

# Appendix E

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Letter A6 Attachments - Proposed  
Amendments to the San Diego  
County Zoning Ordinance and Code  
of Regulatory Ordinances for  
Cannabis Uses and Mitigation and  
Monitoring Reporting Plan

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## Attachment 1

### Appendix B

#### Proposed Amendments to the San Diego County Zoning Ordinance and Code of Regulatory Ordinances for Cannabis Uses (October 2024 version)

CDFW recommends the following text be included in the final proposed amendments to the zoning ordinance, which comprises the proposed project under CEQA (State CEQA Guidelines §§ 15378 and 15124).

- Section 1110 (Definitions)
  - The definition for microbusiness should clarify if it could include an outdoor component. For example, an existing warehouse that has an adjacent outdoor (hoop) component within the same premise.
  - Hoop Houses. The definition section and ordinance should address the use of hoop houses if they are anticipated to be used.
  
- Section 6995 (Cannabis Facilities)
  - Item c (conformance with County plans) should reference MSCP, BMO and RPO
  - Items e (development standards) should incorporate the design criteria in the BMO including 86.505 (Project Design Criteria), 85.606 (Habitat Based Mitigation) and 86.507 (Species Based Mitigation)
  - Item e 3 (Location) should include biological minimization measures including BMO 86.505 (Project Design Criteria) and 85.606 (Habitat Based Mitigation) and 86.507 (Species Based Mitigation)
  - Item 4 (Buffer) should acknowledge biological habitat, MSCP pre-approved mitigation areas (PAMA), biological core resources areas (BCRA)s, and lakes, rivers and streams as sensitive uses with corresponding setbacks.
  - Item f (performance standards)
    - 2 (fencing) should specify that wildlife compatible fencing is required in all cases.
    - 5. (water source) should include the annual reporting of usage and use of forbearance if needed to protect the environment. RPO should also be incorporated here.
  - Item g (Activity Specific Standards)
    - 2. Cultivation. This section should incorporate the biological setbacks in the BMO for areas in the County's MSCP SAP. viii (enclosed fencing) should identify the need for wildlife compatible fencing.

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- Item h (permitting requirements). This section should acknowledge that other state approvals/authorization other than DCC include CDFW and Water Boards (BPC § 26060.1).
  - 1 (Cultivation), i. (Outdoor). The criteria for the administrative permit should be expanded to incorporate RPO and BMO siting criteria for the least sensitive portion of the site, avoidance and mitigation.
    - i. Since site specific mapping of biology resources will not occur until the individual project level and it is not known where the exact locations of cultivation would occur at the site level, the determination of whether 5,000 square could be ministerial, considering license may be stacked, should occur in all locations where there could be potential impacts to biological resources.
    - a), the F (floodplain) and W (flood channel) special areas designators should all be included here to indicate site with these designators would require discretionary review.
    - b) existing operations that use water from wells or otherwise would be located adjacent to lakes, rivers or streams should require discretionary review.

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**Attachment 2: Mitigation and Monitoring Reporting Plan**

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM) or Recommendation (REC)</b>		<b>Timing</b>	<b>Responsible Party</b>
<b>Recommendation REC-1 - Consistency with NCCP</b>	The FPEIR should include a mechanism in 8.1.2 to include CDFW Cannabis Program review and input on individual projects that come under the SECP as early in the process as possible. Prior to the issuance of administrative or ministerial permits, the County should coordinate with CDFW regarding appropriate enforceable measures to address and mitigate for site-specific impacts to biological resources. Coordination should include review of individual written checklists, project-specific site plans, biological assessments, habitat protection plans, wildlife protection plans, tree protection plans, and water use plans. Measures in these plans should be integrated into the County’s land use entitlement and business licensing for projects to address site-specific conditions. Of particular concern is the determination in Section 8.1.2 (bullet No. 3) on whether a project in MSCP SAP constitutes an agricultural activity (i.e., cultivation) that would be exempt under the MSCP SAP, whether the project site is located within a PAMA or a Biological Resource Core Area as defined in the MSCP SAP and BMO, and the tier level of vegetation on the project site.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>Recommendation REC-2 - Consistency with NCCP</b>	The FPEIR should include analysis of direct and indirect impacts to sensitive wildlife (plant and animal) species in the County from implementation of the SECP. The adopted MSCP SAP should be used to guide analysis in the southern part of the County. For non-covered species in MSCP SAP, such as steelhead and Stephens’ Kangaroo rat, those species should be analyzed in the FPEIR separately from the MSCP SAP. All wildlife species in the northern and eastern areas of the County should be analyzed independently from MSCP SAP since there are currently no adopted NCCP plans for those areas.	Prior to Project construction and activities	Lead Agency/ Applicant

