



COUNTY OF MENDOCINO CANNABIS DEPARTMENT

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Date: November 6, 2023
To: Cannabis Department Staff/ Contract Planning Staff
From: Steve Dunicliff, Interim Director Mendocino Cannabis Department
RE: Internal Procedure #04 – Sensitive Species Habitat Review

PREVIOUS POLICY

Internal Procedure #03 - California Department of Fish and Wildlife (“CDFW”) Referral Timing Requirement. This procedure serves as policy when responses have not been received within the 30-day timeline provided in MCC Sec. 10A.17.090 and the 45-day timeline that was subsequently extended to CDFW on a temporary basis.

PURPOSE

The Mendocino County Cannabis Department (“MCD”) provides the following procedure to clarify the review process and issuance of a CCBL if all the other requirements under MCC Chapter 10A.17 are satisfied and, in those instances, when CDFW does not provide a response within forty-five (45) days per Internal Procedure #03. More specifically, this memo identifies what occurs when CDFW does not respond within the 45-day timeline and additional information is provided to MCD after the application is referred to CDFW. In some instances, application materials that had not initially been provided are subsequently provided or information that was unknown to MCD at the time of referral becomes known, and those additional materials and/or information allow MCD to make a determination that the application complies with an established objective set of criteria to finalize the application review.

DEFINITIONS

Cannabis Cultivation Business License or CCBL – An issued Cannabis Cultivation Business License for cultivation or nursery operations in Mendocino County.

ORDINANCE SECTIONS

Sec. 10A.17.090 - CCBL Application and Zoning Review.

Any person or entity that wishes to engage in the cultivation of cannabis shall submit an application for a CCBL to the Department. Applications for CCBL's shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department. The application shall be reviewed by the Department and other agencies as described herein and renewed annually. Any referral to or consultation with an agency other than the County of Mendocino shall state that a response must be returned within thirty (30) days of the date of the referral.

Sec. 10A.17.100(A)(2) - CCBL Review and Issuance.

Following review by qualified County staff to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species on the parcel with a proposed CCBL location. Upon consultation, CDFW may recommend approval of the proposed development, ask to conduct a site inspection or request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a CCBL. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against and when during Phases 1 and 2 a formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the development of the policy referred to in the previous sentence, consultation with CDFW shall not be required but be performed pursuant to the policy. During Phase 3 all applications will be referred to CDFW.


STAFF INTERPRETATION

In accordance with MCC Sec. 10A.17.100(A)(2), the Department must evaluate applications for a potential referral to CDFW for a sensitive species habitat review based an established objective set of criteria created jointly by CDFW and the County. The conclusion of that review can produce one of the following three results: (1) approval of the proposed development; (2) a request to conduct a site inspection or additional studies in order to make the determination that no impacts to sensitive species will occur; or (3) a determination that the proposed development does have a significant impact to sensitive species.

As Internal Procedure #3 indicates, if CDFW fails to provide a response within forty-five (45) days, the Department has the discretion to move forward with its application review process and issue a CCBL if all other requirements under MCC Chapter 10A.17 are satisfied, and the Department determines that the information available can adequately demonstrate that there will be a less than significant impact to sensitive species.

The combined implementation of several recent Department policies along with the current streamlined Ordinance has reduced the overall ambiguity of the Mendocino County Code (MCC). They also provide clarity on what information is required to adequately complete a staff-level evaluation of the sensitive species review absent a CDFW response within the 45-day timeframe. This policy maintains alignment with 10A.17.100(A)(2) in that staff can proceed with permit issuance when all previously established objective criteria are satisfied and can also defer to a CDFW final determination when one or more of the criteria remain either unknown or unmet.

AUTHORITY

Procedure Approved:  Date: 11/20/23

Steve Dunnicliff
Interim Cannabis Department Director