

DRAFT
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.

~~1. — Cannabis Cultivation Site and Canopy Limits. The cannabis cultivation site is limited to ten percent (10%) or less of the parcel. Canopy associated with specific cultivation types, including outdoor cultivation, hoop house cultivation, and indoor and mixed light cultivation in existing or new or expanded permanent structures, is not otherwise specifically limited. 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]~~
- ~~4. Protected Trees. No protected tree greater than 9 inches at diameter breast height can be removed to accommodate cannabis cultivation or related development.~~
- ~~6.2. 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 25-65. 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 cCannabis 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.~~

~~c. 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.