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<p><b>Recommendation REC-3 - Consistency with NCCP</b></p>	<p>CDFW recommends the County require a wildlife movement plan for each outdoor cannabis cultivation project in all areas of the County. The wildlife movement plan shall identify the specific location and design of any fencing or other barrier associated with cultivation activities, including operational activities, that may impact wildlife movement directly or indirectly. Some design considerations to avoid impacts to special-status species that have the potential to occur on project sites may include fencing design and materials, fencing height, fencing location, gaps in fenced areas, or exclusionary materials. We also recommend frequent monitoring of the fence line to inspect for trapped animals and release any wildlife that may be caught in the perimeter fencing. The wildlife movement plan shall be submitted, along with biological reports, to the County and resource agencies, including CDFW, for review and concurrence on a project-to-project basis.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Mitigation Measure MM-BIO-1 - Consistency with NCCP</b></p>	<p>Measures to avoid impacting sensitive wildlife species should be identified in the FPEIR for implementation at the site level. Measures could include the need to conduct site-specific protocol surveys, prepare and implement habitat protection plans, wildlife protection plans, tree protection plans, or water use plans. Where listed species may be impacted, the FPEIR should identify appropriate avoidance and mitigation, including land preservation with funding, to support State and federal permitting that may be needed. The coverage requirements, including avoidance setbacks, for the MSCP SAP should apply to all federally listed species that are covered in all alternatives that allow cultivation. In order to provide adequate coverage for MSCP-covered species, complete site-specific and project-level biological reports should be included as part of the package of materials submitted to the County and resource agencies, such as CDFW, for subsequent review prior to the initiation of a project.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Recommendation REC-4 - Fencing</b></p>	<p>The FPEIR should analyze impacts from security and other fencing/barriers required for cannabis projects to animal species and wildlife movement/connectivity including effects to MSCP SAP preserve design and connectivity. The FPEIR should include information on the height, length, type of materials, maintenance requirements, and location of fencing that would be needed for cannabis uses in all areas of the County.</p>	<p>Prior to/During Project construction and activities</p>	<p>Lead Agency/ Applicant</p>

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<p><b>Mitigation Measure MM-BIO-2 - Fencing</b></p>	<p>A fencing plan should be provided for each cannabis operation at the site level to demonstrate that wildlife entrapment and mortality and connectivity are mitigated to less than significant. Should any subsequent proposed project occur in a location that has been identified as a MSCP SAP wildlife movement corridor or found to impede the free movement of wildlife, the FPEIR should include mechanisms at the site level to provide compensatory mitigation measures for the Project's significant impacts (direct and/or through habitat modification) to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Mitigation Measure MM-BIO-3 - Fencing</b></p>	<p>CDFW recommends the County require a wildlife movement plan for each outdoor cannabis cultivation project in all areas of the County. The wildlife movement plan should identify the specific location and design of any fencing or other barrier associated with cultivation activities, including operational activities, that may impact wildlife movement directly or indirectly. Some design considerations to avoid impacts to special-status species that have the potential to occur on project sites may include fencing design and materials, fencing height, fencing location, gaps in fenced areas, or exclusionary materials. We also recommend frequent monitoring of the fence line to inspect for trapped animals and release any wildlife that may be caught in the perimeter fencing. The wildlife movement plan should be submitted, along with biological reports, to the County and resource agencies, including CDFW, for review and concurrence on a project-to-project basis. For cannabis projects within the MSCP SAP area, should any project occur in a location that has been identified as a wildlife movement corridor or found to impede the free movement of wildlife from project fencing or</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>

