

Kayla Miles - Fwd: Stakeholder Input to Cannabis Ordinance Revisions

From: Victoria Davis
To: Kayla Miles
Date: 4/4/2018 8:27 AM
Subject: Fwd: Stakeholder Input to Cannabis Ordinance Revisions
Attachments: Cover Ltr! 040518.docx; Microbus Cmte Input_PI Cmsn_ 040418.docx; Modified copy of Microbus Cmte Input_PI Cmsn_ 040418.docx

Victoria Davis
 Commission Services Supervisor
707-234-6664

>>> <jude@cchange.org> 4/4/2018 7:48 AM >>>

Please find below and attached a cover letter from the Sub-committee on Microbusiness licenses, a part of the County Working Group on State regulations. Attached you'll find the detailed response to county staff recommendation on amending the county cannabis ordinance. We will be present at the Planning Commission meeting April 5, and we are eager to answer any questions you may have.

Thank you very much for your hard work and diligence.

April 4, 2018

To: Planning Commissioners
 501 Low Gap Road
 Ukiah, CA 95482

From: Subcommittee on Microbusiness and Business Licenses Regulations
 State Regulations and Local Amendments Working Group

Subject: Public Input to Staff Recommendations -- OA 2018-005 Amendments to the Mendocino County Code Chapter 6.36 and Chapter 20.243.

Thank you for your hard work in helping to move Mendocino County forward in preserving our traditional, high quality craft commercial cannabis industry. We are stakeholders in the Mendocino County cannabis industry who have been working on the Board of Supervisors' working groups to assist in modifying and improving county regulations of commercial cannabis for the adult use and medical market.

You will find in the attached document, a number of specific modifications to staff recommended changes in Chapters 6.36 and 20.243 for the purpose of strengthening our shared goal of NOT driving our decades-old statewide industry into the underground market but instead supporting every small cannabis business to enter the legal, regulated system.

Here are a few of the Major Points in our recommendations:

1. Allow multiple premises under the Microbusiness License.
2. Change the definition of Microbusiness License to be consistent with the existing state definition and include the new license types and descriptions:
 - a. **Microbusiness license shall be its own license type and will include at least 3 of the following commercial cannabis activities:**
 - b. **cultivation of cannabis on an area 10,000 sf or less**
 - c. **distribution of licensed commercial cannabis products**
 - d. **distribution under the new state transport only license**
 - e. **manufacturing level 1 (non-volatile)**
 - f. **adult use and/or medical retail facilities, which shall include state-licensed delivery**
3. Add processing as an accessory activity to the main licensed activities.
4. Expand zoning allowances to accommodate the various activities allowed within a Microbusiness License type.
5. Allow cannabis business licenses to be transferable to another entity, in line with current practice with all other businesses operating in the county.

Background: With the passage of Proposition 64 in November of 2016, California voters adopted initial legislation supporting adult use of cannabis. Legal adult usage of commenced cannabis commenced on January 1, 2018. Since the passage of Prop. 64, California's cannabis legislation has changed several times as the previous Medical Cannabis Regulatory and Safety Act and the Adult Use Marijuana Act were merged into the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

In an effort to integrate adult-use state legislation into Mendocino County Code, the Board of Supervisors passed Ordinance No. 4394 on October 17, 2017, intended with Ordinance No. 4381 (Mendocino County Cannabis Regulations, cultivation regulations) to provide a frame work for business licenses and cultivation permits to move the Mendocino County cannabis industry into the new legal and regulated commercial cannabis state system. The Board of Supervisors also created eight Working Groups composed of County Staff and community stakeholders to more efficiently address state and local legislative development to both serve the greater community interests and cannabis community survival.

The conversion from restrictive, physician recommended medical use to medical and adult-use has been a difficult, complex, onerous, and expensive transition for the thousands of cultivators and small business operating in Mendocino County for decades. Thousands of local cultivators, dispensaries and medicine maker in the County who have relied on cannabis as livelihood for many years are unable to comply with new state and local regulations due to many newly imposed fees and taxes, building codes, Water Board regulations, BCC, CDFA and CDFW regulations, CalFire clearance and multiple additional reviews and inspections.

As you know, this is a critical time for Mendocino County's small but typical cannabis businesses. Without explanation, new state legislation has abandoned the one-acre cap on cultivation license

size as included in Prop. 64. Other Counties throughout the state are allowing large multiple acre grows with no restrictions on the number of permits per applicant. The ramifications of these policies have literally legislated the demise of the small farmer and small cannabis business.

