporated City boundary setbacks are described above in the Minimum Lot Size discussion. Property line and sensitive use setbacks are described below.

Property line setback. The proposed ordinance would maintain that a cannabis premises be setback at least 100 feet from each property line, but eliminate the 300-foot setback from individual residences. Staff proposed to eliminate the setback from individual residences and businesses because it is difficult for applicants and staff to accurately determine the distance from and use of structures on adjacent properties that neither applicants nor staff have access to. The draft Key Program Elements presented at the December 13, 2023, informational meetings included a 300-foot property line setback instead of a 100-foot setback. After the meetings, staff considered public comment and conducted additional analysis. Most rural properties do not have residences within 300 feet of each property boundary and so the burden of this larger setback would often not be offset by the intended benefit and could actually decrease opportunities for more optimal siting on a parcel. Further, with the reclassification of cannabis

cultivation as an agricultural use, a lessor setback would be more consistent with what is required for other agricultural uses and better prioritize an agricultural use in agricultural zones. Instead of setbacks from individual residences, staff has prioritized larger setbacks from residential neighborhoods as a better way to balance competing policy considerations.

Sensitive Use Setback. Under the current cannabis ordinance, sensitive uses include K-12 schools, public parks, day care centers, and alcohol or drug treatment facilities. The 1,000-foot sensitive use setback currently applies to outdoor and mixed light cultivation in all zones; a 600-foot setback from schools only is required for indoor cultivation in the agricultural and resource zones.

The proposed ordinance has retained a sensitive use setback, but has modified how the setback would be measured and how it would apply.

The current ordinance requires the sensitive use setback to be measured in a straight line from the property line of the protected site to the closest property line of the parcel containing the cannabis use. The setback provision allows the park setback to be waived. The parks setback waiver may be approved where it can be determined that a separation exists due to topography, vegetation or slope so that no offsite impacts will occur, and that the cannabis operation cannot be visible or accessible from the adjacent park. Under the current ordinance, the park setback exception has been granted for various projects.

The proposed ordinance modifies the setback measurement by requiring the cannabis premises to be setback at least 1,000 feet from the property line of a parcel with the sensitive use. This revision eliminates the measurement of property line to property line and instead emphasizes separation from the cannabis premises itself. Due to the change in measurement requirements, the proposed ordinance has removed the park setback exception allowance. In addition, the sensitive use setback under the proposed ordinance would apply to the entire cannabis premises in Agricultural and Resource zones, not just to outdoor and mixed light cultivation areas. No sensitive use setback would be required for cultivation in Industrial zones. The modified method of measurement would provide a more targeted separation between cannabis cultivation and sensitive uses and simplify implementation.

Accessory uses

Section 26-04-020 the Glossary section of the zoning code defines accessory uses as the following, "*A use of land or a building that is related to and subordinate to the primary use of the land or building located on the same lot.*" Accessory uses to cultivation include the following: propagation of clones or other plant materials for on-site use, including breeding of new cannabis cultivars (i.e., research and development); processing of site-grown cannabis, including drying, curing, grading, trimming, rolling, and storing of non-manufactured cannabis; manufacturing limited to extraction using carbon dioxide, extraction by physical or mechanical means (e.g., ice and water), and infusion of non-ingestible products from site-grown cannabis; packaging and labeling of site-grown cannabis and cannabis products; self-distribution of site-grown cannabis and cannabis products; farm retail sales, including incidental visitor serving uses such as educational tours and participation in farm trails; and other similar support uses.

As with other land uses, the land use tables in the zoning code only list the primary land use, not all potential accessory uses and activities that may occur as part of that primary land use. For example, "Agricultural Processing," which is the land use category that includes wineries, is listed as a conditional

use in the land use tables, but all accessory uses and activities involved in running a winery are not listed.

In some cases, accessory uses have specific standards that apply to them, in which case those standards are listed in the zoning code. For example, Agricultural Processing, Sec. 26-18-030(C), allows visitor-serving uses such as tasting rooms as an accessory use, but imposes specific standards on how tasting rooms can operate.

