ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 10A.17 MENDOCINO CANNABIS CULTIVATION ORDINANCE AND CHAPTER 20.242 CANNABIS CULTIVATION SITES OF THE MENDOCINO COUNTY CODE; ADDING CHAPTER 20.118 "CA" CANNABIS ACCOMMODATION COMBINING DISTRICT AND CHAPTER 20.119 "CP" COMMERCIAL CANNABIS PROHIBITION COMBINING DISTRICT TO THE MENDOCINO COUNTY CODE; AND REZONING CERTAIN PARCELS TO APPLY THE CA AND CP COMBINING DISTRICTS.

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Section 10A.17.040 is hereby amended to read as follows:

Sec. 10A.17.040 - General Limitations on Cultivation of Cannabis.

The following limitations shall apply to all cultivation of cannabis in Mendocino County, including but not limited to cultivation pursuant to a Permit issued under this Chapter or an exemption provided for in Section 10A.17.030. Cultivation of cannabis shall also be subject to all applicable restrictions of Mendocino County Code Chapter 20.242.

(A) The cultivation of cannabis in Mendocino County, in any amount or quantity by any entity, shall not be allowed in the following areas:

(1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein that is in existence at the time a Permit is initially applied for.

(2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate legal parcel; provided, however, that on January 1, 2020, this setback shall be increased to two hundred (200) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

(3) Outdoors or using mixed light in a mobile home park as defined in Health and Safety Code Section 18214.1 within one hundred (100) feet of an occupied mobile home that is under separate ownership.

(4) In any location where the cannabis plants are visible from the public right of way or publicly traveled private roads.

(5) Outdoors or using mixed light within fifty (50) feet from any adjoining legal parcel under separate ownership or access easement (whichever is most restrictive); provided, however, that on January 1, 2020, this setback shall be

increased to one hundred (100) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

(6) Any indoor cultivation sites that comply with paragraph (A)(1) shall also be subject to the following:

(a) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.

(b) The cultivation of cannabis within an accessory structure shall be allowed subject to the development requirements of the zoning district in which it is located and to requirements of Chapter 20.164 — Accessory Use Regulations except, notwithstanding Section 20.164.010: (a) the cultivation of cannabis in an accessory structure is not permitted prior to the construction of the legal dwelling unit on the parcel, if a legal dwelling unit is required by this Chapter, and (b) cultivation of cannabis shall only be allowed on the same parcel as the dwelling unit, if required.

(c) Indoor cultivation sites for individuals desiring to cultivate cannabis for adult use pursuant to section 10A.17.030(C) shall also be subject to the following limitation: cultivation sites located within a private residence that is a rental unit, as that term is defined by County Code section 20.008.050, shall not be located in any indoor space other than a garage or accessory structure.

(B) The distance between the listed uses in the above paragraph (A)(1) and cannabis that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 10A.17.040(H), or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest point of the exterior wall of the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs or 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, whichever is closest. The distance in paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 10A.17.040(H) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(5) shall be measured from the fence required in section 10A.17.040(H) to the boundary line of a legal parcel or access easement.

Applicants may seek a reduction in the setback described in paragraphs (A)(1) and (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242. See also sections 20.242.060(D) and 20.118.040 (D), (E) and (F) for further exceptions to setback regulations.

(C) The outdoor, indoor or mixed light cultivation of cannabis shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.

(D) The indoor or mixed-light cultivation of cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light cultivation cannabis shall not rely on a generator as a primary source of power.

(E) All lights used for the indoor or mixed light cultivation of cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.

(F) All activities associated with the cultivation of cannabis shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.

(G) All cultivation of cannabis shall not utilize water that has been or is illegally diverted from any spring, wetland, stream, creek, or river. The activities associated with the cultivation of cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(H) All cannabis grown in Mendocino County (excluding indoor growing) must be within a secure, wildlife exclusionary fence of at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when a qualified patient, caregiver or permittee (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(I) All buildings where cannabis is cultivated or stored shall be properly secured to prevent unauthorized entry.

(J) Persons cultivating cannabis pursuant to either section 10A.17.030, paragraphs (B) or (C) shall also comply with the provisions of section 10A.17.110, paragraphs (N) and (O).

(K) Prohibition on Tree Removal. Removal of any commercial tree species as defined by Title 14 California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (Quercus sp.) or Tan Oak (Notholithocarpus sp.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to address safety or disease concerns.

Section 2: Section 10A.17.080 is amended as follows:

Sec. 10A.17.080 - Permit Phases and Requirements Specific to each Phase.

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements:

(A) Permits under the MCCO will be issued in the following three phases:

(1) Phase One: Following the effective date of the MCCO, Permits will only be issued to applicants who provide to the Agricultural Commissioner pursuant to paragraph (B)(1) of this section proof of cultivation at a cultivation site prior to January 1, 2016 ("proof of prior cultivation"), and who comply with all other applicable conditions of this Chapter and Chapter 20.242. Applications for Permits during Phase One shall only be accepted until December 31, 2018. Applicants able to provide proof of prior cultivation may apply for a Permit on a relocation site pursuant to paragraph (B)(3) of this section.