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	operations, a boundary line adjustment may be required to mitigate for impacts to wildlife movement.		
<b>Mitigation Measure MM-BIO-4 - Impacts to Southern California Steelhead</b>	The DPEIR should analyze potential impacts from the Project to steelhead including creation of fish passage barriers from site access, effects to instream flow from water demand and diversions, erosion and sedimentation from site activities and impacts to spawning habitats, changes to water temperature, and effects from use of fertilizers, pesticides, herbicides, and rodenticides to stream areas. In areas of the County where steelhead may be present, a water use plan should be provided for each individual project under the SECP to evaluate potential impacts to instream flow and submitted the County and CDFW for review. Barriers to fish passage could be evaluated in the wildlife movement plan for each project.	Prior to/During Project construction and activities	Lead Agency/ Applicant
<b>Mitigation Measure MM-BIO-5 - Impacts to Southern California Steelhead</b>	For projects that may impact steelhead, or any other CESA-listed species that is not covered under a NCCP, County applicants should seek appropriate take authorization from CDFW, and early consultation is encouraged. The requirement to demonstrate that consultation has occurred for this species and appropriate authorization has been obtained from CDFW and provided to the County should be included in individual SECP approvals prior to initiation of the project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to CESA-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>Recommendation REC-5 - Habitat Classification</b>	The DPEIR should include a more robust analysis of impacts by using data presented in Table 1.4 and Table 2.5.2 to identify the acreage of potential impacts to each vegetation classification and habitat type resulting from each of the proposed alternatives. The analysis of proposed alternatives should be updated to reflect the impacts to habitat in order to help identify the environmentally superior alternative in the final CEQA document.	Prior to Project construction and activities	Lead Agency/ Applicant

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<p><b>Recommendation REC-6 – Zoning Ordinance</b></p>	<p>The FPEIR and Zoning Ordinance should incorporate language that is referred to in the associated BMO and Resource Protection Ordinance (RPO). The County’s RPO provides special controls on development in all areas of the County to address impacts to wetlands, floodplains, steep slopes, sensitive biological habitats, and prehistoric and historic sites to guarantee the preservation of these sensitive lands. The RPO is important in addressing potential impacts to lake, river and stream areas. For example, the definition of, “sensitive uses” in the Zoning Ordinance should include, “environmentally sensitive lands” as defined by section 86.602 – Definitions. Section 86.604 (Permitted Uses and Development Criteria) provide site design criteria for wetland stream crossings, setbacks and mitigation where impacts cannot be avoided. Appropriate setbacks 1). The DPEIR should clearly identify how BMO and RPO will be used in individual projects. If the BMO is intended to apply Countywide as a mitigation measures, CDFW recommends the avoidance criteria in the BMO and RPO be carried forward into the ordinance amendments.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Mitigation Measure MM-BIO-6 – Impacts to Streams</b></p>	<p>For individual cultivation projects under the SECP, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. (Business and Professions Code 260.60.1). Based on this notification and other information, CDFW determines whether an LSA Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage to for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021).</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Mitigation Measure MM-BIO-7 – Impacts to Streams</b></p>	<p>CDFW recommends the submittals for individual SECP projects include a stream delineation and hydrology report to evaluate whether the Project would alter, divert, or impair stream flow and alignment. The hydrology report should include a scour analysis to demonstrate that stream banks and stream bed would not erode under different storm events for proposed conditions both up and downstream of the Project area. The hydrology report should also include an analysis as to whether the placement and installation of staging areas, parking areas, and security fencing would impact the unnamed drainage on site and</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>

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	up and downstream. Also, CDFW requests a hydrological evaluation of any potential scour or erosion at the Project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.		
<b>Recommendation REC-7- Impacts to Streams</b>	CDFW’s issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>Recommendation REC-8 – Stream Crossings and Dams</b>	The DPEIR should analyze the potential effect to stream habitat/resources, including steelhead and other aquatic species, from construction and maintenance of stream crossings for site access. Potential impacts include fish passage, wildlife use and movement, wetland vegetation, bank erosion, and stream hydrology.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>Recommendation REC-9 – Stream Crossings and Dams</b>	The DPEIR should identify the need for each individual SECP project to obtain LSA authorization for stream crossings and include adequate information to support permitting by State and federal agencies. For unavoidable “take” of any listed species (e.g., steelhead, western pond turtle) during construction, submit a CESA ITP. The review process for individual SECP projects should include a required stream delineation and hydrology report to identify the extent of stream resources on-site and to evaluate whether the Project would alter, divert, or impair stream flow and alignment, or otherwise impact stream resources. These reports should be submitted to CDFW for review prior to the initiation of any Project activities. This step would be included as part of the County	Prior to Project construction and activities	Lead Agency/ Applicant