Similarly, the proposed Cannabis Ordinance would allow for limited accessory manufacturing in the Agricultural and Resource zones, but impose specific standards for how that accessory use may operate under Sec. 26-18-115(C)(4)(g)(1). Accessory manufacturing can only use site-grown cannabis and the scale of the manufacturing operation must be secondary and incidental to the on-site cultivation operation. In the Agricultural and Resource Zones (LIA, LEA, DA, RRD), accessory manufacturing is further limited to chemical extraction using carbon dioxide, extraction by mechanical means, such as dry sieving and water or ice extraction, and the infusion of non-ingestible products.

Although accessory uses are not listed in the land use tables and do not require separate permits, all proposed and reasonably expected accessory uses are analyzed in the permitting process for the primary use. In addition, conditions of approval for specific accessory uses may be imposed, where appropriate. The accessory uses listed above would be permittable wherever cannabis cultivation is an allowed land use. Further, how industries operate can change over time. The zoning code can best allow flexibility to accommodate minor modifications to cannabis business operations by not attempting to provide a complete list of allowed accessory uses that an operation would be restricted to. Accessory propagation will not be included in the 10% canopy area; however, propagation areas are limited in size and scope as they must be subordinate to the cultivation on site and consistent with the development standards, including lot coverage as outlined in the base zoning district. For Agricultural and Resource Zoning Districts, these can be found in Article 6, Section 26-06-040. For Industrial Zoning Districts, these can be found in Article 12, Section 26-12-040.

Water use requirements for cultivation.

Cultivation in the Industrial zones is allowed by right where urban services (public sewer and water) are available. When urban services are not available, a use permit would be required consistent with other by-right uses in industrial zones.

Cultivation in the Agricultural and Resource zones would need to comply with all applicable County standards related to water use. For example, compliance with General Plan Policy WR-2e, would continue to apply to cannabis cultivation operations which require a use permit. General Plan Policy WR-2e requires discretionary projects in Class 3 and 4 Groundwater Availability areas or within priority groundwater basins to submit a Groundwater Study to evaluate impacts of the project (see *Procedures for Groundwater Analysis and Hydrogeologic Reports* for more details). Additionally, standards required by other regulatory agencies (e.g., State Water Resources Control Board, California Department of Fish and Wildlife) would continue to apply. None of the above need to be included in the proposed ordinance to be applicable. The proposed ordinance has attempted to remove duplicative requirements or regulations to streamline permitting similar to other non-cannabis land uses. Further, cultivation requiring discretionary review (i.e., permitted by use permit) may require additional analysis of water use under the California Environmental Quality Act and mitigation of potential impacts.

The proposed "crop swap" provisions would impose specific water use standards in order to allow for a ministerial permitting pathway for cannabis cultivation. Where groundwater use is proposed, a net zero study would be required to show there is no increase in water use for agricultural uses on the parcel. (See Section 26-18-115(C)(4)(h).) For example, an applicant could replace one acre of vineyard with cannabis provided the overall water use is the same.

The EIR will analyze cannabis uses under existing regulatory requirements and determine if additional mitigation measures would be needed to address environmental impacts related to water use. The Hydrology Section of the EIR will analyze and consider, at minimum, potential impacts from groundwater overdraft, well interference, streamflow depletion, and water quality related to cannabis water use and agricultural chemical use and will consider current drought conditions and future drought scenarios.

Use of temporary hoop houses.

Cultivation uses in the Agricultural and Resource Zones (LIA, LEA, DA, RRD) could use temporary membrane-covered frame structures, in accordance with the proposed standards in amended Section 26-18-020, Agricultural Crop Production and Cultivation (Exhibit D2) and Section 26-18-115, Cannabis Cultivation (Exhibit D3). Light deprivation tarps would no longer be prohibited for use with hoop houses.

A structure is considered temporary if erected for less than 180 days in a twelve-month period.

Membrane structures erected for less than 180 days and with a floor area of greater than 400 square feet are subject to the permitting provisions of the California Fire Code for temporary structures.