(2) Phase Two: Starting January 1, 2018, the Agricultural Commissioner will begin accepting applications for Type 1A and Type 2A Permits for indoor cultivation in the following zoning districts, subject to compliance with all other applicable conditions of this Chapter and Chapter 20.242: Limited Industrial (I-1), General Industrial (I-2), and Pinoleville Industrial (P-I). Proof of cultivation prior to January 1, 2016, is not required.

(3) Phase Three: Starting January 1, 2020, the Agricultural Commissioner will begin accepting Permit applications from any applicant in conformance with the conditions of this Chapter and Chapter 20.242. Proof of cultivation prior to January 1, 2016, is not required.

(B) Requirements specific to Phase One Permits.

(1) Proof of Prior Cultivation. Persons applying for a Permit during Phase One shall be required to provide to the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016, which cultivation site shall have been, or could have been, in compliance with the setback requirements of paragraph (A) of section 10A.17.040. Evidence shall include:

(a) Photographs of any cultivation activities that existed on the legal parcel prior to January 1, 2016, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.

(b) Photographs of any cultivation activities that currently exist on the legal parcel, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.

(c) At least one (1) additional document demonstrating cultivation on the legal parcel prior to January 1, 2016, which evidence may be used to substitute for evidence pursuant to clause (a). The Agricultural Commissioner shall prepare a list of the types of documentation that will be accepted to meet this requirement, and may accept other similarly reliable documentary evidence showing that cannabis was cultivated prior to January 1, 2016.

(d) Proof of prior cultivation shall be assigned to the applicant relative to their prior cultivation site.

(e) Persons who participated in a permit program pursuant to the County's Chapter 9.31 in previous years may present evidence of such participation and payment of all required fees in order to provide proof of prior cultivation.

(2) Zoning Districts; Exceptions. Existing cultivation sites not located in zoning districts where Chapter 20.242 specifically allows cultivation may be issued a Type C, Type C-A, or Type C-B Permit, subject to the following requirements, in addition to all other applicable requirements of this Chapter:

(a) The zoning district is one where a dwelling unit is a principally permitted use and a dwelling unit is present.

(b) Sunset Provision for Residential Districts. Cultivation sites on legal parcels located in the Single-Family Residential (R-1), Two-Family Residential (R-2), Multiple-Family Residential (R-3), Suburban Residential (S-R), Rural Community (R-C), and Rural Residential (lot sizes one (1) acre, two (2) acres and five (5) acres [legal non-conforming parcels to minimum zoning size][R-R:L-1, R-R:L-2, and R-R:L-5 {legal non-conforming to minimum zoning size}]), as well as cultivation sites in any other zoning district where a dwelling unit is a principally permitted use and the legal parcel is less than two (2) acres in size, are subject to the following requirements:

(i) There is an occupied dwelling unit on the legal parcel with the cultivation site.

(ii) A Permit may be renewed and valid only until three (3) years following the effective date of the ordinance adopting this Chapter and any permits issued shall be void not later than three (3) years following said effective date.

The provisions of this subsection, however, shall not apply in areas designated as “CA” Cannabis Accommodation Combining District, nor shall they apply to parcels zoned Rural Residential (lot size five (5) acres [R-R:L-5]) that are between 3.5 and 4.99 acres and have been issued an administrative permit pursuant to section 20.242.070(C).

(c) Cultivation sites on legal parcels located in the Rural Residential zoning district, lot size five (5) acres (conforming parcels of five acres or more only)(R-R:L-5), are subject to the following additional requirement that there is an occupied dwelling unit on the legal parcel with the cultivation site.

(d) If a Permit is granted pursuant to this paragraph (B)(2) in these zoning districts, any future revocation or lapse in renewal of such Permit shall extinguish the ability of any person to obtain a Permit for such cultivation site.

(3) Relocation. Persons able to show proof of prior cultivation pursuant to paragraph (B)(1) above may apply for a Permit not on the site previously cultivated (the "origin site") but on a different legal parcel (the "destination site"), subject to the following requirements:

(a) Persons may apply to relocate their cultivation site pursuant to this paragraph (B)(3) until three (3) years after the effective date of the ordinance adopting this Chapter, or until May 4, 2020.

(b) The location and operation of the proposed cultivation site on the destination parcel complies with all requirements and development standards that apply to a new cultivation site as of January 1, 2020, pursuant to this Chapter and Chapter 20.242; provided, however:

(i) An existing cultivation site shall not be transferred to a legal parcel located within the Forestland or Timber Production Zone zoning districts.

(ii) An origin site may relocate to a destination site in the Rangeland zoning district, so long as the destination site has an existing cultivation site and no new cultivation sites would be established.

