

Attachment 3 - Cannabis Zoning Exemptions Framework Documents

Based on input from three community subgroups that were established to help guide regulations for exceptions, opt-in and opt-out. With input from the subgroups, Michael Baker prepared Framework documents that identify the key provisions for each topic area that will be incorporated in the County code. The Board of Supervisors reviewed the Framework documents on June 12, 2018 and, with minor revisions, approved the documents and directed staff to proceed with the code update.

Note: The terms Opt-In Overlay Zone and Opt-Out Overlay Zone were used during initial community discussions. During preparation of municipal code amendments, the terminology for these zones was revised to Cannabis Accommodation (CA) Combining District (Opt-In Overlay Zone) and Cannabis Prohibition (CP) Combining District (Opt-Out Overlay Zones).

Opt-In Overlay Zone Framework

- 1 An Opt-In overlay zone would allow for a reduction of requirements and limitations for commercial cannabis cultivators within a specific geographic area.
 - a. An Opt-In overlay zone may be applied to any residential zone and may include a limited number of non-residential parcels if required to create logical boundaries.
 - b. An Opt-In overlay zone must be composed of a minimum of 10 parcels (as identified by legal lots).
 - c. All parcels within an Opt-In overlay zone must be contiguous excepting separations by public roads.
 - d. A petition for the creation of an Opt-In overlay zone must demonstrate the support of more than 60% of all current property owners (as identified by legal lot / one owner's signature for each legal lot in the proposed zone).
 - e. Applications for an Opt-In overlay zones shall be reviewed and acted upon by the Board of Supervisors following a public hearing.
- 2 Once established the following allowed uses and development standards would be applied to an Opt-In overlay zone.
 - a. Sunset Provision for Residential Districts (Sec. 10A.17.080(B)(2)(b)) would not apply within an Opt-In overlay zone.
 - b. Cannabis Cultivation Permit types (C) Small Outdoor, (C-A) Small Indoor, Artificial Light, and (C-B) Small, Mixed Light, may be permitted on any parcel regardless of parcel size provided all other existing development standards and application requirements are met. (current regulations are no limitation for existing and 2-acre minimum for new).
 - c. Within the Opt-In overlay zone, the required setback noted in Sec. 10A.17.040 (A)(5) will be reduced to 20 feet.

- d. Within the Opt-In overlay zone, the required setback noted in Sec. 10A.17.040 (A)(5) may be reduced to less than 20 feet or waived subject to Administrative Permit approval.
- 3 In order to provide assurances and support the investment required for permitting and initiating commercial cultivation, Opt-In overlay zones would be subject to the following restrictions on modification.
- a. An adopted Opt-In overlay zone would remain in-effect (zone would not be repealed and parcels may not be removed) for 10 years after date of approval.
 - b. Following the in-effect period of 10 years, a request to repeal, or amend, an Opt-In overlay zone may be initiated by petition of 60% or more of all current property owners within the Opt-In overlay zone. A request to repeal would be submitted to the Board of Supervisors for consideration at a public hearing.
 - c. Parcels adjacent to the Opt-In overlay zone may petition for inclusion into the Opt-In overlay zone. Additions to the Opt-In overlay zone shall not alter the in-effect date of the adopted Opt-In overlay zone.
 - d. If an Opt-In zone is repealed at any time, all current cultivators that do not meet the development standards of the underlying zone would be permitted to continue operations for three years from the date of repeal of the overlay zone. At three years following the date of repeal of the Opt-In overlay zone, permits for cultivators that do not meet the standards of the underlying zone would not be renewed by the County.
 - e. Changes to the underlying zoning of an Opt-In overlay zone would have no effect on the uses permitted and defined by this section, nor would the Opt-In overlay zone limit any use rights granted by a future rezone of property within an Opt-In overlay zone.
- 4 There are currently six areas being considered for inclusion into the initial creation of the Opt-In overlay zones.
- a. Covelo (Core)
 - b. Covelo (Fairbanks Road)
 - c. Laytonville
 - d. Mitchell Creek (North)
 - e. Mitchell Creek (South)
 - f. South Leggett

Opt-Out Overlay Zone Framework

- 1 An Opt-Out overlay zone would prohibit the commercial cannabis uses and facilities within a specific geographic area.
- a. An Opt-Out overlay zone may be applied to any zone where a dwelling unit is a principally permitted use and where residential use is currently the predominant land use.