If you attended or viewed the March 1, 2018 Prop. 64 Two Month Review hosted by Senator McGuire and Assemblyman Wood in Ukiah, you will surely recall the resounding confirmation provided by to audience to Sonoma Agriculture Commissioner, Tony Linegar's, summary, **"If the overall goal of this program was to create a regulatory scheme to favor corporate, big-dollar industry, we've succeeded. If the goal was to create a regulatory pathway for existing cultivators to become legal, I think we've failed.... Any other ag industry would be run out of business".**

Because the Board of Supervisors has chosen to restrict cannabis cultivation to less than one quarter acre per permit with only two permits per person allowed, you can imagine the gross disadvantage Mendocino County cannabis businesses face in the statewide marketplace. In our efforts to sustain the cannabis-based economy of our County while protecting the culture and environment we all cherish, we recommend the attached changes to staff's identified amendments to Chapters 6.36 and 20.143, consistent with state language and intended to protect the viability of small cannabis businesses struggling under the burdens of transition to a legal system.

Thank you for your careful work on this crucial issue.

Sincerely,

Members of the Microbusiness License sub-committee:

Contact: Jude Thilman, jude@cchange.org

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April 5, 2018

To: Planning Commissioners
501 Low Gap Road
Ukiah, CA 95482

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Thank you for your careful work on this crucial issue.

Sincerely,

Members of the Microbusiness License sub-committee:

Contact: Jude Thilman, jude@cchange.org

ATTACHMENT A

PUBLIC COMMENT AND INPUT

**OA_2018-0005- AMENDMENT TO THE MENDOCINO COUNTY CODE CHAPTER
6.36 CANNABIS FACILITIES BUSINESSES AND CHAPTER 20.243 CANNABIS
FACILITIES OF THE INLAND MENDOCINO COUNTY CODE
PROPOSED CHANGES
(Dated April 5, 2018)**

**Submitted by the County Working Committee on Microbusinesses
(A Sub-Committee of the County Working Group on State Requirements in Cannabis
Regulations)**

For ease of distinguishing the county's recommended changes from this working committee's input, the county's language is in *italics* and the committee's input is in **bold/straight font**.

- *The ordinance currently uses the phrase "medical or adult-use" throughout. Occurrences of this phrase would be eliminated in most cases as the County would not be base their permit types on whether it was a medical or adult use facility.*

For consistency with state language, the county will use the phrase medical or adult-use retail license or facility.

- *Currently, cannabis facilities are prohibited within a one thousand (1000) foot radius of a youth- oriented facility, a school, a park, or any church or residential treatment facility, as defined in Chapter 10A.17.020. Applicants would be able to apply for a reduction in the setback through an administrative permit, subject to the existing limitations of the chapter.*

1. Consistent with state regulations, §5026(a). Premises Location

A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued.

Comment: This language returns the county to earlier language of 600 feet. It also removes the problematic inclusion of "church" which 1) violates separation of church and state; 2) recognizes that a church does not involve children or youth to any extent greater than might a supermarket; 3) renders county language consistent with the state's regulation on setbacks and sensitive sites.

- *Currently, the definition of "Microbusiness" means "the cultivation of adult use cannabis on an area 10,000 square feet or less and acting as a licensed distributor, Level 1*

manufacturer, and retailer...”. As such, applicants are required to have all four components to qualify for a microbusiness license. The MAUCRSA only requires an applicant to have three out of the four components to qualify. To align with this state regulation, the definition would be changed to mean, “at least three (3) of the following commercial cannabis activities: cultivation of adult use cannabis on an area 10,000 square feet or less, distribution, Manufacturing Level 1 (Non-Volatile), and acting as a licensed retailer/dispensary under this Chapter...”

Change to be consistent with MAUCRSA as well as County Section 6.36.030 and amend to include processing and stipulate distribution, transport only, to be included:

Microbusiness license shall be its own license type and will include at least 3 of the following commercial cannabis activities:

- **cultivation of cannabis on an area 10,000 sf or less**
- **distribution of licensed commercial cannabis products**
- **distribution under the new state transport only license**
- **manufacturing level 1 (non-volatile)**
- **retail/dispensary activity, which shall include state-licensed delivery**

Authority: § 5500.Microbusiness (a) In order to hold a microbusiness license, a Licensee must engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution (both types), and retail sale.