(c) The origin site shall be restored. The application for a Permit on a destination site shall be accompanied by a restoration plan that is consistent with the standard conditions and best management practices listed in the North Coast Regional Water Quality Control Board Order No. 2015-0023, and which shall include the following:

(i) Remove or repurpose buildings, greenhouses, fences, irrigation equipment, water intakes, pumps, storage tanks and other materials brought to the origin site for the purpose of cannabis cultivation;

(ii) Remove illegal dams, ponds or other in-stream water storage to restore natural stream flows, unless such features will continue in use;

(iii) Remove or compost agricultural wastes;

(iv) Remove trash and other debris; and

(v) Revegetate cleared areas with native plants typical of nearby natural areas, including groundcover, shrubs and trees.

(d) Unless the destination site is within the Agricultural zoning district, the application shall include either a water availability analysis pursuant to paragraph (C)(1)(b) below or a will serve letter pursuant to paragraph (C)(1)(c) below.

(e) Prior to the issuance of the Permit to cultivate cannabis at the destination parcel, the applicant shall provide the Agricultural Commissioner with an agreement, on a form approved by the Agricultural Commissioner and County Counsel, providing that the applicant releases any right to continue or resume cultivation of cannabis on the origin parcel.

(f) If a person is granted a Permit for a destination site, any claims of proof of prior cultivation on the origin site shall be effectively transferred to the destination site, and the ability to claim proof of prior cultivation at the origin site shall be extinguished.

(g) There shall be a two (2) acre minimum parcel size for all Type C, Type C-A or Type C-B Permits.

(4) Multiple Permits may be applied for and granted on a single legal parcel that is owned by multiple persons residing in separate habitable dwelling units on that legal parcel. Each owner may individually apply for a Permit to cultivate cannabis, provided that each owner must provide proof of prior cultivation pursuant to paragraph

(B)(1) above. Each owner shall be limited to a Type C, Type C-A or Type C-B Permit, unless that owner was previously enrolled in a permit program pursuant to the County's Chapter 9.31, or unless the cumulative total square footage of plant canopy applied for by all owners does not exceed the maximum square footage permitted on a parcel for the relevant zoning district.

(5) Persons eligible to apply for a Permit during Phase One may apply for a different and/or larger Permit type in subsequent years, subject to all requirements of this Chapter.

(6) If a Permit is granted pursuant to this paragraph (B), any future revocation or lapse in renewal of such Permit shall extinguish the ability of any person to obtain a Permit for such cultivation site, unless otherwise allowed by this Chapter 10A.17; provided, however, for Permits granted in the Rangeland (RL), Forestland (FL) or Timberland Protection (TPZ) zoning districts, not more than once in a five-year period, a Permittee may file with the Department of Agriculture, on a form prescribed by the Department, a Notice of Non-Cultivation instead of an application to renew the Permit, and the Permittee's ability to obtain a Permit for such cultivation site will not be extinguished.

(C) Requirements specific to Phase Three Permits.

(1) Watershed Assessment. All Permit applications, except for legal parcels located in the Agricultural (A-G) zoning district, shall demonstrate there is adequate water to serve the cultivation site.

(a) If surface water (or groundwater influenced by surface water) will be used, applicants may demonstrate that there is adequate water by providing (i) a watershed assessment that establishes there is sufficient watershed supply to serve the proposed cultivation site and existing uses within the watershed, and (ii) a water right exists to serve the cultivation site. A watershed assessment shall consist of an established "In Stream Flow Policy" as prepared by the State Water Resources Control Board Division of Water Rights or an equivalent document approved by that agency.

(b) If groundwater not influenced by surface water will be used, the applicant may demonstrate that there is adequate water by providing a water availability analysis which will address the adequacy of the proposed water supply, the direct effects on adjacent and surrounding water users, and possible cumulative adverse impacts of the development on the water supply within the watershed and show there is a sustained yield to support the proposed level of use.

(c) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that there is adequate water by providing a will serve letter from the proposed provider.

Section 3: Section 10A.17.081 is hereby added to the Mendocino County Code to read as follows:

Sec. 10A.17.081 – Application Deadline for Parcels in "CA" Cannabis Accommodation Combining Districts.

Notwithstanding the provisions of paragraph (A)(1) of section 10A.17.080, Phase One Permits may be issued for cultivation sites within a "CA" Cannabis Accommodation Combining District so long as applications for such sites are submitted to the County within one hundred eighty (180) days of the effective date of the ordinance that establishes the applicable CA district.

Section 4: Chapter 20.118 is hereby added to the Mendocino County Code to read as follows:

Chapter 20.118 – "CA" Cannabis Accommodation Combining District

Sec. 20.118.010. Intent.

The "CA" Cannabis Accommodation Combining District (CA Combining District or CA district) is intended to be applied to areas where greater flexibility in the development standards related to cannabis cultivation operations is desirable and necessary in order to accommodate existing commercial cannabis cultivation sites.