- b. An Opt-Out overlay zone must be composed of a minimum of 10 parcels (as identified by legal lots).
 - c. All parcels within an Opt-Out overlay zone must be contiguous excepting separations by public roads.
 - d. A petition for the creation of an Opt-Out overlay zone must demonstrate the support of more than 60% of all current property owners (as identified by Legal Lot / one owner's signature for each Legal Lot in proposed area).
 - e. Applications for Opt-Out overlay zones shall be reviewed and acted upon by the Board of Supervisors following a public hearing.
- 2 Once established the following allowed uses and development standards would be applied to an Opt-Out overlay zone.
 - a. All medical and adult use cannabis operations, except those uses identified as exempt under Sec. 10A.17.030, would be prohibited within an Opt-Out overlay zone.
- 3 In order to provide assurances to existing and future residents choosing to reside in an Opt-Out overlay zone, the Opt-Out overlay zone would be subject to the following restrictions on modification.
 - a. An adopted Opt-Out overlay zone would remain in-effect (zone would not be repealed and parcels may not be removed) for 10 years after date of approval.
 - b. Following the in-effect period of 10 years, a request to repeal, or amend, an Opt-Out overlay zone may be initiated by petition of 60% or more of all current property owners within the Opt-Out overlay zone. A request to repeal would be submitted to the Board of Supervisors for consideration at a public hearing.
 - c. Parcels adjacent to the Opt-Out overlay zone may petition for inclusion into the Opt-Out overlay zone. Additions to the Opt-Out overlay zone shall not alter the in-effect date of the adopted Opt-Out overlay zone.
 - d. Existing permitted cannabis cultivation sites or permitted cannabis facilities located within a newly adopted Opt-Out overlay zone would be permitted to continue operations for three years from the date of establishment of the overlay zone. At three years following the date of establishment of the Opt-Out overlay zone, permits for cultivators or licenses for facilities would not be renewed by the County.
 - e. Changes to the underlying zoning of an Opt-Out overlay zone shall have no effect on prohibition of medical and adult use cannabis operations established under the Opt-Out overlay zone.
- 4 There are currently two areas being considered for inclusion into the initial creation of the Opt-Out overlay zone.
 - a. Boonville Road / Woody Glen
 - b. Deerwood

Exceptions Framework

- 1 Proposed exceptions to Mendocino County Code SEC 10A.17.040 offer relief to applicants from certain cannabis cultivation development standards if the proposed cultivation area meets certain specific guidelines. Exceptions will be available throughout the County, including within Opt-In overlay zones.
 - a. Modify setback reductions allowed for in Sec. 20.242.060 (D). Currently, a reduction to 50 feet is allowed. Propose a reduction to 20 feet be allowed subject to Administrative Permit approval that would review the specific location of the cultivation area.
 - b. Modify additional required setback from access easements required by Section 10A.17.040(A)(5) for indoor/greenhouse/mixed light cultivation. This setback modification would not reduce setbacks to less than those required by the Corridor Preservation Setback (Section 20.152.020). Modification of the setback to access easements would be subject to an Administrative Permit that would review the specific location of the cultivation area.
 - c. A parcel that is zoned to allow commercial cultivation that is between 3.5 and 4.99 acres and that shares at least 50 percent of its boundaries with parcels 5 acres in size or larger may be issued permit types 1, 1-A and 1-B subject to Administrative Permit approval that would review the specific location of the cultivation area.
 - d. Parcels zoned RR 5 that are between 3.5 (30% reduction from 5 ac) and 4.99 acres and have been issued a permit for commercial cultivation would not be subject to Sunset.
 - e. A parcel that is zoned to allow commercial cultivation that is between 7.0 acres and 9.99 acres and shares 50 percent or more of its borders with parcels 10 acres in size or larger may be issued permit types 2, 2-A, 2-B and 4, subject to Administrative Permit approval that would review the specific location of the cultivation area.
 - f. Certain mixed light facilities may be required to only meet standard building setbacks subject to the approval of an Administrative Permit that would review the specific location of the facility as well as potential impacts to neighboring properties due to fugitive light, odors, or aesthetic concerns.
2. Exceptions shall not apply to Opt-Out overlay zone areas.