- *Microbusinesses that are home occupations or cottage industries would be limited to Self-Distribution of the microbusiness' own cannabis and cannabis products and limited to customer levels as allowed by the home occupation or cottage industry ordinances.*

Microbusiness Licensees may utilize and transport source materials from and between permitted and licensed cultivators if they have the distributor, transport only permit and license.

- *Section 20.243.040 (F), would require, “All cultivation, manufacturing, distribution, and retail activities performed by a licensee under a permitted microbusiness shall occur on the same licensed premises.” This is an existing requirement of the Bureau of Cannabis Control, and would be included to align with State regulations.*

- 1. Within the microbusiness license, processing of raw cannabis materials will be considered an accessory activity to the principal activity, which can be either retail/dispensary or cultivation.**
- 2. A Microbusiness License may include, but is not limited to, Home Occupation or Cottage Industry activities, as delineated by County Code.**
- 3. Distribution Transport Only and Self-Distribution licenses would be allowed in any zoning district as an Accessory Use to a cultivation site.**

- *Distribution Transport Only and Self-Distribution licenses would be allowed in any zoning district as an accessory use to a cultivation site under application review or permitted pursuant to Chapters 10A.17 and 20.242, ~~but the licensee would be restricted to distributing cannabis goods grown or made by the licensee itself.~~*

Strike “but the licensee would be restricted to distributing cannabis goods grown or made by the licensee itself.”

Amend to add “accessory use to a cultivation site or adult/medical retail activity as a principal use.”

CEQA RECOMMENDATION: *In order to comply with the California Environmental Quality Act (CEQA), the County of Mendocino determined that Ordinance 4394 amending Chapter 6.36 and Chapter 20.243, was exempt from CEQA under the “general rule” exemption (15061(b)(3)). Staff recommends that the currently proposed changes continue to be found exempt under the general rule.*

GENERAL PLAN CONSISTENCY ANALYSIS: *Staff finds that the proposed amendments are consistent with the 2009 Mendocino County General Plan. The amendments would not constitute an increase in the total number of manufacturing facilities intended to be allowed in the County because only sites with an existing facility would be adapted for cannabis purposes. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.*

Under GENERAL PLAN CONSISTENCY ANALYSIS: **Remove “only sites with an existing facility would be adapted for cannabis purposes. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.”**

Rationale: Mendocino County has few, if any, areas zoned for manufacturing. Thus far, manufacturing has been driven to Sonoma County and the Bay area, losing an important part of our cannabis industry. By all accounts, the trend statewide is to locally permit activities that are consistent with current similar uses in zones where the impact is negligible and protects public safety and health.

Chapter 6.36 -Cannabis Facilities Businesses

Section 6.36.020 - Requirement for Cannabis Facility Business License.

- (1) *A cannabis facility shall not be allowed within one thousand (1000) foot radius of a youth-oriented facility, a school, a park, or any church or residential treatment facility, as those terms are defined in section 10A.17.020 of the Mendocino County Code, that is*

in existence at the time a Cannabis Facility Business License is applied for. The distance between the uses listed in the preceding sentence and the cannabis facility shall be measured in a straight line from the nearest point of the cannabis facility to the nearest point of any fenced, maintained or improved area where the users of the facility are typically present during normal hours of operation; provided, however, that this paragraph shall not apply to retailers/dispensaries which were operating with an approved business license as of the effective date of the ordinance adopting this Chapter 6.36.

Delete this section and substitute the following for consistency with state regulatory language:

A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued.

Section 6.36.030 - License Fee and Category Types.

The Board of Supervisors shall set license fees in an amount that covers all administrative costs for license issuance. The license fee shall be based on a flat rate set by Resolution passed by the Board of Supervisors. Cannabis facility business licenses shall be issued for the following facility types, as more particularly defined, and described and limited in Chapter 20.243:

- . (A) Processing Facilities.*
- . (B) Manufacturing Facilities.*
- . (C) Testing Laboratories and Research Institutions.*
- . (D) **Adult or Medical Retail Facility***
- . (E) **Distribution Facilities / Distribution, Transport Only***
- . (F) Microbusinesses*

Bold denotes suggested changes consistent with state language.

Include the state license for Distribution, transport only.

License fee for Microbusiness should be one consolidated fee, not aggregated separate fees for each activity within the Microbusiness License.

Section 6.36.040 - Administration.