Sec. 20.118.020. Applicability.

(A) The CA Combining District may be applied to areas that include existing commercial cannabis cultivation operations, and where the zoning designation of the majority of the lots allows residential use by right.

(B) A CA Combining District may range from neighborhood to community in scale, but in no case be composed of fewer than ten (10) legal parcels as that term is defined in section 10A.17.020. All parcels within a CA Combining District shall be contiguous (excepting separations by public or private roads, rail lines, utility easements, or similar linear public facilities).

(C) The regulations in this section are supplemental to the regulations for the applicable underlying zoning district. In the event of a conflict between the regulations for the CA Combining District and the underlying zoning district, the CA district regulations shall prevail.

Sec. 20.118.030. Establishment of CA Combining District.

(A) The establishment of a CA Combining District shall be in accordance with the provisions of Chapter 20.212, except as otherwise provided in this section.

(B) Establishment of a CA Combining District may be initiated by one (1) or more property owner(s) within the boundaries of the proposed CA district. Such application shall be filed with the Planning and Building Services Department and shall be accompanied by either:

(1) A petition that demonstrates support for the proposed CA district by more than sixty percent (60%) of the affected property owners (as demonstrated by one (1) owner's signature per legal parcel) within the proposed CA district; or

(2) An alternative demonstration of landowner support, including but not limited to a landowner survey conducted by the County and funded by the applicant, or other method as approved by the County.

(C) Action on the filed application shall be taken by the Planning Commission and Board of Supervisors as established in Chapter 20.212.

(D) Applications for CA Combining Districts will be accepted until November 1, 2019.

Sec. 20.118.040. Regulations for CA Combining District.

(A) Notwithstanding application deadlines identified in section 10A.17.080(A)(1), applications for cannabis cultivation permits within a CA Combining District must be submitted within one hundred eighty (180) days of the effective date of the ordinance that establishes the CA Combining District.

(B) The Sunset Provision for cannabis cultivation (section 10A.17.080(B)(2)(b)) shall not apply within the CA district.

(C) Cannabis cultivation permit types defined in section 10A.17.060 as (C) Small Outdoor, (C-A) Small Indoor, Artificial Light, and (C-B) Small Mixed Light may be permitted for existing cultivation sites on any parcel subject to the planning permit and approval requirements in section 20.242.040(C).

(D) The minimum setback for a cultivation site from any adjoining legal parcel under separate ownership, as required by section 10A.17.040(A)(5), shall be twenty (20) feet.

(E) The minimum setback for a cultivation site to an adjoining legal parcel under separate ownership, as required by section 10A.17.040(A)(5), may be reduced to less than twenty (20) feet or waived through the approval of an Administrative Permit pursuant to section 20.242.070(C).

(F) The minimum setback for a cultivation site to any occupied legal residential structure located on a separate legal parcel, as required by section 10A.17.040(A)(2), may be reduced to twenty (20) feet through the approval of an Administrative Permit pursuant to section 20.242.070(C).

(G) Changes to the underlying zoning of a parcel or parcels within the CA Combining District would have no effect on the uses permitted and defined by this section, nor would the CA Combining District limit any use rights granted by a future rezoning of property within this CA district.

Sec. 20.118.050. Changes to CA Combining District.

(A) For the first ten (10) years after the date of adoption, no application to repeal or amend a CA Combining District, except as described in section 20.118.050(D), may be initiated by a member of the public.

(B) Following the in-effect period of ten (10) years from the date of adoption, a CA Combining District may be repealed or amended upon submittal of an application by one (1) or more property owner(s) within the boundaries of the CA district. The application shall be accompanied by either:

(1) A petition demonstrating support for the repeal or amendment of the CA district by more than sixty percent (60%) of all current property owners (as demonstrated by one owner's signature per parcel or parcels owned) within the CA district; or

(2) An alternative demonstration of landowner support, including but not limited to a landowner survey conducted by the County and funded by the applicant, or other method as approved by the County.

(C) If a CA Combining District is repealed at any time, all current cultivators that do not meet the development standards of the underlying zoning district shall be permitted to continue operations for three (3) years from the date of repeal of the CA district. After three (3) years following the date of repeal of the CA district, permits for cultivators that do not meet the standards of the underlying zoning district shall not be renewed by the County.

(D) An owner of property that is contiguous with a CA Combining District may submit a petition to the County to be included in the CA district. Petitions for inclusion in an existing CA district shall only be submitted by the current property owner. An addition of new property to an established CA district shall not alter the in-effect period of ten (10) years for the district.

(E) Action on an application to repeal, amend, or add contiguous property to a CA Combining District shall be taken by the Planning Commission and Board of Supervisors consistent with the provisions of Chapter 20.212, except as provided by this section.

Sec. 20.118.060. Fees for Petitions for CA Combining District.