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	review process further described in the section below titled Agency Collaboration.		
<b>Recommendation REC-10- Stream Crossings and Dams</b>	The DPEIR should include siting/design criteria for individual projects to avoid impacting stream to the maximum extent practicable. Where stream resources cannot be avoided, impacts should be minimized and mitigation in the same watershed if possible. Measures for fish passage should be incorporated into the design of all project crossings to ensure that sufficient in-stream flows are provided, and barriers are not created. All crossings related to cannabis operations should be developed in consultation with an engineer or other appropriate licensed professional for all construction and maintenance of dams and stream crossings to ensure they are constructed to minimize impacts to streams and relevant fish and other wildlife habitats.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>Recommendation REC-11 - Stream Crossings and Dams</b>	Limiting water use during certain periods of the year (forbearance period) consistent with State regulations should also be included as mitigation.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>Recommendation REC-12 – Water Use</b>	The FPEIR should provide a mechanism for analysis of water use from individual cannabis cultivation projects that have potential to impact instream flows and water availability for aquatic-dependent wildlife and habitat including steelhead, sensitive frogs, and other fish and amphibians. CDFW also recommends the County assess the aquatic carrying capacity of watersheds where cannabis would be allowed. The focus of the assessment should be to determine the maximum water use availability from watersheds to maintain adequate water supply for fish and wildlife resources, considering the cumulative demand from existing and future permitted cannabis cultivation projects. The review process for individual SECP projects should include a required water use and hydrology study to evaluate whether the Project would alter, divert, or impair stream flow and alignment, or otherwise impact stream resources. These reports should be submitted to CDFW for review prior to the initiation of any project activities. This step would be included as part of the County review process further described in the section below titled Agency Collaboration.	Prior to Project construction and activities	Lead Agency/ Applicant

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<p><b>Mitigation Measure</b> <b>MM-BIO-8 -</b> <b>Water Use</b></p>	<p>CDFW recommends the County require all commercial cannabis cultivation projects disclose all sources of water and expected demand by season and annually. Outdoor projects with water use should include a well completion report, and potentially a hydrologic study by a qualified entity that analyzes potential impacts to in-stream flow from water use. Measures to manage water to protect habitat and wildlife species for each SECP project should include forbearance periods consistent with SWRCB and CDFW requirements.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Recommendation</b> <b>REC-13 –</b> <b>Burrowing Owl</b></p>	<p>Mitigation measures related to burrowing owls may evolve as their status is updated as part of the Petition to List California Populations of the Western Burrowing Owl as Endangered or Threatened under CESA (CBC 2024) to reflect best practices according to the most recent research available. Please be advised that the 2012 Staff Report on Burrowing Owl Mitigation, and measure identified therein, may be amended as part of the BUOW listing process.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Mitigation Measure</b> <b>MM-BIO-9 -</b> <b>Burrowing Owl</b></p>	<p>If take or adverse impacts to burrowing owl cannot be avoided during Project activities or over the life of the Project, the County shall require the Project applicant to consult CDFW to determine if a CESA ITP is required, as appropriate.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Mitigation Measure</b> <b>MM-BIO-10 -</b> <b>Tricolored Blackbird</b></p>	<p>The DPEIR should contain avoidance measures to tricolored blackbirds in rural areas as recommended in the Department <a href="#">Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields, March 19, 2015</a> (CDFW 2015). If take of tricolored blackbird would occur from Project construction or operation, CDFW recommends the Project obtain appropriate take authorization under CESA which may include an ITP. The requirement to demonstrate that consultation for this CESA-listed species has occurred and appropriate CDFW authorization has been obtained and provided to the County should be included in individual SECP approvals prior to initiation of the project. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>

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	<p>species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP.</p>		
<p><b>Mitigation Measure MM-BIO-11 – Scientific Collecting Permit</b></p>	<p>A scientific collecting permit would be necessary if there is a plan to capture and relocate wildlife. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish &amp; G. Code, §§ 1002, 1002.5, 1003). A Scientific Collecting Permit is required to monitor Project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW’s Scientific Collection Permits webpage for information</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>
<p><b>Recommendation REC-14 – Public Lands</b></p>	<p>CDFW has multiple ecological reserves, wildlife areas, mitigation banks, conserved land throughout SD County. Many of these locations, such as Rancho Jamul and Ramona Grasslands, may be in proximity to potential cannabis sites and should be documented. Please visit CDFW’s Lands website (CDFW 2025) for more information. All cannabis facilities should be located sufficiently away from CDFW and other public lands to prevent direct and indirect impacts to those lands. Such impacts include impacts from access, pesticide drift, runoff, lighting, fencing and conversion of land. Include mapping of public lands by ownership the project area for each individual operation and ensure that appropriate buffers and setbacks are established to prevent impacts due to proximity.</p>	<p>Prior to Project construction and activities</p>	<p>Lead Agency/ Applicant</p>