- . (B) **TERM OF LICENSE.** Business licenses issued pursuant to this Chapter shall be issued on*

an annual basis and shall be renewed annually. The period of the annual license shall commence July 1 of each year and expire June 30 of the following year. At the discretion of the Tax Collector, the initial license for a business to be issued under this Chapter may be issued for a shorter or longer period of time to best align with the July 1 through June 30 time period; in such cases, the Tax Collector shall prorate the applicable license fees on a quarterly basis.

TERM OF LICENSE. Business licenses issued pursuant to this Chapter shall be issued on an annual basis and shall be renewed annually. The period of the annual license shall commence July 1 of each year and expire June 30 of the following year. Licensees will be allowed to take an opt-out year without having to submit an entirely new application.

Fees shall be determined with the following guidelines:

- **Cost of annual license will be reduced with every year in operation to a baseline amount determined by the Tax Collector. This amount will be in alignment with similar agricultural industries operating in the county.**
- **Cultivation taxes levied on cultivation sites will be pro-rated in tiers based on the size of the cultivation site. For example, the lowest rate for a microbusiness cultivation tax may be for those sites that are under 1,000 sf. Increments could be in 2,500 sf tiers up to the maximum of 10,000 sf.**
- **As a commercial business, alternatively, Microbusinesses should be taxed based on gross receipts.**

(C) NUMBER OF LICENSES REQUIRED. A separate license is required for each separate place of business even if the businesses are owned or operated by the same Person. If more than one facility type is being conducted at one location, a separate license is required for each facility type.

A Microbusiness License may carry out permitted activities on more than one premises, in line with the direction that new permanent guidelines being currently developed by the state CDFA and recommended unanimously by the state Cannabis Advisory Committee. Premises may be defined by ownership and not on a single parcel.

Rationale: Microbusinesses need to be able to expand their activities, such as processing and manufacturing, into other premises: (1) in order for small entities to compete, this license category was created to allow for horizontal integration of very different activities. The infrastructure needed for processing is different from that needed for manufacturing, which is quite different from that of retail. In our rural county, nearby or contiguous premises can be utilized to support carrying out these different activities. (2) Small commercial cannabis operators do not necessarily have the capital to build out the infrastructure needed on one premise. Partnerships or single entities making use of nearby premises allow applicants to realize the potential that the Microbusiness license holds.

Section 6.36.060 - Application Procedure.

(A) The Office of the Tax Collector shall refer the application to the Department of Planning and Building Services, the Division of Environmental Health, and other departments or divisions as necessary, to verify that the application is in compliance with County Code provisions and that the applicant has valid County license(s), permit(s), and/or other approvals, as required, prior to issuing any County Cannabis Facility Business License. The Office of the Tax Collector shall charge the applicant all fees required under the Master Fee Schedule for these referrals.

Include under this Section an updated Master Fee Schedule.

Section 6.36.070 - Issuance of License.

Upon review of an application for a Cannabis Facility Business License and payment of the license fee and any other fee required by the County for review of the application, the Office of the Tax Collector shall perform the application review as stated in Section 6.36.060 and issue a license unless substantial evidence in the record demonstrates one of the following bases for denial:

- . (A) The application is incomplete or inaccurate.*

This statement implies an arbitrary and summary denial. As with all applications to county planning and building, the county will work with the applicant to correct any application. The applicant will be given deadlines as well as guidance for correcting the application.

- . (C) The provision of false or misleading information by the Applicant to the County.*

Insert “with willful intent” after “information.”

- . (D) The failure or refusal of the owner or operator/manager of a licensed facility to comply with any of the provisions of this Chapter.*
- . (E) The failure or refusal to carry out the required policies and procedures or comply with the statements provided to the County with the business license application for the facility.*

Sections (D) and (E) are overly broad and punitive. There needs to be a process allowing for completion or correction of application, per (A). How will “false or misleading information” be ascertained, per (C) when the information could simply be a mistake? This industry should be treated like any other industry with mistakes or shortcomings dealt with on a simple, administrative basis, providing deadlines for corrections and reasonable fines imposed for continued failure to correct the mistakes.

(F) The failure or refusal to cooperate fully with an investigation or inspection by the County.

A business license issued pursuant to this Chapter does not provide any exception, defense, or immunity from other laws, nor does it create an exception, defense or immunity to any Person in regard to potential criminal liability the Person may have for the production, distribution or possession of medical or adult use cannabis.