The Board of Supervisors shall require payment of fees or deposits, as established by the Board, for the processing of applications seeking to establish, repeal, or amend a CA Combining District in an amount that covers all costs for review, public noticing and hearings, and approval or denial of the application. The fees shall be as set and established by Resolution passed by the Board of Supervisors.

Sec. 20.118.070. Adopted CA Combining Districts.

The CA Combining District has been applied to the following areas, which are more specifically defined in the ordinance that rezoned the areas to the CA Combining District:

(A) Covelo Core
(B) Covelo Fairbanks Road
(C) Laytonville
(D) South Leggett

Section 5: Chapter 20.119 is hereby added to the Mendocino County Code to read as follows:

Chapter 20.119 – "CP" Commercial Cannabis Prohibition Combining District

Sec. 20.119.010. Intent.

The "CP" Commercial Cannabis Prohibition Combining District (CP Combining District or CP district) is intended to allow the County to designate specific areas where commercial cannabis operations are prohibited.

Sec. 20.119.020. Applicability.

(A) The CP Combining District may be applied to an area where a majority of the parcels allow residential use by right.

(B) A CP Combining District shall be composed of no fewer than ten (10) legally created legal parcels, as that term is defined in section 10A.17.020, that are contiguous (excepting separations by public or private roads, rail lines, utility easements, or similar linear public facilities).

(C) The regulations in this section are supplemental to the regulations for the applicable underlying zoning district. In the event of a conflict between the regulations for the CP Combining District and the underlying zoning district, the CP district regulations shall prevail.

Sec. 20.119.030. Establishment of CP Combining District.

(A) The establishment of a CP Combining District shall be in accordance with the provisions of Chapter 20.212, except as otherwise provided in this section.

(B) Establishment of a CP Combining District may be initiated by one (1) or more property owner(s) within the boundaries of the proposed CP district. Such application shall be filed with the Planning and Building Services Department and shall be accompanied by either:

(1) A petition that demonstrates support for the proposed CP district by more than sixty percent (60%) of the affected property owners (as demonstrated by one (1) owner's signature per legal parcel) within the proposed CP district; or

(2) An alternative demonstration of landowner support, including but not limited to a landowner survey conducted by the County and funded by the applicant, or other method as approved by the County.

(C) Action on the filed application shall be taken by the Planning Commission and Board of Supervisors as established in Chapter 20.212.

Sec. 20.119.040. Regulations for CP Combining District.

(A) All new and unpermitted cannabis cultivation sites as defined in section 10A.17.020, except those uses identified as exempt under section 10A.17.030, and all cannabis facilities as defined in section 20.243.030 shall be prohibited within the CP district.

(B) Existing permitted cannabis cultivation sites or permitted cannabis facilities located within a newly adopted CP Combining District zone shall be permitted to continue operations for three (3) years from the date of establishment of the CP district. After three (3) years following the date of establishment of the district, all previously permitted commercial cannabis cultivation sites and commercial cannabis facilities shall cease operations.

(C) Nothing in this section shall be construed to extend the period of allowed cultivation as established under Mendocino County Code section 10A.17.080(B)(2)(b) (Sunset provisions).

Sec. 20.119.050. Changes to CP Combining District.

(A) For the first ten (10) years after the date of adoption, no application to repeal or amend a CP Combining District, except as described in section 20.119.050(C), may be initiated by a member of the public.

(B) Following the in-effect period of ten (10) years from the date of adoption, a CP Combining District may be repealed or amended upon submittal of an application by one (1) or more property owner(s) within the boundaries of the CP district. The application shall be accompanied by either:

(1) A petition demonstrating support for the repeal or amendment of the CP district by more than sixty percent (60%) of all current property owners (as demonstrated by one (1) owner's signature per legal parcel) within the CP district; or

(2) An alternative demonstration of landowner support, including but not limited to a landowner survey conducted by the County and funded by the applicant, or other method as approved by the County.

(C) An owner of property that is contiguous with a CP district may submit a petition to the County to be included in the CP Combining District. Petitions for inclusion in an existing CP district shall only be submitted by the current property owner. An addition of new property to an established CP district shall not alter the in-effect period of ten (10) years for the district.

(D) Action on an application to repeal, amend, or add contiguous property to a CP district shall be taken by the Planning Commission and Board of Supervisors consistent with the provisions of Chapter 20.212, except as provided by this section.

Sec. 20.119.060. Fees for Petitions for CP Combining District.

The Board of Supervisors shall require payment of fees or deposits, as established by the Board, for the processing of applications seeking to establish, repeal, or amend a CP Combining District in an amount that covers all costs for review, public noticing and hearings, and approval or denial of the application. The fees shall be as set and established by Resolution passed by the Board of Supervisors.

Sec. 20.119.070. Adopted CP Combining Districts.

The CP Combining District has been applied to the following areas, which are more specifically defined in the ordinance that rezoned the areas to the CP Combining District:

(A) Deerwood (Ukiah area)
(B) Boonville Road – Woodyglen (Ukiah area)

Section 6. Section 20.242.040 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.242.040 - Existing Cannabis Cultivation Sites.