A membrane structure or a greenhouse structure with a floor area greater than 120 square feet and erected for over 180 days is considered permanent and subject to the provisions and permitting requirements of the California Building Code and Sonoma County Building Regulations.

See *Hoop House Membrane Structures for Cannabis Cultivation* for more details.

VESCO.

Sonoma County Code Chapter 36 contains the Sonoma County Vineyard and Orchard Erosion and Sediment Control Ordinance or VESCO. VESCO establishes standards and permit requirements for agricultural grading and drainage and is most commonly known for its vineyard development permits. Vineyards and orchards are permanent crops as they are perennial trees and vines that have 20+ year lifespans. Thus, VESCO provides a specialized grading permit to control erosion and other impacts associated with these agricultural developments. Cannabis is a row crop, which is an annual crop that is planted, grown, harvested, and removed in an annual cyclical fashion. Given that distinction, cannabis would not require the same permit as vineyard and orchard development, however, grading or drainage associated with outdoor cultivation would be subject to Chapter 36 Articles 10 and 12 related to agricultural grading and drainage.

Right to Farm.

The Sonoma County Right to Farm Ordinance (Ordinance No. 5203) requires recordation of a *Declaration Acknowledging Right to Farm* in connection with certain development approvals and

building permits on or within 300 feet of any lands zoned for Agricultural uses (LIA, LEA, DA). The acknowledgement ensures property owners and developers understand the potential impacts of nearby agricultural operations in order to protect those agricultural operations from nuisance disputes. The Right to Farm Ordinance further provides that a lawful and compliant agricultural operation cannot be or become a nuisance under county code or regulations. This section can be invoked by an agricultural operation in defense to a nuisance action. The proposed General Plan Amendment excludes cannabis from the provisions of the Right to Farm Ordinance (Exhibit A).

Supply Chain Uses

Cannabis uses in Industrial and Commercial zones.

The proposed ordinance would permit cannabis uses in Industrial and Commercial zoning districts consistent with similar non-cannabis uses. For example, the currently adopted cannabis ordinance allows storefront retail (i.e., dispensaries) in the Neighborhood Commercial (C1), Retail and Business Service (C2), and Limited Commercial (LC) Zoning Districts, but does not allow it in General Commercial (C3). The proposed ordinance would regulate storefront retail uses in a new Section 26-18-025 and would continue to allow storefront retail in Neighborhood Commercial (C1), Retail and Business Service (C2), and Limited Commercial Zones (LC), and add it as an allowed use in General Commercial (C3), consistent with other non-cannabis general retail uses, which are allowed by right in all four of these commercial zoning districts.

By Right Uses.

The Ordinance update would allow most supply chain uses to operate by right, without a land use permit (see Cannabis Land Use Table, Exhibit D1). Supply chain use permit holders in Industrial and Commercial Zones would be able to continue to operate as a by right land use without a land use permit in conformance with all applicable County Code, including the following Zoning Code sections.

- Testing laboratories: Sec. 26-20-040
    - Note that testing labs would be allowed by right in Industrial Zones, but require a use permit in General Commercial (C3)
- Cannabis Storefront Retail (Dispensary): new Sec. 26-26-025 (Exhibit D7)
- Cannabis Non-storefront Retail (Delivery Only): new Sec. 26-20-165 (Exhibit D5)
- Distribution: new Sec. 26-20-165 (Exhibit D5)
- Cannabis Centralized Processing: new Sec. 26-20-025 (Exhibit D5)
- Manufacturing: Sec. 26-20-080

Conditions of Approval would continue to apply to a permitted operation until such time as the use permit expires, after which the operation would be subject to any applicable ministerial standards and permits, including a cannabis license, but would no longer require a land use permit.

There are no supply chain uses allowed by zoning permit.

Microbusiness permits.

A “microbusiness” is a specific license type offered by the State Department of Cannabis Control. The County regulates land uses, and multiple land uses or accessory uses would be allowed in every Zoning

District without a restriction on how many could be permitted on a parcel. For example, where cultivation, incidental retail, and distribution land uses are allowed in a specific Zoning District (either as primary or accessory uses), an applicant could obtain a single county land use permit for these uses and obtain a Microbusiness license from the State Department of Cannabis Control. Therefore, the proposed ordinance does not preclude a County permit holder from obtaining a State microbusiness license.

Onsite consumption.

The proposed ordinance would allow onsite consumption at storefront retailers (i.e., dispensaries) and at permitted cannabis events (for more details about cannabis events, see "Cannabis Events" section above). Onsite consumption associated with storefront retail would be allowed within a dedicated space inside the business (i.e., a consumption lounge). Consumption would be limited to cannabis and cannabis products purchased at the establishment. Ultimately, whether and in what format consumption could be allowed is dependent on amendments to relevant County Health Ordinances, including Chapter 14 (Health and Sanitation) and/or Chapter 32 (Ordinance Regulating Smoking and Secondhand Smoke) of the Sonoma County Code.

EIR – Environmental Impact Report

CEQA Project

There have been many comments received questioning why a proposal is being presented before the Environmental Impact Report (EIR) is published. The California Environmental Quality Act (CEQA) requires a "project" to be studied. The term "project" refers to the whole of an action and to the underlying physical activity being approved (CEQA Guidelines Section 15378(c)). A project cannot be developed after an EIR is completed, because the EIR would then have nothing to analyze. Therefore, the County must provide a project to be analyzed by the EIR. In this case, the project is the draft Ordinance and proposed General Plan Amendment. Some portions of the proposed project are purposefully permissive to allow the EIR to study the maximum impact level which could occur with the largest project scope. By studying a larger project, decision makers will have more information and a wider range of policy options available to select from. The EIR will then study the proposed project and include mitigation measures and a reasonable range of alternatives designed to reduce significant environmental impacts of the project.

Environmental impact categories to be evaluated in the EIR.

The programmatic EIR for the cannabis land use ordinance will evaluate all environmental impact categories from the CEQA Guidelines: Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology/Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Mineral Resources, Noise, Population/ Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities/Service Systems, Wildfire, and cumulative impacts.

As stated in the Cannabis Program Update Framework adopted by the Board of Supervisors on March 15, 2022, the following key issues will be specifically considered:

a. Aesthetics analysis will consider, at minimum, fencing, lighting, stockpiles of equipment used in outdoor cultivation operations such as containers and growth media, temporary hoop houses, and permanent structural development;

b. Agriculture analysis will consider, at minimum, compatibility of cannabis operations with traditional agriculture and potential conversion of agricultural lands to non-agricultural uses;
c. Air quality analysis will consider potential impacts from cannabis odors;
d. Biological resources analysis will consider, at minimum, potential impacts to special status species, Critical Habitat, and to regionally-sensitive and locally-important watersheds, including fish-bearing streams, riparian habitat, the Laguna de Santa Rosa, and other wetland areas;
e. Energy analysis will consider, at minimum, potential impacts from indoor and mixed light cultivation activities;
f. Hydrology analysis will consider, at minimum, potential impacts from groundwater overdraft, well interference, streamflow depletion, and water quality related to cannabis water use and agricultural chemical use, and will consider current drought conditions and future drought scenarios;
g. Noise analysis will consider, at minimum, potential impacts related to emergency generator use, air filtration and ventilation equipment, transportation noise, activities associated with cannabis tourism, and special events;
h. Utilities/Service Systems analysis shall consider, at minimum, potential impacts related to cultivation waste products, including hoop house membrane materials, growth media and containers, and green waste.
i. Wildfire analysis will consider, at minimum, potential impacts related to road access (i.e., physical road condition and configuration to support concurrent emergency access by first responders and evacuation by residents), wildfire risk (i.e., site characteristics which influence fire likelihood and fire behavior), emergency response times, and availability of water for fire-fighting purposes; and
j. Cumulative analysis will consider, at minimum, potential impacts related to multiple cannabis operations in specific geographical areas (i.e., over-concentration).