This section sets a tone of continuing to view commercial cannabis entrepreneurs as “potential criminals” and should be stricken in its entirety.

Section 6.36.080 - Business License Renewal.

(A) A Cannabis Facility Business License renewal application and renewal fee must be submitted pursuant to Section 6.36.040(B). Failure to submit a renewal application will result in the automatic expiration of the Cannabis Facility Business License on the expiration date.

- 1. Change last sentence to: “Failure to submit a renewal application will result in a warning and deadline by which the applicant must submit a renewal application. Failure to meet the deadline can result in a fine imposed by the regulatory department.” This language is more consistent with administrative and civil law and moves us away from the prohibition language that views cannabis businesspeople as “ex-criminals”.**
- 2. Allow an opt-out year without the licensee being thrown out of the system.**

(B) A Cannabis Facility Business License may not be renewed if any of the following occurred during the previous year or currently exist: violations of or non-compliance with the license, these regulations, or any of the provisions of the Mendocino County Code, including, but not limited to, Chapter 10A.17 Medical Cannabis Cultivation Ordinance and, Chapter 20.243 Medical and Adult Use Cannabis Facilities Code.

A CFBL should be treated as a simple, legal business license with the licensee afforded the right to correct prior violations and secure a renewed license after that correction.

Section 6.36.100 - Licenses Nontransferable.

No license granted under this Chapter shall be transferable to any other Person or removable to any other location.

Licenses granted under this Chapter shall be transferable to another person who assumes the premise(s) where the licensed activity takes place, whether through sale of the business and property or through bequest, provided the new licensee meets all county and state requirements for ownership of a commercial cannabis business.

Rationale:

- **Treasurer-Tax Collector Shari Schrapmire has testified that ALL other business permits in the county are transferable.**
- **Flexibility in transferability of business licenses is essential for economic development in this county.**
- **A use permit may be attached to a location, with a separate license issued for business entities and activities, which can be passed on to a partner, purchaser of the property, family member, or others.**

Section 6.36.110 - Track and Trace.

Cannabis facilities shall be required to enroll in and comply with all requirements of any Track and Trace system adopted and implemented by the County to track the production and distribution of cannabis. Cannabis facilities shall obtain and use unique identifiers from an approved source, maintain them in a readable state, comply with all data entry requirements and pay all required Track and Trace fees. Noncompliance with Track and Trace requirements shall constitute a violation of the Cannabis Facilities Business License.

Remove county's costly and redundant Track and Trace system.

Rationale: Bureau of Cannabis Control Head Lori Ajax has stated there should not be dual entry of product tracking data. To have a redundant and costly Track and Trace system in the county that duplicates the function of the state Track and Trace system is an onerous and unnecessary burden on all cannabis businesses. This is exactly the sort of excessive regulation that is coming under state-wide scrutiny as elected officials and stakeholders alike re-examine how the legal, regulated commercial cannabis system is forcing the industry back into the underground market.

Section 6.36.120 -Violations.

(D) Violations of this Chapter are hereby declared to be public nuisances.

Delete (D) as “public nuisances” is old prohibition language that automatically views cannabis activity as criminal and a matter for law enforcement. Change to: “Violations of this Chapter are hereby declared to be administrative infractions incurring fines set and administered by the regulating department.”

MAUCRSA has already de-criminalized commercial cannabis activity.

Section 6.36.130 -Termination or Revocation of License.

- . (A) TERMINATION OF LICENSE UPON EXPIRATION. A Cannabis Facility Business License expires if not renewed pursuant to Section 6.36.080 of this Chapter. Upon expiration, a Cannabis Facility Business license shall automatically be deemed terminated. Termination based on expiration shall not prevent a Person from submitting a new application for a Cannabis Facilities Business License.*

Re-write 6.36.130 (A) to reflect a civil policy posture toward commercial cannabis activity, consistent with state law classifying cannabis as an agricultural crop. Incorporate administrative language that allows for applicant late renewal and removes “automatic” termination.

Section 6.36.140 - Enforcement.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. The use of one or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

Delete this section as it effectively contributes to re-criminalizing commercial cannabis activities.

Section 6.36.150 - Temporary Cannabis Facility Business Licenses.