(A) Referrals of applications to the Department for review related to existing cultivation sites shall include the Agriculture Commissioner's determination that the cultivation site existed prior to January 1, 2016, unless the Agricultural Commissioner requests the assistance of the Department in making this determination as part of the referral to the Department.

(B) Cultivation sites, in conformance with the MCCO, may be allowed on a legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit as required for the zoning district in which the cultivation site is located and as listed in Table 1.

TABLE 1
Zoning Permit Requirement for Existing Cannabis Cultivation by Zoning District and Cannabis Cultivation Ordinance Permit Type

MCCO Permit Type		C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm, Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial Light	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial Light	2-B Lg Mixed Light	4 Nursery
Min Parcel Area (ac) *[1], *[2], *[3]		NA	NA		NA	5	5	5	10	10	10	10
Cultivation Area Limit (sf)		2,500	500	501 — 2,500	2,500	2,501 — 5,000	2,501 — 5,000	2,501 — 5,000	5,001 — 10,000	5,001 — 10,000	5,001 — 10,000	22,000
Zoning District	RR 5*[1]	ZC	AP	UP	ZC	ZC	—	ZC	—	—	—	—
	RR 10	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	AG	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	UR	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	RL	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	FL*[4]	ZC	AP	UP	ZC	AP	—	AP	AP	—	AP	AP
	TPZ*[4]	ZC	AP	UP	ZC	AP	—	AP	AP	—	AP	AP
	I1*[5]	ZC	ZC	ZC	ZC	ZC	ZC	ZC	—	ZC	ZC	ZC
	I2*[5]	ZC	ZC	ZC	ZC	ZC	ZC	ZC	—	ZC	ZC	ZC
	PI*[5]	ZC	ZC	ZC	ZC	—	ZC	ZC	—	ZC	ZC	ZC

— = Not Allowed, ZC = Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit

*1 Parcels in the RR-5 zoning district must have a minimum parcel size of five (5) acres.

*2 A parcel that is located in a zoning district that allows commercial cultivation and has a lot area between three and one-half (3.5) and five (5) acres, and that shares at least fifty percent (50%) of its boundaries with parcels five (5) acres in size or larger, may apply for and be granted permit types 1 and 1-B following the issuance of an Administrative Permit pursuant to section 20.242.070(C).

*3 A parcel that is located in a zoning district that allows commercial cultivation and has a lot area between seven (7) and ten (10) acres, and that shares at least fifty percent (50%) of its boundaries with parcels ten (10) acres in size or larger, may apply for and be granted permit types 2, 2-B and 4 following the issuance of an Administrative Permit pursuant to section 20.242.070(C).

*4 Existing cultivation sites in the FL and TPZ zoning districts that were previously enrolled in a permit program pursuant to the County's Chapter 9.31 shall be required to

obtain a zoning clearance unless the applicant seeks to expand beyond the size previously cultivated under such permit program.

*5 Parcels in Industrial zoning districts are not subject to a minimum parcel area.

(C) A reduction in the setback from a legal parcel line required by section 10A.17.040(A)(5) may be allowed following the issuance of an Administrative Permit, approved pursuant to section 20.242.070(C), subject to the following limitations: (1) the approved reduced setback for cultivation not within a structure shall be no less than twenty (20) feet from an adjoining property under separate ownership or an access easement, or (2) for cultivation within a structure, the setback shall be no less than the front, rear, or side yard setback (as applicable) setback for the zoning district in which the property is located. Any reduction of the setback pursuant to this section must comply with the required setback from an occupied legal structure and the reduced setback may not encroach into any corridor preservation setback, pursuant to sections 20.152.015 and 20.152.020.

(D) An existing cultivation site located in a zoning district not listed in Table 1 of this section may continue, but shall not be expanded or enlarged, subject the following planning permit and approval requirements.

(1) Planning Permit Requirements:

(a) Outdoor Cultivation (pursuant to a MCCO Type C Permit) not exceeding two thousand five hundred (2,500) requires an approved Zoning Clearance.

(b) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A Permit) not exceeding five hundred (500) square feet requires an approved Administrative Permit.

(c) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A Permit) between five hundred one (501) and two thousand five hundred (2,500) square feet requires an approved Minor Use Permit.

(d) Mixed Light Cultivation (pursuant to a MCCO C-B Permit) not exceeding two thousand five hundred (2,500) square feet requires an approved Zoning Clearance.

(i) Any future lapse or revocation of the MCCO permit will extinguish the permittee's ability to obtain a future permit from the Department to continue or resume

an existing cultivation site that is not within a zoning district listed in Table 1 of this section.

(E) Transferability of Permits. Permits issued pursuant to this Section shall not be transferable to another person, except that the permittee may transfer the permit to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the permittee serves as a trustee, which shall not be deemed a change in ownership for purposes of this Chapter.