- (A) The Tax Collector may issue a temporary Cannabis Facility Business License (a "temporary CFBL"), on a form prescribed by the Tax Collector, ...*

The current deadline of June 30, 2018 for application to the county for a commercial cannabis permit should be extended to December 31, 2018 to allow for the state’s pending extension of its deadline to take effect. This will also allow the county and all stakeholders to reconcile the new state permanent regulations with evolving county regulations.

A temporary CFBL shall be issued subject to the following conditions:

- . (1) The temporary CFBL shall be valid for a period of 180 days and may be extended for additional 90-day periods at the discretion of the Tax Collector.*

Change additional extension time from 90-day to 120 days.

- (D) The County shall not issue a temporary CFBL after February 28, 2018.*

Delete (D) under this section as it becomes moot when the County issues a temporary CFBL as an alternative to extending the deadline to sync with the state extensions.

Chapter 20.243 -Cannabis Facilities

Section 20.243.030 - Definitions.

"Customer" means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation.

Add to this definition that “natural person” is a living human being and not a corporation and is an accepted legal term.

"Extraction" means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

Change to the following: “Extraction” means a process by which cannabinoids and other compounds are separated from cannabis plant material through chemical or physical means.

"Microbusiness" means the at least three (3) of the following commercial cannabis activities: (1) cultivation of adult use cannabis on an area 10,000 square feet or less, and acting as a licensed distributor(2) distribution, Level 1 manufacturer(3) Manufacturing Level 1 (Non-Volatile), and (4) acting as a licensed retailer/dispensary under this Chapter, provided such licensee/CFBL Holder complies with all requirements imposed by this Chapter on licensed cultivators, distributors, Level 1 manufacturers, and retailers each of the three or more activities, to the extent the licensee/CFBL Holder engages in such activities.

Substitute with this definition drawn from state regulatory language and upcoming changes in the permanent ordinance:

Microbusiness license shall be its own license type and will include at least 3 of the following commercial cannabis activities:

- **cultivation of cannabis on an area 10,000 sf or less**
- **distribution of licensed commercial cannabis products**
- **distribution under the new state transport only license**
- **manufacturing level 1 (non-volatile)**
- **retail/dispensary activity, which shall include state-licensed delivery**

Authority: § 5500.Microbusiness (a) In order to hold a microbusiness license, a Licensee must engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution (both types), and retail sale.

"Nonvolatile extraction" means an extraction method using nonvolatile solvents (such as carbon dioxide or "CO₂") to manufacture medical or adult use cannabis products.

Add ethanol to the list of nonvolatile solvents, consistent with state inclusion of ethanol.

*"Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent. For purposes of this division, a nonvolatile solvent includes carbon dioxide **and ethanol** used for extraction.*

Section 20.243.040 - Use Classifications.

(A) Processing Facilities.

(1) Processing facilities, as defined herein, shall be an agricultural use type.

Change "agricultural use type" to "accessory use to principal activities of cultivation or adult use and/or medical retail licenses."

(2) Processing facilities for cannabis grown on site pursuant to a permitted cultivation operation shall be allowed as an accessory use in all zones where cultivation is permitted pursuant to Chapter 10A.17 Medical Cannabis Cultivation Ordinance.

Add: (3) Processing as an accessory use for the principal cultivation licensee may be carried out on contiguous parcels owned by the same licensee providing that the total cultivation acreage remains under the 10,000 sf cap.

(B) Manufacturing Facilities.

(1) Manufacturing facilities, as defined herein, shall be an industrial use type.

Change to: (1) Manufacturing Type 1 (nonvolatile) shall be a commercial use (C1 and C2) type.

(2) Manufacturing Type 2 (volatile) shall be an industrial use type.

Rationale:

- 1. This addresses the shortage of industrial zone space in Mendocino County and enables our home-grown manufacturing sector to remain in the county;**

2. This is in line with the zoning practice of other counties with regard to nonvolatile manufacturing;
 3. This is consistent with the current allowance of a variety of nonvolatile manufacturing facilities such as auto body shops and similar in commercially zoned areas.
- . (ii) *All cannabis used in home manufacturing must be cultivated on site, under a cultivation permit issued pursuant to Chapter 10A.17.*

Change to:

1. Microbusiness licensees are allowed to source any raw materials that have been tested and entered into the tracking system for the purposes of carrying out licensed activities, such as developing new medicinal products based on research and development or patient needs.
2. Microbusinesses conducting manufacturing as an accessory activity to principal activities of cultivation or adult use and medical retail sales may source additional cannabis that has been tested and found unsuitable due to natural pathogens (not pesticides) for remediation.