Section 7. Section 20.242.060 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.242.060 - New Cannabis Cultivation Sites.

(A) Except as provided in Section 20.242.050, on or after January 1, 2020, new cannabis cultivation sites may be permitted in accordance with this section.

(B) All new cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Cannabis, Section 10A.17.040; provided, however, that an applicant may seek a reduction in the setback requirements as stated in paragraph (D) of this section.

(C) Cultivation sites, operated in conformance with the MCCO, may be allowed on a legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit, as required for the zoning district in which the cultivation site is located and listed in Table 2.

TABLE 2
Zoning Permit Requirement for New Cannabis Cultivation by Zoning District and Cannabis Cultivation Ordinance Permit Type

MCCO Permit Type		C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial Light	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial Light	2-B Lg Mixed Light	4 Nursery
Min Parcel Area (ac)		2	2		2	5	5	5	10	10	10	10
Cultivation Area Limit (sf)		2,500	500	501 — 2,500	2,500	2,501 — 5,000	2,501 — 5,000	2,501 — 5,000	5,001 — 10,000	5,001 — 10,000	5,001 — 10,000	22,000
Zoning District	RR 5*[1]	ZC	AP	UP	ZC	ZC	—	ZC	—	—	—	—
	RR 10	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	AG	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	UR	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC	ZC
	I1*[2]	ZC	ZC	ZC	ZC	—	ZC	ZC	—	ZC	ZC	ZC
	I2*[2]	ZC	ZC	ZC	ZC	—	ZC	ZC	—	ZC	ZC	ZC
	PI*[2]	ZC	ZC	ZC	ZC	—	ZC	ZC	—	ZC	ZC	ZC

— = Not Allowed, ZC = Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit

*1 Parcels in the RR-5 zoning district must have a minimum parcel size of five (5) acres.

*2 Parcels in Industrial zoning districts are not subject to a minimum parcel area.

(D) Setback Reduction. A reduction in the setback from a legal parcel line required by Section 10A.17.040 may be allowed with an Administrative Permit, approved according to Section 20.242.070(C), provided that the approved setback reduction is fifty (50) feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive and the location of the cannabis cultivation site continues to comply with the required setback from an occupied legal residential structure.

Section 8. Section 20.242.070 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.242.070 - Planning approval required to cultivate cannabis.

(A) Planning Approval Procedure. Each proposed cannabis cultivation site is subject to one (1) of the following planning

review processes that correspond to the applicable zoning district and Chapter 10A.17 permit as specified by Table 1 or Table 2 in this Chapter.

The Agricultural Commissioner's Office shall refer applications for cultivation permits pursuant to Chapter 10A.17 to the Department, which shall review the application to determine which of the following processes applies. If the application needs only a Zoning Clearance, the Department will provide a zoning clearance approval to the Agricultural Commissioner's Office. If the application requires either an Administrative Permit or a Minor Use Permit, the Department will notify the Agricultural Commissioner's Office and the applicant that planning approval is required.

(B) Zoning Clearance. The Department shall review the MCCO permit application to confirm the cannabis cultivation site is allowed in zoning district, subject to the applicable requirements of this chapter, and confirm the legal parcel on which the cultivation site is located. The Department shall additionally provide any information as requested by the Agricultural Commissioner's Office to confirm compliance with any of the provisions of Chapter 10A.17.

(C) Administrative Permit. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve, conditionally approve or deny an Administrative Permit for cannabis cultivation sites based on the following special findings.

(1) The cannabis cultivation site is allowed in the zoning district and it is in compliance with the provisions of Chapter 10A.17.

(2) There is no other environmentally superior cultivation site located on the same parcel; the location and operation of the cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceeding fifteen (15) percent, prime soil, oak woodland, and timber resources.

(3) The cannabis cultivation will avoid or minimize odor and light impact on residential uses.

(4) For any new cannabis cultivation site established after January 1, 2020 and that is not located in the AG (Agriculture) Zoning District, the submitted MCCO permit application contains evidence that demonstrates: (1) there is adequate water supply in the watershed and water rights to serve the cultivation site; (2) the cultivation site has received a Clean Water Act Section 404 permit

from the Army Corps of Engineers or a Clean Water Act Section 401 permit from the North Coast Regional Water Quality Control Board, as applicable, and a General Permit for Discharges of Storm Water from the State Water Resources Control Board.

(5) The Administrative Permit granted for the cannabis cultivation site shall be limited to a period not to exceed ten (10) years. The Administrative Permit shall expire at the end of this period unless it is renewed prior to the end of the 10-year period, or at any time the approved MCCO permit for the cultivation site expires or is revoked.