Rationale: (ii) is too restrictive for a developing industry. For example, wine processors will purchase from different vineyards to produce new and different blends.

Also, importantly, Mendocino County is home to a large number of medicine-makers who have been in the frontlines of creating new CBD tinctures and other effective medicines. Current trends internationally are to conduct R & D of new combinations of compounds in the plant in order to match cannabis medicines more effectively with specific “diseases” and conditions.

(D) Retailer/Dispensary.

Change term to “Adult Use and/or Medical Retail facility” throughout.

. (1) *A Retailer/Dispensary, and/or Delivery as defined herein, shall be a commercial use type.*

Stipulate (C1 or C2) and should read “Adult Use and/or Medical Retail facility shall be a commercial use type (C1 or C2).”

(1)(3) A Retailer/Dispensary with a storefront shall only be allowed pursuant to Table 1 of Section 20.243.060.

See changes to Table 1.

(c) On-site consumption of cannabis is permitted in outdoor areas of A-license

retailers/dispensaries, such as patios or decks, and shall adhere to the provisions of Mendocino County Code Chapter 9.32 Smoking Pollution Control and Health Protection Ordinance.

Add: (d) The county shall establish conditions for approving onsite consumption of infused products, edibles & vaporizing of cannabis to accommodate cannabis friendly cafes, restaurants, lounges and bars connected to B&Bs, hotels, and other tourist accommodations, providing those businesses have secured adult use and/or medical retail licenses or general microbusiness licenses.

(F) Microbusinesses.

- . (1) Microbusiness, as defined herein, shall be the use type which is the predominant use type of that microbusiness.*

As defined herein, predominant use types are cultivation and adult use / medical retail, to which other activities such as distribution (both types), manufacturing (non-volatile), and processing are accessory.

- . (4) Microbusinesses proposed in the General Commercial (C2) zoning district must demonstrate that the retail component of the Microbusiness is the primary use and other uses are incidental and subordinate to the retail component.*

Change to: Adult Use and Medical Retail Microbusinesses located in C1 and C2 zoning districts must demonstrate that the retail component of the Microbusiness is the primary use and other uses are accessory to the retail component.

- . (7) Notwithstanding Table 1 of Section 20.243.060, a microbusiness may be allowed in any zoning district provided that (a) the microbusiness either (i) qualifies as a home occupation pursuant to Chapter 20.156 or (ii) is permitted as a cottage industry pursuant to Chapter 20.160; and (b) there is a cultivation site permitted pursuant to Chapters 10A.17 and 20.242.*

Change to: A Microbusiness may be allowed in the following zoning districts: AG, UR,RL, FL, C1 and C2 with Zoning Clearance.

- . (8) Microbusinesses which are either a home occupation or cottage industry shall (a) have any distribution component be limited to Self-Distribution or Distribution Transport Only of the microbusiness' own cannabis and cannabis products and (b) have any retail/dispensary component be limited to the number of daily customers as allowed by either Chapter 20.156 or Chapter 20.160.that qualifies as a home occupation pursuant to Chapter 20.156 may be allowed in any zoning district provided there is a cultivation site permitted pursuant to Chapter 10A.17*

Delete this section in line with earlier recommendation: “Microbusiness licensees are allowed to source any raw materials that have been tested and entered into the tracking system for the purposes of carrying out licensed activities, such as developing new medicinal products based on research and development or patient needs.”

(6)(9) All cultivation, manufacturing, distribution, and retail activities performed by a licensee/CFBL Holder under a permitted microbusiness shall occur on the same licensed premises.

Delete this section in line with recommendations:

A Microbusiness License may carry out permitted activities on more than one location, in line with the direction that new permanent guidelines being currently developed by the state CDFA and recommended unanimously by the state Cannabis Advisory Committee. Premises may be defined by ownership and not on a single parcel.

Rationale: Microbusinesses need to be able to expand their activities, such as processing and manufacturing, into other premises: (1) in order for small entities to compete, this license category was created to allow for horizontal integration of very different activities. The infrastructure needed for processing is different from that needed for manufacturing, which is quite different from that of retail. In our rural county, nearby or contiguous premises can be utilized to support carrying out these different activities. (2) Small commercial cannabis operators do not necessarily have the capital to build out the infrastructure needed on one premise. Partnerships or single entities making use of nearby premises allow applicants to realize the potential that the Microbusiness license holds.

Processing as an accessory use for the principal cultivation licensee may be carried out on contiguous parcels owned by the same licensee as long as the total cultivation acreage remains under the 10,000 sf cap.

Section 20.243.050 - General Limitations on Medical and Adult Use Cannabis Facilities.

The processing, manufacturing, testing, dispensing, retail sales, and distributing of cannabis for medical and adult use in Mendocino County, shall not be allowed within one thousand (1000) foot radius of a youth-oriented facility, a school, a park, or any church or residential treatment facility, as those terms are defined in section 10A.17.020 of the Mendocino County Code, that is in existence at the time the zoning clearance or permit is applied for. The distance between the uses listed in the preceding sentence and the cannabis facility shall be measured in a straight line from the nearest point of the cannabis facility to the nearest point of any fenced, maintained or improved area where the users of the facility are typically present during normal hours of operation.

Make consistent with state regulatory language: A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in

kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued.

(C)(D) All cannabis facilities shall be located in a permanent building in conformance with the California Building Code as adopted by Mendocino County for a commercial or industrial building, as applicable, and shall not be located in a dwelling unit, recreational vehicle, cargo container, motor vehicle or other similar personal property, except as provided for by Mendocino County Code Chapter 20.156 or Chapter 20.160.

This language is overly broad. Accessory use licenses under the Microbusiness definition includes processing and distribution activities that could, for example, take place in a Class K type warehouse or “cargo container.”

Section 20.243.060 - Permit Types and Zoning Districts.

All medical and adult use cannabis facilities shall be permitted in accordance with this Section. All new medical and adult use cannabis facilities shall obtain approval from other State and Local agencies with permitting jurisdiction. Medical and adult use cannabis facilities may be allowed with an approved Zoning Clearance, Administrative Permit, Minor Use Permit, or Major Use Permit as required for the zoning district in which the medical or adult use cannabis facility is located as listed in Table 1, below:

Microbusiness Licenses shall be allowed with Zoning Clearance in the following: AG, UR, RL, FL, C1 and C2.

As accessory licenses to the principal activities of cultivation and Adult Use and Medical Retail, processing, distribution (both types), and manufacturing (nonvolatile Type 1) shall be permitted with ZC in AG, UR, RL, FL, C1 and C2.

Notwithstanding the above Table 1:

- . (A) Distribution Transport Only and Self-Distribution licenses shall be allowed in any zoning district as an accessory use to a cultivation site under application review or permitted pursuant to Chapters 10A.17 and 20.242, but the CFBL Holder shall be restricted to distributing cannabis goods grown or made by the CFBL Holder itself.*

CFBL Holder shall be allowed to obtain source materials from outside those grown or made by the CFBL Holder in line with earlier recommendation that varied source materials are needed to develop new medical products.

Section 20.243.070 - Exceptions.

- . (A) *Existing packing and processing facilities. Establishment of new cannabis facilities may be considered with a Minor Use Permit in FL, AG, or RL Districts, and in any other zoning district where such facilities exist subject to compliance with the County's existing nonconforming use requirements in Chapter 20.204, and consistent with Section 20.243.090 Planning Approval Required to Process, Manufacture, Test, Dispense, Retail, and Distribute, Cannabis for Medical and Adult Use, where all of the following can be demonstrated:*
- . **Change to allow new cannabis facilities with Zoning Clearance or Administrative Permit in AG, UR, RL, FL, C1 and C2.**

ADDITIONAL RECOMMENDATIONS FOR MICROBUSINESS PERMITTED ACTIVITY

- . **That microbusinesses may be able to sell directly to the public via farm stands and CSA's (CAC recommendation to state reg agency, 2/13/18)**
- . **That microbusinesses may be able to vend at events without a retail location. (CAC recommendation to state reg agency, 2/13/18)**

Section 20.243.110 - Permit Revocation.

An Administrative Permit or Use Permit may be revoked or modified according to the revocation or modification provisions in Mendocino County Code sections 20.192.060 and 20.192.065 or sections 20.196.055 and 20.196.060, respectively. Grounds for seeking revocation or modification include: non-compliance with one or more of the requirements listed in this Code; failure to comply with the requirements of the Mendocino County Certified Unified Program Agency (CUPA), or any of the grounds listed in code sections identified in this paragraph, as applicable, and any successor provisions.

This language is overly broad and needs to include an appeals process and opportunities to address noncompliance issues within reasonable deadlines.

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