(6) An Administrative Permit may be applied for and granted for an exception to the dwelling unit requirement of Chapter 10A.17 for parcels in the Rural Residential, lot size ten (10) acres (R-R:L-10) zoning district with the additional finding that the applicant shall demonstrate that the cultivation site and any associated infrastructure (roads, buildings, water storage, etc.) does not preclude the development of the parcel with a residence in the future. For parcels that will need on-site sewage disposal systems to be developed, making this finding may require the identification of a primary and reserve leach field to be identified in order to issue the Administrative Permit.

(7) An Administrative Permit may be applied for and granted for an exception to the one thousand (1,000) foot setback requirement of a cannabis cultivation site as outlined in section 10A.17.040(B). Administrative permits may be approved, conditionally approved or denied for the reduction of the setback provided for in section 10A.17.040(A)(1) based on the findings of 20.242.070(C)(1), (C)(2) and (C)(3) and on the following special findings:

(i) That there be special circumstances applicable to the property involved, including size, shape, topography, location or surrounding;

(ii) That the granting of such reduction will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; and

(iii) That the granting of such reduction will not adversely affect the General Plan.

(8) Applicants eligible for a Phase One Permit pursuant to Chapter 10A.17 may apply for and be granted an

Administrative Permit for an exception to the setback requirement of section 10A.17.040(A)(5) of an outdoor, greenhouse, or mixed light cultivation site to an adjacent legal parcel under separate ownership or access easement. Administrative Permits may be approved, conditionally approved, or denied for the reduction of required setbacks established in section 10A.17.040(A)(5) to no less than twenty (20) feet for cultivation not in a structure or no less than applicable front, side and rear yard setbacks for cultivation in a structure, based on the findings of section 20.242.070(C)(1), (C)(2), and (C)(3) and on the following special findings:

(i) That the granting of such reduction will not adversely affect the character, livability, or right to appropriate development of the adjacent property from which the setback reduction is requested; and will not interfere with rights of access or usage for any legal recorded easement; and

(ii) That the reduced setback maintains setbacks consistent with provisions of sections 10A.17.040(A)(1), (A)(2), (A)(3), and (A)(4), as applicable, unless the applicant obtains a reduction of such setbacks through an Administrative Permit as permitted by this Chapter.

(D) Minor Use Permit. In accordance with the Use Permit review procedure listed in Chapter 20.196, the Zoning Administrator or the Planning Commission shall approve, conditionally approve, or deny a Minor Use Permit for a cannabis cultivation site based on findings in Section 20.196.020 and the following special findings:

(1) The proposed cannabis cultivation site is in compliance with the provisions of Chapter 10A.17.

(2) In cases where there is no other environmentally superior cultivation site located on the same parcel, the location and operation of the cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceed fifteen (15) percent, prime soil, oak woodland, and timber resources.

(3) The proposed cannabis cultivation site will avoid or minimize odor and light impact on residential uses.

(4) For any new cannabis cultivation site established after January 1, 2020 and that is not located in the AG (Agriculture) Zoning District, the submitted MCCO permit application contains evidence that demonstrates: (1) there is adequate water supply in the watershed and water rights to serve the cultivation site; (2) the cultivation site has received a Clean Water Act Section 404 permit from the Army Corps of Engineers or a Clean Water Act Section 401 permit from the North Coast Regional Water Quality Control Board, as applicable, and a General Permit for Discharges of Storm Water from the State Water Resources Control Board.

(5) The Use Permit granted for the cannabis cultivation site shall be limited to a period not to exceed ten (10) years. The Use Permit shall expire at the end of this period unless it is renewed prior to the end of [the] 10-year period, or at any time the approved MCCO permit for the cultivation site expires or is revoked.

Section 9. **General Plan Consistency**. Based on the evidence in the record, the Board of Supervisors finds that the amendments and rezonings being made by this ordinance are consistent with the goals and policies of the Mendocino County General Plan and the Ukiah Valley Area Plan.

Section 10. **Rezone – "CA" Cannabis Accommodation Combining Districts**. Pursuant to Division I of Title 20, Chapter 20.212 of the Mendocino County Code, the zoning of the properties depicted and listed in the following exhibits, which are attached hereto and incorporated herein by this reference, is hereby changed to reclassify the properties to the "CA" Cannabis Accommodation Combining District:

Exhibit A. Covelo Core CA District
Exhibit B. Covelo Fairbanks Road CA District
Exhibit C. Laytonville CA District
Exhibit D. South Leggett CA District

Section 11. **Rezone – Commercial Cannabis Prohibition Combining Districts**. Pursuant to Division I of Title 20, Chapter 20.212 of the Mendocino County Code, the zoning of the properties depicted and listed in the following exhibits, which are attached hereto and incorporated herein by this reference, is hereby changed to reclassify the properties to the "CP" Commercial Cannabis Prohibition Combining District:

Exhibit E. Deerwood CP District
Exhibit F. Boonville/Woodyglen CP District

Section 12. **Severability**. If any section, subsection, provision, phrase, word, or clause of this ordinance or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this

ordinance and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of_____, 2018, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____

_____
DAN HAMBURG, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy