



**PLANNING COMMISSION
STAFF REPORT- ORDINANCE AMENDMENT**

**JULY 18, 2019
OA_2019-0001**

SUMMARY

APPLICANT:

COUNTY OF MENDOCINO
501 LOW GAP ROAD
UKIAH, CA 95482

REQUEST:

Review and consider a recommendation to the Board of Supervisors on an amendment of the Mendocino County Local Coastal Program to add two new chapters to the Coastal Zoning Code regulating Coastal Cannabis Cultivation and Coastal Cannabis Facilities and corresponding changes to Chapter 10A.17 and Chapter 6.36 of Mendocino County Code to integrate the new Coastal Chapters into the County's existing permitting systems. The chapter regarding Coastal Cannabis Cultivation will govern activities related to the cultivation of cannabis and establish limitations on the location and intensity of cannabis cultivation in the unincorporated area of Mendocino County within the Coastal Zone Area. The chapter regarding Coastal Cannabis Facilities will regulate land use and zoning to ensure that the scale of processing, manufacturing, testing, retailing/dispensing and distribution of cannabis is compatible with the County's land use and environmental setting, establish permit requirements for cannabis businesses and require compliance with environmental and public health regulations. These chapters are intended to complement a variety of actions by the State of California to establish a legal framework for cannabis cultivation and businesses.

LOCATION:

All unincorporated areas within the Coastal Zone of Mendocino County subject to Division II of Title 20 of Mendocino County Code

ENVIRONMENTAL DETERMINATION:

Pursuant to Section 15265 of the California Environmental Quality Act (CEQA), County of Mendocino staff recommend that the project be found statutorily exempt from environmental review.

STAFF PLANNER:

JULIA ACKER KROG

INTRODUCTION:

The Mendocino County Board of Supervisors (Board) intends to establish a Coastal Cannabis Cultivation Ordinance to govern the cultivation of cannabis and a Coastal Cannabis Facilities Ordinance to govern the commercial processing, manufacturing, testing, dispensing, retailing, and distributing of cannabis in the unincorporated areas of the Coastal Zone of the County of Mendocino. It should be noted that the Town of Mendocino was excluded from the current chapters to ensure consistency with the uses allowed in Division III of Title 20 and the associated Mendocino Town Plan.

The Coastal Cannabis Cultivation Ordinance and Coastal Cannabis Facilities Ordinance will be established through proposed Mendocino County Code Amendments to add two new chapters to the Mendocino County Coastal Zoning Code: Chapter 20.537 — Coastal Cannabis Cultivation Ordinance and Chapter 20.538 – Coastal Cannabis Facilities Ordinance. These chapters would be administered through

the Department of Planning and Building Services (PBS). The chapters are intended to regulate and establish permit requirements for the location and scale of cannabis cultivation, processing, manufacturing, testing, dispensing, retail, and distribution to ensure that activities are compatible with the County's land use and zoning and to require compliance with environmental and public health regulations.

The Coastal Cannabis Cultivation Ordinance and Coastal Cannabis Facilities Ordinance were originally presented at a Board of Supervisors hearing on April 23, 2019 to solicit Board direction on the initial drafts. At that hearing the Board provided several directives and requested that the item be sent to the Planning Commission for review and recommendation.

Adoption of these chapters would be an amendment to the Local Coastal Program as implemented through the Coastal Zoning Ordinance. Once the Board has received recommendations from the Planning Commission and has approved these chapters, they will need to be certified by the California Coastal Commission.

Minor changes to Chapters 10A.17 -Mendocino Cannabis Cultivation Ordinance and 6.36- Cannabis Facilities Businesses Ordinance to acknowledge these new chapters are provided for consideration by the Planning Commission and Board of Supervisors as part of this Ordinance Amendment request..

BACKGROUND:

- On April 4, 2017 the Board adopted Ordinance No. 4381, adding Chapter 10A.17 – Mendocino Cannabis Cultivation and Chapter 20.242 – Cannabis Cultivation Sites to the County Code regarding the cultivation of medical and adult-use cannabis in Mendocino County to create a permit program for cultivation in the unincorporated areas of inland Mendocino County. A Mitigated Negative Declaration (MND) was adopted for Ordinance No. 4381 (SCH No. 2016112028). The ordinance took effect on May 4, 2017.
- On October 17, 2017, the Board adopted Ordinance No. 4394 adding Chapter 20.243 – Cannabis Facilities and Chapter 6.36 – Cannabis Facilities Businesses to the County Code regarding the processing, manufacturing, testing, dispensing, retailing, and distributing of medical and adult-use cannabis in Mendocino County to create a permit program for cannabis facilities in the unincorporated areas of inland Mendocino County. Adoption of Ordinance No. 4394 was determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3), the General Rule Exemption.
- Following the adoption of Ordinance No. 4381 and No. 4394, direction was given to staff to draft Ordinances to cover cannabis cultivation sites and facilities in the unincorporated areas of the Coastal Zone of Mendocino County. Drafts of the Coastal Cannabis Ordinances are provided in the attachments for review by the Planning Commission.
- On April 29, 2019, the Coastal Commission released a guidance document on cannabis in the Coastal Zone titled Cannabis in the Coastal Zone and the Regulatory Requirements of the Coastal Act. The recommendations contained in this guidance document have been taken into consideration in the development of these chapters.

CHAPTER 20.537 - COASTAL CANNABIS CULTIVATION ORDINANCE

1. Key Differences from Ordinance No. 4381

The Coastal Cannabis Cultivation Ordinance would allow the cultivation of cannabis in the unincorporated areas of the Coastal Zone of the County of Mendocino. Due to the unique environment of the Coastal Zone and the existing comprehensive review process of development projects proposed in the Coastal Zone, the attached draft Chapter 20.537 – Coastal Cannabis Cultivation Ordinance exhibits numerous differences from its inland counterpart – Ordinance No. 4381. The key differences that should be noted include:

1. Only cultivation for personal use where no associated improvements meeting the Coastal Act and County Code definition of development are requested or required would be exempt from a coastal development permit pursuant to these regulations and the standard Coastal Zoning Code.
2. Relevant definitions would be modified to align with the Coastal Zoning Code, including "Cultivation site" and "Rental unit."
3. The provision for a Compliance Plan with approved permits is no longer necessary, as each project will be subject to discretionary review. Any project-specific conditions will be incorporated into the Conditions of Approval for each coastal development permit or coastal development use permit.
4. All cultivation sites are subject to the same requirements and treated as a new use under this chapter. This simplified approach, as compared to the multi-phased approach inland, will allow new and existing cultivators to seek permits simultaneously following the adoption of these regulations. This would negate the need for proof of prior cultivation. Existing cultivators that have engaged in construction and/or activities that meet the definition of development in the coastal zone without the benefit of a coastal development permit or coastal development use permit would be processed as an after-the-fact coastal development permit or coastal development use permit unless a determination is made by County or Coastal Commission staff that the construction and/or activity is exempt from a coastal development permit. This is typical of all coastal development permits or coastal development use permits that are sought after the fact.
5. Coastal development permits or coastal development use permits for cannabis cultivation may be assigned to another person subject to the requirements of Section 20.536.035 of the Coastal Zoning Code.
6. Permits from relevant agencies (CDFW, RWQCB, USACE, etc.) are not required to be included in the submittal of an application for a coastal development permit or coastal development use permit for cannabis cultivation. The relevant agencies will be contacted for comment during the referral process. Any conditions set by the agencies will be included in the Conditions of Approval of the coastal development permit or coastal development use permit. This is the current standard for other coastal development permits and coastal development use permits.
7. Language for standards regarding use of generators has been consolidated into one section.
8. Tree removal language has been modified for consistency with the coastal Major Vegetation, Removal or Harvesting definition contained in Section 20.308.080(C) of the Coastal Zoning Code.
9. All Cultivation Permit Types are allowed in Range Lands (RL), Forest Lands (FL), and Timberland Production (TP) zones. Due to the proliferation of properties zoned RL, FL or TP in the Coastal Zone, staff anticipates that a large number of existing cultivation sites are located on parcels zoned RL, FL, or TP. Excluding the aforementioned zoning districts from cultivation eligibility would limit the number of existing cultivation operations that would be able to come into compliance with the proposed regulations. Site-specific analysis required for each coastal development permit (required for the majority of cultivation permit types in RL) or coastal development use permit (required for all cultivation permit types in FL and TP) will ensure that the proposed cultivation operations are appropriate for the site.
10. Due to the limited number of industrial-zoned parcels in the Coastal Zone, cultivation is not permitted in industrial zones.
11. Indoor cultivation is allowed in a wider range of zoning districts. Based on the constraints of the coastal weather, staff anticipates that indoor cultivation may be the most common cultivation type pursued on the coast. The required site-specific analysis and conditions of approval with a coastal development permit or coastal development use permit can ensure there is no conflict with adjacent uses and that indoor cultivation is appropriate for the site.

12. The differentiation between Rural Residential (RR) zones (RR-1, RR-2, RR-5, RR-10) has been removed. Eligibility for cultivation permits is based on actual parcel acreage and the parcel's relation to adjacent parcel acreage, as parcels within the zoning districts may vary widely in size.
13. All parcels within the Rural Residential zoning district be required to have a legal dwelling without exception. This ensures that each parcel will be developed with the principal use in the zone prior to the issuance of any cultivation permits.
14. As every permit will be subject to either a coastal development permit or a coastal development use permit, a setback reduction exception is built into the ordinance. Specific findings are recommended in the ordinance to allow for a reduction to:
 - The 1,000-foot setback from a youth-oriented facility, a school, or a park;
 - The 200-foot setback from any occupied legal residential structure located on a separate legal parcel; and
 - The 100-foot setback from any adjoining legal parcel under separate ownership.

Section 20.537.080(A)(1) through (3) describes different reduction requests and required findings for granting the request.

15. Water source/availability requirements defer to the Mendocino County Coastal Groundwater Development Guidelines (Guidelines). The Guidelines were established to protect coastal water resources. As cultivation will be considered development, in most cases, it will be subject to the same requirements of any other development in the Coastal Zone and the required water investigation requirements will be based upon the projected water use for the particular site. Minor water users are subject to demonstrating Proof of Water, as required by Table 1 of the Mendocino County Coastal Groundwater Development Guidelines. There is a provision that Mendocino County Division of Environmental Health to grant an exception if it can be demonstrated that there is no increase in water use on the site as a result of the proposed development. Major water user thresholds are detailed in Table 1 of the Mendocino County Coastal Groundwater Development Guidelines as equal to or greater than 1,500 gallons per day. If a project qualifies as a major water user then a hydrological study is required prior to permit approval. There is a provision that allows the Mendocino County Division of Environmental Health (DEH) to waive the requirement under certain circumstances and to require studies for minor water use facilities if they are in areas of marginal or critical water resources.

The differences between the coastal and inland cannabis cultivation ordinances enumerated above are recommended to better conform to the requirements of a permitting program in the Coastal Zone.

2. Current Board Directives

At the April 23, 2019 Board hearing, the Board provided several directives for consideration and recommendation by the Planning Commission which are addressed individually below.

- a. *Strike language in Section 20.537.050(A)(4) pertaining to a 100-foot setback from an access easement.*

Removing the requirement for development to be set back 100 feet from an access easement is a nominal change to the standards, as cultivation will be subject to the same setback requirements as any other development in the Coastal Zone. This includes minimum front, rear and side yards specific to each zoning district, in addition to the corridor preservation setback standards of the Section 20.444.020 of the Coastal Zoning Code. Corridor preservation setbacks apply to all lots or parcels that abut a publicly maintained street or highway.

- b. *Review the Legal Parcel Definition and establish a date by which parcels would need to be created.*

The Board directed staff to make the definition of “legal parcel” align with the definition provided in Chapter 10A.17 of the Mendocino County Code and set the date by which parcels would need to be created as January 1, 2016. It is Staff’s understanding that the intent of selecting a date was to limit the potential for land division, and legal parcel status determinations for the purpose of cannabis-related activities.

- c. *Review the minimum parcel sizes and possibly modify the minimum parcel sizes for the Cultivation Permit Types C, C-A, and C-B.*

The Board recommended modifying the minimum parcel sizes for the Cultivation Permit Types C, C-A, and C-B to limit the possibility of cultivation in primarily residential neighborhoods. The current minimum parcel size for Cultivation Permit Types C, C-A, and C-B is 2 acres and the Board has requested that the Planning Commission make a recommendation regarding an alternate minimum parcel size.

Minimum parcel sizes for the Cultivation Permit Types C, C-A, and C-B suggested at the Board hearing on April 23, 2019, include 5 acres, with the possibility of lowering this minimum in accordance with the standards outlined in Section 20.537.020 of the current chapter, and 3.5 acres. Current Mendocino County parcel data shows that there are 638 parcels between 2 and 3.5 acres eligible for cultivation in the Coastal Zone that would be excluded from cultivation should the minimum parcel size increase to 5 acres, with the possibility of lowering this to 3.5 acres, or 3.5 acres.

Current standards in the Coastal Zoning Code limit potential impacts from development in neighborhood-like settings, regardless of the use type. For all coastal zoning districts in which cultivation is allowed in the current chapter, the maximum lot coverage provided in each zoning district chapter in the Coastal Zoning Code is *Twenty (20) percent for parcels less than two (2) acres in size. Fifteen (15) percent for parcels from two (2) acres to five (5) acres in size. Ten (10) percent for parcels over five (5) acres in size.* Key definitions per Section 20.308 of the Coastal Zoning Code that help to explain this standard are as follows:

- "Lot Coverage" means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, and porches, whether covered or uncovered, and all other projections except eaves; and
- "Structure" means anything constructed or erected, the use of which requires location on the ground, including, but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission and distribution line, antenna and satellite dish.

For a 2-acre parcel this would mean all development included in the definition of “Lot Coverage” would be limited to a 0.3 acre space, with development on 3.5-acre and 5-acre parcels limited to a 0.525 and 0.75 acre space, respectively.

Staff has not altered the table on the proposed ordinance as first we wish to seek the direction from the Planning Commission on how to modify the acreage minimum for the C, C-A, and C-B permit types.

3. Other proposed changes

Staff additionally recommends the following changes to the current chapter in consideration of protecting valuable coastal resources.

- a. *Revise section 20.537.050 of the current chapter to add Public Access Points as a sensitive receptor from which the 1000-foot setback would apply.*

The above addition would ensure consistency with Coastal Zone policies related to public access points.

CHAPTER 20.538 – COASTAL CANNABIS FACILITIES ORDINANCE

1. Key Differences from Ordinance No. 4394

The Coastal Cannabis Facilities Ordinance would allow for the commercial processing, manufacturing, testing, dispensing, retailing, and distributing of cannabis in the unincorporated areas of the Coastal Zone in Mendocino County. Due to the unique environment of the Coastal Zone and the existing comprehensive review process of development projects proposed in the Coastal Zone, the attached draft Chapter 20.538 – Coastal Cannabis Facilities Ordinance exhibits numerous differences from its inland counterpart – Ordinance No. 4394. The key differences that should be noted include:

1. Relevant definitions would be added, including "Cannabis", "Cannabis event", "Dwelling unit", "Legal Parcel", "Park", "Permit", "Permittee", "Private residence", "Processing", "School", "Shared-Use Facility or Shared Facility".
2. "Church" and "residential treatment facilities" have been removed from the list of sensitive receptors. As discussed during the May 8, 2018 BOS hearing, the removal of these sensitive receptors was presented to the Planning Commission by the public.
3. Processing may be permitted as an accessory use to a retail license for a storefront dispensary but shall be limited to cannabis to be sold at that retail location. The floor area related to processing shall not exceed twenty-five (25) percent of the retail floor area open to the general public. The floor area shall not include administrative space, storage space, or any other space not visible to customers.
4. A cultivator with multiple cultivation permits and/or locations may process the cultivator's own cannabis at a single facility located on one of the parcels, provided, however, that the parcels on which the cultivation is occurring are contiguous and under the same ownership.
5. Manufacturing structures permitted for non-volatile cannabis may operate as a "Shared Facility" provided certain conditions are met.
6. A cultivator with multiple cultivation permits and/or locations may operate a Self-Distribution facility located on one of the parcels, provided, however, that the parcels on which the cultivation is occurring are contiguous and under the same ownership.
7. Exemptions to obtaining a coastal development permit or coastal development use permit in the Coastal Zone are limited to the exemptions detailed in Mendocino County Code section 20.532.020.
8. Permit revocation or modification is subject to the provisions in Mendocino County Coastal Zoning Code Section 20.536.030.

9. A Cannabis Events section has been added, due to the number of requests for cannabis events under the inland ordinance. Section 20.538.050- Cannabis Events has been added and makes the event request consistent with the other coastal events with additional findings related to state licensing and setbacks to a youth center, school, and/or park. Events of less than 100 people could be permitted with a Coastal Development Administrative Permit.
10. Similar to the cultivation chapter, all permits are subject to the same requirements and treated as a new use under this chapter.

The differences between the coastal and inland cannabis facilities ordinances enumerated above are recommended to better conform to the requirements of a permitting program in the Coastal Zone.

2. Current Board Directives

At the April 23, 2019 Board hearing, the Board provided several directives for consideration and recommendation by the Planning Commission which are addressed individually below.

- a. *Review the Legal Parcel Definition and establish a date by which parcels would need to be created.*

Refer to the discussion in Section 2.b. of the Coastal Cannabis Cultivation Ordinance section, above.

- b. *Discuss allowable facility use types should be permissible in the Agriculture (AG) zoning district. It was suggested to allow all facility use types, with the exception of Testing.*

In considering whether additional facility use types should be permissible in the Agriculture (AG) zoning district, the compatibility with Coastal Zoning Code, the Local Coastal Program, and recent guidance from the Coastal Commission should be considered.

To determine the allowable zones for each facility type, staff assigned each State license type a use type found in the current Zoning Ordinance. The level of review required for each license type is consistent with that required for the assigned use type in a particular zoning district. The permitting requirements identified in proposed Chapter 20.538, Table 1, generally mirror the uses that are permitted and conditionally permitted under existing zoning districts. For example, Packing and Processing: Limited is a conditional use in the AG zoning district. As such, it is proposed that cannabis processing would also be a permitted use in the AG zoning district, subject to a Coastal Development Use Permit.

As discussed in the guidance document prepared by the Coastal Commission regarding cannabis in the Coastal Zone, the Coastal Act seeks to protect the productive capacity of agricultural lands and limits the situations in which agricultural lands may be converted to other uses. However, the County of Mendocino has specific supplemental findings for development proposed on agricultural lands when subject to a coastal development permit or coastal development use permit (see Section 20.532.100 of the Coastal Zoning Code). So long as all proposed development in the AG zoning district complies with the standards of the Coastal Zoning Code and is subject to a coastal development permit or coastal development use permit, potential negative impacts to agricultural lands, including the conversion of agricultural lands to non-agricultural uses, a concern discussed in the guidance document provided by the Coastal Commission, should be avoided.

Staff recommends that non-volatile manufacturing (Level 1), non-storefront retail, and microbusiness be conditionally permitted uses in the AG zoning district as Cottage Industries, so long as they are accessory uses to a permitted cultivation site and non-storefront retail is allowed as an accessory use to a permitted cultivation site. In order to permit each of these uses in AG zoning district, a finding would have to be made that it is compatible with the Local Coastal Program. Allowing these use types at a scale greater than that currently allowed under Cottage Industries in the AG zoning districts would be an expansion of the use types currently permitted and may not be supportable by the Coastal Commission. With respect to non-volatile manufacturing (Level 1), microbusiness, and non-storefront retail, staff recommends that these be conditionally permitted in AG, so long as the aforementioned use types are accessory to a permitted cultivation site.

Allowing volatile manufacturing use in the AG zoning district does not appear to be consistent with the permitted uses in the Agricultural land use designation. To expand the uses, an additional Local Coastal Program Amendment would be required and staff has not proposed any changes to the Land Use Plan portion of the Local Coastal Program under the current proposed ordinance amendment. Therefore, staff does not recommend pursuing this at this time.

c. *For Table 1, the following changes were suggested:*

- i. *Change all Processing permits in all zoning districts where allowed and all Testing permits in the GVMU and GHMU zoning districts to a Coastal Development Permit, rather than a Coastal Development Use Permit;*

The primary difference between a Coastal Development Permit and a Coastal Development Use Permit has to do with the fact that a Coastal Development Use Permit is always appealable to the Coastal Commission whereas a Coastal Development may or may not be appealable to the Coastal Commission. Staff does not believe this change would impact the level of site-specific review afforded each application; however, it may require adding a provision that all Coastal Development Permits for Testing in the GVMU and GHMU zoning districts are appealable to the Coastal Commission to remain consistent with allowable uses within these zoning districts. Table 1 has been changed to reflect this.

- ii. *Allow for Processing and Testing in the Rural Village (RV) and Commercial (C) zoning districts, subject to a CDP*

The Board has recommended that the Planning Commission consider allowing processing and testing as allowed uses in Rural Village (RV) and Commercial (C), as the current chapter does not include processing and testing as allowed uses in these zones. In considering whether processing should be permissible in the previously mentioned zoning districts, the compatibility with the Coastal Zoning Code and the Local Coastal Program must be considered.

The permitting requirements identified in proposed Chapter 20.538, Table 1, generally mirror the uses that are permitted and conditionally permitted under existing zoning districts.

Processing is conditionally permitted as a coastal agricultural use type. In the RV zoning district, processing is allowed as an accessory use to a permitted cultivation site, pursuant to a CDP; however, cultivation is not permitted in the RV zoning district. In order

to permit this use in the RV zoning district, a finding would have to be made that it was compatible with the Local Coastal Program.

In the C zoning districts, no coastal agricultural use types are permissible; therefore, processing would not be consistent with the permitted uses in the C zoning district. To expand the uses, a local coastal program amendment would be required and staff has not proposed any changes to the Land Use Plan portion of the Local Coastal Program under the current proposed ordinance amendment. Therefore, staff does not recommend implementing this directive.

Testing is a strictly coastal industrial use type and therefore would not be consistent with the permitted uses in the RV and C zoning districts. To expand the uses, a local coastal program amendment would be required and staff has not proposed any changes to the Land Use Plan portion of the Local Coastal Program under the current proposed ordinance amendment. Therefore, staff does not recommend implementing this directive.

- iii. *Review where microbusinesses are allowed inland and consider allowance in those districts in the Coastal Zone.*

In the inland cannabis facilities ordinance, Chapter 20.243 of the Mendocino County Code, microbusinesses are allowed as a standalone use in the Rural Community (RC), General Commercial (C-2), Limited Industrial (I-1), General Industrial (I-2), and Pinoleville Industrial (PI) zoning districts. Microbusinesses may be allowed in other zones so long as there is a permitted cultivation site and the microbusiness qualifies as a Home Occupation or is permitted as a Cottage Industry. In the current coastal zone chapter, microbusinesses are limited to Rural Village (RV) and Commercial (C), unless, per Section 20.538.020(F) of the current chapter, the microbusiness qualifies as a Home Occupation pursuant to Chapter 20.488 or is permitted as a Cottage Industry pursuant to Chapter 20.452, and there is a cultivation site permitted pursuant to Chapter 20.537 and Chapter 10A.17. Microbusiness is defined as a coastal commercial use type and per the definition of microbusiness listed in Section 20.538.015 of the current chapter, a microbusiness includes at least three of the following:

- Cultivation of cannabis on an area ten thousand (10,000) square feet or less;
- Distribution;
- Manufacturing Level 1 (Non-Volatile); and
- Retailer/dispensary.

- d. *Evaluate the requirement that retail be the primary use for microbusinesses in commercial zones.*

Of the approximately 8,174 parcels in the Coastal Zone of Mendocino County, only 191 of these, covering approximately 127 acres, are zoned Commercial (C). In a County with so few commercial-zoned properties, allowing for non-retail use microbusinesses in limited commercial spaces may have detrimental effects on the local economy. Staff recommends maintaining the language in Section 20.538.020(F)(4) that requires microbusinesses proposed in the Commercial (C) and Rural Village (RV) zoning districts to demonstrate that the retail component of the microbusiness is the primary use. This would be more consistent with the existing standards in the Coastal Zoning Code and the Local Coastal Program.

- e. *For Shared Facilities, remove the 5-users per facility limit and discuss an alternative user limit, if any.*

The Board recommended revising Section 20.538.020(B)(4) of the current chapter to align with the state requirements on shared facilities. According to Chapter 13. *Manufactured Cannabis Safety* of the California code of Regulations, Title 17, Division 1, there is no restriction on the number of users eligible to share a facility. Staff recommends aligning the requirements for shared facility with the state requirements and removing the limit on the number of users who can share a facility, so long as use of the facility is dictated by a schedule and is limited to 1 user at a time and all users and the shared facility are in compliance with all sections of the Coastal Zoning Code and the current chapter.

ENVIRONMENTAL DETERMINATION:

Pursuant to Section 15265 of the California Environmental Quality Act (CEQA), County of Mendocino staff have determined that the project is statutorily exempt from environmental review.

RECOMMENDED MOTION FOR THE PLANNING COMMISSION

The Planning Commission by Resolution recommends that the Mendocino County Board of Supervisors adopt Ordinance Amendment OA_2019-0001 adding Chapters 20.537 and Chapter 20.538 to the Mendocino County Local Coastal Program and corresponding changes to Chapters 10A.17 and 6.36 of Mendocino County Code.

DATE

JULIA ACKER KROG
CHIEF PLANNER

ATTACHMENTS:

1. Planning Commission Resolution
 - EXHIBIT A. Draft Chapter 20.537 – Coastal Cannabis Cultivation Ordinance
 - EXHIBIT B. Draft Chapter 20.538 – Coastal Cannabis Facilities Ordinance
 - EXHIBIT C. Draft Chapter 10A.17 Amendments – Mendocino Cannabis Cultivation Ordinance (Redline)
 - EXHIBIT D. Draft Chapter 6.36 Amendments – Cannabis Facilities Businesses Ordinance (Redline)

Resolution Number _____

County of Mendocino
Ukiah, California
July 18, 2019

OA_2019-0001 COUNTY OF MENDOCINO

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS REGARDING PROPOSED AMENDMENTS TO THE MENDOCINO COUNTY LOCAL COASTAL PROGRAM ADDING CHAPTERS 20.537 – COASTAL CANNABIS CULTIVATION ORDINANCE AND 20.538 – COASTAL CANNABIS FACILITIES ORDINANCE AND THE CORRESPONDING CHANGES TO CHAPTERS 10A.17 – MENDOCINO CANNABIS CULTIVATION ORDINANCE AND 6.36 – CANNABIS FACILITIES BUSINESSES ORDINANCE

WHEREAS, on April 17, 2017, the Board of Supervisors gave direction to staff to bring forward possibilities for a cannabis cultivation and facilities ordinance in the Coastal Zone; and

WHEREAS, the County of Mendocino desires to amend the Mendocino County Local Coastal Program by adding Chapters 20.537 and 20.538, which are attached to this Resolution as Exhibits A and B and incorporated herein by this reference; and

WHEREAS, the County of Mendocino desires to amend Mendocino County Code Chapters 10A.17 and 6.36 to add references to the proposed new Chapters 20.537 and 20.538, which are attached to this Resolution as Exhibits C and D and incorporated herein by this reference; and

WHEREAS, County Staff has, pursuant to the direction of the Board of Supervisors of Mendocino County, prepared amendments to the Mendocino County Local Coastal Program and corresponding changes to Mendocino County Code Chapters 10A.17 and 6.36 (the "Project"); and

WHEREAS, pursuant to California Code of Regulations section 15265 the Project is Statutorily Exempt from the California Environmental Quality Act (Public Resources Code section 21000 et seq.; "CEQA"); and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, July 18, 2019, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, based on the evidence in the record before it, makes the following report and recommendation to the Mendocino County Board of Supervisors regarding Ordinance Amendment OA_2019-0001:

1. The Planning Commission recommends that the Board of Supervisors find the adoption of Ordinance Amendment OA_2019-0001 is consistent with the Mendocino County Local Coastal Program and Mendocino County General Plan.

2. The Planning Commission recommends that the Board of Supervisors adopt Ordinance Amendment OA_2019-0001, making changes to code sections as shown in the attached Exhibit A.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other materials which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Department of Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: JAMES FEENAN
Commission Services Supervisor

By: _____

BY: BRENT SCHULTZ
Director

MARILYN OGLE, Chair
Mendocino County Planning Commission

CHAPTER 20.537 – COASTAL CANNABIS CULTIVATION SITES

Sec. 20.537.005 – Title, Purpose and Intent.

This chapter 20.537 ("Chapter") is intended to provide land use regulations for the Coastal Zone of the County of Mendocino for the cultivation of cannabis, subject to the limitations established by this chapter and the provisions of Mendocino County Code Chapter 10A.17, the Mendocino Cannabis Cultivation Ordinance ("MCCO").

The purpose and intent of this Chapter, together with the MCCO, is to allow for the cultivation of cannabis in locations that are consistent with the intent of the zoning district and to help ensure that its cultivation and related activities will not create adverse impacts to the public health, safety, and welfare of the residents and businesses of the County of Mendocino.

Sec. 20.537.010 - Application.

The cultivation of cannabis is prohibited in all zoning districts in the Coastal Zone of Mendocino County except as allowed by this Chapter and by Chapter 10A.17.

Sec. 20.537.015 – Definitions.

Unless otherwise defined in this Chapter, the terms and phrases used herein shall have the same definitions as provided in Chapter 10A.17, or as provided in this Title 20.

As used herein the following definitions shall apply:

"Coastal Access Point" means Designated Coastal Access Points and Trail Systems as provided in Table 3.6-1 of Appendix 13 of the Mendocino County Coastal Element of the General Plan plus any additional Public Access Trails for which an Accessway Management Plan in conformance with Section 20.528.045 has been prepared and accepted by the Planning and Building Services Director.

"Cultivation site" means one (1) or more locations or facilities on one (1) legal parcel (or one (1) or more legal parcels if specifically allowed for by this Chapter 20.537) subject to a single permit approved pursuant to this Chapter, where cannabis is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport, or that does all or any combination of those activities. One (1) or more areas of cannabis cultivation may exist on the legal parcel used for that purpose.

"Legal parcel" or "Parcel" means a lot of real property created pursuant to the Subdivision Map Act or for which an application for subdivision was on file with the Department of Planning and Building Services prior to January 1, 2016, or for which a certificate of compliance was recognized and recorded prior to January 1, 2016; provided, however, for real property within Industrial zoning districts, subdivisions or certificates of compliance may be recognized and recorded after January 1, 2016.

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"Publicly traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.308.110(32).

"Rental unit" means a housing unit that is occupied by a party or household that is not its owner, and who pays a fee for the use of the unit.

Sec. 20.537.020 – Coastal Development Permit for Cannabis Cultivation Required; Exemptions.

- (A) Cultivation of cannabis pursuant to the exemptions provided in section 10A.17.030 shall not be required to obtain a coastal development permit or coastal development use permit pursuant to this chapter, but may be required to obtain a coastal development permit or coastal development use permit pursuant to Chapter 20.532 if the cultivation constitutes "development" as defined in Section 20.308.035(D).
- (B) Cultivation of cannabis in excess of the exemptions provided for in section 10A.17.030 shall only be allowed following the issuance of a coastal development permit or coastal development use permit pursuant to the provisions of this Chapter and Chapter 20.532 and the issuance of a cultivation permit pursuant to the provisions of Chapter 10A.17 of the Mendocino County Code. The coastal development permit or coastal development use permit shall be issued prior to the issuance of a cultivation permit under Chapter 10A.17.
- (C) Coastal development permits or coastal development use permits pursuant to this Chapter shall be issued consistent with Table 1 below, which specifies which zoning districts allow which cannabis cultivation types and the type of permit required. If multiple cultivation types are sought for a single cultivation site, a single coastal development permit or coastal development use permit may be applied for and granted, upon approval or conditional approval by the Department, at the more restrictive permit level.

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TABLE 1

Permit Requirement for Cannabis Cultivation by Zoning District and Cannabis Cultivation Ordinance Permit Type

MCCO		C	C-A		C-B	1	1-A	1-B	2	2-A	2-B	4
Permit Type		Sm Outdoor	Sm Indoor, Artificial Light		Sm, Mixed Light	Med Outdoor	Med Indoor, Artificial Light	Med Mixed Light	Lg Outdoor	Lg Indoor, Artificial Light	Lg Mixed Light	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	AG	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDP
	FL	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU
	TPZ	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU
	RL	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDU
	RR	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDU
	RMR	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDU
CDP = Coastal Development Permit CDU = Coastal Development Use Permit												

(D) Notwithstanding the above Table 1:

- (1) 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 pursuant to the findings listed in Section 20.537.040.
- (2) 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

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(10) acres in size or larger, may apply for and be granted permit types 2, 2-B and 4 pursuant to the findings listed in Section 20.537.040.

Sec. 20.537.025 – General Limitations and Requirements for All Cultivation.

The cultivation of all cannabis within the Coastal Zone shall be subject to the limitations and requirements of this section.

- (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 a Coastal Access Point, that is in existence at the time a permit is initially applied for.
 - (2) Outdoors or using mixed light within two hundred (200) feet of any occupied legal residential structure located on a separate legal parcel.
 - (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) Outdoors or using mixed light within one hundred (100) feet from any adjoining legal parcel under separate ownership.
 - (5) 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 20.456 — Accessory Use Regulations except, notwithstanding Section 20.456.010: (i) 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 (ii) 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

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private residence that is a rental unit, as that term is defined in this chapter, 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 20.537.025(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 20.537.025(H) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(4) shall be measured from the fence required in section 20.537.025(H) to the boundary line of a legal parcel or access easement.

Applicants may seek a reduction in the setbacks described in paragraphs (A)(1), (A)(2), and (A)(4) pursuant to Section 20.537.040.

- (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 of 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 Appendix B of the Coastal Zoning Code.
- (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.

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- (H) All cannabis grown in Mendocino County (excluding indoor growing) must be within a secure fence of at least six (6) feet in height that fully encloses the 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 20.537.030, paragraphs (H) and (I).
- (K) Major Vegetation Removal. The removal of major vegetation, as defined in Section 20.308.080, is prohibited in the Coastal Zone of Mendocino County unless performed in accordance with a coastal development permit approved pursuant to Chapter 20.532. A coastal development permit for cannabis cultivation that includes the removal of major vegetation shall not be approved if it includes the 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. 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 20.537.030 - Requirements for all Coastal Development Permits Issued Pursuant to this Chapter.

All cannabis cultivation pursuant to a coastal development permit issued under this Chapter shall comply with the following requirements, unless specifically exempted:

- (A) Zoning Districts. Cultivation of cannabis shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided Table 1 of section 20.537.020.
- (B) Indoor Cultivation Permits. The use or conversion of habitable space (i.e., kitchen, bedrooms, bathrooms, living room or hallways) in any structure shall not be allowed for the indoor cultivation of cannabis.
- (C) Cultivation of cannabis is not permitted within any required parking space.

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- (D) Permit Density. A Person may apply for and obtain a maximum of one (1) coastal development permit for cannabis cultivation per legal parcel or for multiple legal parcels, so long as the parcels are contiguous and under the same ownership. A single coastal development permit for cannabis cultivation may include multiple cultivation types. Should the Person sell any of the parcels subject to the Permit, subsequent permit modifications shall be required to modify the cultivation site to adhere to required setbacks.
- (E) Dwelling Unit Requirement. Legal parcels with a cultivation site in the Rural Residential (R-R) zoning district shall be required to have a dwelling unit.
- (F) Generators. The indoor or mixed-light cultivation of cannabis pursuant to a coastal development permit issued under this Chapter shall not rely on a generator as a primary source of power. If a generator is used to support any aspect of the permitted cultivation operations, it shall be as a secondary or back-up power source. The use of the generator is only allowed when the primary alternative power source is unable to provide its normal output and generate sufficient power to meet the needs of the cultivation operation and the legal dwelling unit. The Owner's Manual and/or Operation Manual (or operational fact sheet) providing the operational characteristics and maintenance schedule for the generator shall be on-site and available for review.
 - (1) If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (a) the permittee shall install an alternative power source that will meet at least one-half ($\frac{1}{2}$) of the combined power requirements by the expiration of twelve (12) months from the date of initial application for a permit pursuant to this Chapter and (b) it will be a condition of the permit that the cultivator shall expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit within two (2) years after issuance of the coastal development permit. If a generator is being used pursuant to the conditions set forth in this paragraph (F)(1), the coastal development permit shall be conditioned on conducting an analysis of the noise levels produced by the generator at full operational speed, performed by an accredited acoustical engineer, and such analysis shall show compliance with Appendix B of the Coastal Zoning Code. All generators shall be, at a minimum, equipped with the manufacturer's specified muffler; if compliance with Appendix B requires additional measures, the generator shall be equipped with such measures, which may include a hospital-grade muffler and/or a structure to enclose the generator designed for sound suppression.

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- (2) Any electrical wiring associated with the generator shall be of sufficient capacity and installed in such a way as to provide for the minimum installation and safety standards for the electrical service provided by that generator.
- (G) All buildings, including greenhouses, used for the cultivation of cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.
- (H) Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner's Office. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans, to exclude large animals that may be attracted by odors, and to ensure that they will not enter or be released into surface or ground waters.
- (I) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Sec. 20.537.035 – Coastal Development Permit Application

Any person or entity that wishes to engage in the cultivation of cannabis shall submit an application for a coastal development permit or coastal development use permit as required by Section 20.537.020 to the Department of Planning and Building Services. Applications for coastal development permits or coastal development use permits shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department of Planning and Building Services.

In addition to the coastal development permit and coastal development use permit application requirements detailed in Section 20.532.025, applications for a coastal development permit or coastal development use permit for cannabis cultivation shall provide the following supplemental information on, or as an attachment to, the application:

- (A) A written description of the proposed water source. All Permit applications shall demonstrate there is adequate water to serve the cultivation site pursuant to Section 20.516.015 (B), unless water will be provided by a mutual water company and the following is provided:
 - (1) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that

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there is adequate water by providing a will serve letter from the proposed provider.

- (B) An irrigation plan and projected water usage for the proposed cultivation activities.
- (C) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:
 - (1) Easements (access and utility and all roadways public and private);
 - (2) Streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;
 - (3) The location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis showing that all setbacks required by Section 20.537.025 are being met;
 - (4) All areas of ground disturbance or surface water disturbance associated with cultivation of cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;
 - (5) All structures, which shall be clearly labeled;
 - (6) All septic systems, leach fields and water wells; and
 - (7) All features identified in Section 20.532.060 if an Environmentally Sensitive Habitat Area (ESHA), as defined in Section 20.308.040, has been identified within five hundred (500) feet of the proposed development.
- (D) A cultivation and operations plan which includes elements that describe: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, the approximate date(s) of all cannabis cultivation activities that have been conducted on the legal parcel prior to the effective date of this ordinance, and schedule of activities during each month of the growing and harvesting season. Also, provide documentation that addresses the handling of waste discharge from the grow location of items including, but not

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limited to nutrients, spent growing media, un-used containers and other associated hardware, supplies, and garbage.

- (1) If a generator is proposed to support any aspect of the cultivation site or related operations, the cultivation and operations plan shall identify any containment structure and dimensions necessary to contain any leak or spill that may develop or occur as a result of relying on any generator for backup power generation. The plan shall also include a maintenance plan for the generator, detailing how spent oil, used oil filters, expired batteries and other hazardous wastes generated from the operation of the generator will be handled, including fuel storage and delivery systems.
- (E) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes.
- (F) If applicable, clearance from CalFire related to compliance with the requirements of Public Resources Code Section 4290 (defensible space) and any implementing regulations.
- (G) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the site is listed on the "Cortese List", the application shall include sufficient information to demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.

The Department of Planning and Building Services is authorized to require in the permit application any other information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

Sec. 20.537.040 – Exceptions

All cannabis cultivation sites shall be consistent with the requirements of this Chapter and all applicable conditions of Chapter 10A.17; provided, however, that an applicant may seek an exception to specific requirements as stated below.

- (A) Setback Requirements. A reduction to the setback requirements of a cannabis cultivation site described in Sections 20.537.025(A)(1), (A)(2) and (A)(4) may be requested upon submittal of the coastal development permit required in Section 20.537.020, above. The request for a setback reduction may be approved, conditionally approved, or denied, in accordance with Section 20.537.045 and the following special findings:
 - (1) A reduction in the one thousand (1,000) foot setback described in Section 20.537.025(A)(1):

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- (a) That there be special circumstances applicable to the property involved, including size, shape, topography, location or surrounding;
 - (b) 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
 - (c) That the granting of such reduction will not adversely affect and is in conformance with the Local Coastal Program.
- (2) A reduction in the setback from any occupied legal residential structure located on a separate legal parcel required by Section 20.537.025(A)(2):
 - (a) The approved reduced setback shall be no less than one hundred (100) feet from an occupied legal residential structure located on a separate legal parcel;
 - (b) 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
 - (c) The reduced setback maintains setbacks consistent with provisions of sections 20.537.025(A)(1), (A)(3), and (A)(4), as applicable, unless the applicant obtains a reduction of such setbacks as permitted by this Chapter.
- (3) A reduction in the setback from a legal parcel line required by Section 20.537.025(A)(4):
 - (a) 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;
 - (b) 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;
 - (c) Any reduction of the setback must comply with the required setback from an occupied legal structure;

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- (d) The reduced setback may not encroach into any corridor preservation setback, pursuant to Sections 20.444.015 and 20.444.020;
 - (e) 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
 - (f) The reduced setback maintains setbacks consistent with provisions of sections 20.537.025(A)(1), (A)(2), and (A)(3), as applicable, unless the applicant obtains a reduction of such setbacks as permitted by this Chapter.
- (B) Minimum Parcel Size Requirement. As specified in paragraph (D) of Section 20.537.020, exceptions to the minimum parcel size requirement for permit types 1, 1B, 2, 2B, and 4 may be granted as part of the required coastal development permit in the following situations and with the following requirements:
 - (1) 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 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.
 - (2) 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.

Sec. 20.537.045 –Permit Review Procedure.

In accordance with the Coastal Development Permit and Coastal Development Use Permit application check procedures listed in Section 20.532.035 and the review procedures listed in Chapter 20.536 and this Section, the Director or his designee in the case of Coastal Development Permits, or the Planning Commission in the case of Coastal Development Use Permits, may approve, conditionally approve or deny a Coastal Development Permit or Coastal Development Use Permit for a cannabis cultivation site subject to the findings contained in Section 20.532.095 and 20.532.100 and the following supplemental findings:

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

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- (B) 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, timber resources and environmentally sensitive habitat areas as defined in Section 20.308.040(G).
- (C) The cannabis cultivation will avoid or minimize odor and light impact on residential uses.

CHAPTER 20.538 – COASTAL CANNABIS FACILITIES CODE

Sec. 20.538.005 - Title, Purpose, and Intent.

This Chapter shall be known as and may be referred to in all proceedings as "Coastal Cannabis Facilities Code" or "CCFC."

It is the purpose and intent of this Chapter to regulate the processing, manufacturing, testing, dispensing, retailing and distributing of cannabis within the Coastal Zone of Mendocino County in a manner that is consistent with current State law and to establish a program to be implemented in coordination with the State of California's implementation of the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") and subsequent legislation.

All commercial processing, manufacturing, testing, dispensing, retail sales and distributing of cannabis within the jurisdiction of the County of Mendocino within the Coastal Zone shall be controlled by the provisions of this Chapter, regardless of whether the business existed or occurred prior to the adoption of this Chapter. Nothing in this Chapter is intended, nor shall it be construed, to exempt the commercial processing, manufacturing, testing, dispensing, retailing, or distributing of cannabis, as defined herein, from compliance with all other applicable Mendocino County coastal zoning and land use regulations, or other applicable provisions of the County Code, or from any and all applicable local and state construction, electrical, plumbing, environmental, or building standards or permitting requirements, or from compliance with any applicable State laws.

These regulations shall apply to the location and permitting of commercial processing, manufacturing, testing, dispensing, retailing and distributing of cannabis in zoning districts within which such use is authorized, as specified in this Chapter.

Nothing in this Chapter is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial processing, manufacturing, testing, dispensing, retailing and distributing of cannabis on private property.

All persons operating facilities and conducting activities associated with the cultivation of cannabis, as defined in this Chapter, are subject to possible federal prosecution, regardless of the protections provided by state or local law.

Sec. 20.538.010 - Application.

The processing, manufacturing, testing, dispensing, retailing and distributing of cannabis is prohibited in all zoning districts in Mendocino County governed by Division II of this Title, except as allowed by this Chapter.

Sec. 20.538.015 - Definitions.

The definitions in this Chapter are intended to apply solely to the regulations in this Chapter or Chapters that specifically refer to this Chapter. Applicable definitions in Mendocino County Code Section 10A.17.020 and Section 20.537.015 shall also apply to this Chapter, unless the term is otherwise defined in this section. As used herein the following definitions shall apply:

"A-license" means a state license issued for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess a physician's recommendation.

"A-licensee" means any person holding a license for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess a physician's recommendation.

"Bureau" means the Bureau of Cannabis Control.

"Cannabis" means all parts of the plant *Cannabis sativa*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the State of California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this Section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the State of California Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

"Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

"Cannabis event" means an event involving the retail of cannabis products subject to the retailer obtaining event licenses from both local and state entities, for the purpose of this Chapter.

"Cannabis facility" means a business and/or structure or location where, or from where, retailing, distributing, processing, testing, manufacturing or delivering of cannabis.

"Cannabis Facility Business License" or "CFBL" means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, retailing/dispensing,

distributing, and/ or microbusiness within the County. The business license shall be in the form prescribed by the Tax Collector and must contain, at a minimum, the licensee's name, the business name, type of business, location of business, commencement and expiration dates of the license, and fee remitted. A Cannabis Facilities Business License shall be required for the operation of any cannabis facility.

"CFBL Holder" means any person holding a cannabis facility business license issued pursuant to Chapter 6.36, including any review or permit required by this Chapter.

"Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

"Coastal Access Point" means Designated Coastal Access Points and Trail Systems as provided in Table 3.6-1 of Appendix 13 of the Mendocino County Coastal Element of the General Plan plus any additional Public Access Trails for which an Accessway Management Plan in conformance with Section 20.528.045 has been prepared and accepted by the Planning and Building Services Director.

"Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis and cannabis products.

"Customer" means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age or older who possesses a physician's recommendation.

"Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

"Dwelling unit" means a legal residential structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

"Edible cannabis product" means cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

"Environmental Health" means the Environmental Health Division of the Mendocino County Health and Human Services Agency or the authorized representatives thereof.

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

"License" means a state license issued pursuant to MAUCRSA and includes both an A-license (Adult Use) and an M-license (Medical), as well as a testing laboratory license.

"Licensee" means any person holding a license pursuant to MAUCRSA, regardless of whether the license held is an A-license or an M-license and includes the holder of a testing laboratory license.

"M-license" means a state license issued for commercial cannabis activity involving medicinal cannabis.

"M-licensee" means any person holding a license for commercial cannabis activity involving medicinal cannabis.

"Manufacturing Level 1 (Non-Volatile)" means facilities that manufacture cannabis products using nonvolatile solvents, or no solvents or volatile solvents using a non-volatile method.

"Manufacturing Level 2 (Volatile)" means facilities that manufacture cannabis products using volatile solvents.

"MAUCRSA" means the Medical and Adult-Use Cannabis Regulations Safety Act, or subsequent legislation amending its provisions.

"Mendocino County Certified Unified Program Agency (CUPA)" means the agency certified to implement the unified hazardous waste and hazardous materials management regulatory program set forth in Section 25404 of the Health and Safety Code.

"Microbusiness" means at least three (3) of the following commercial cannabis activities: (1) cultivation of cannabis on an area ten thousand (10,000) square feet or less, (2) distribution, (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 each of the three or more activities, to the extent the licensee/CFBL Holder engages in such activities.

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

"Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent. A nonvolatile solvent includes carbon dioxide used for extraction.

"Park" means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth. State or Federal designated parks and forestlands as recognized within the Mendocino County General Plan are not included within this definition.

"Permit" means a permit to cultivate cannabis in Mendocino County pursuant to this Chapter.

"Permittee" means a Person issued a permit to cultivate cannabis in Mendocino County pursuant this Chapter.

"Person" means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, for purposes of this Chapter.

"Processing" means to harvest, dry, cure, grade, trim, or package for transport cannabis.

"Processing Facility" means a location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged at a location separate from the cultivation site where the cannabis is grown and harvested.

"Retailer/Dispensary" means the retail sale and delivery of cannabis or cannabis products to customers.

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed child day care or preschool facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

"Shared-Use Facility" or "Shared Facility" means a location or facility where more than one manufacturing businesses take turns utilizing the same space and equipment, allowing multiple users to create cannabis products in a single facility, such as a community commercial kitchen.

"State" means the State of California.

"Testing" means testing of cannabis and cannabis products.

"Testing laboratory" means a facility, entity, or site in the State that offers or performs testing of cannabis or cannabis products and that is both of the following:

- (A) Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and
- (B) Licensed by the Bureau.

"Volatile extraction" means an extraction method using volatile solvents to manufacture cannabis products.

"Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

"Youth-oriented facility" means an elementary school, middle school, high school, public park, or any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Youth-oriented facility shall include "day care center," as defined in Section 1596.76 of the California Health and Safety Code, as that section may be modified or superseded, and shall include "youth center" as defined in Section 11353.1 of the Health and Safety Code, as that section may be modified or superseded.

Sec. 20.538.020 - Use Classifications.

The purpose of these provisions is to classify uses into a limited number of use types on the basis of common functional, product or compatibility characteristics, thereby providing a basis for regulation of uses in accordance with criteria which are directly relevant to the public interest.

Where a use in this section is allowed as an accessory use, that use shall be subject to the provisions of Chapter 20.456.

- (A) Processing Facilities.
 - (1) Processing facilities, as defined herein, shall be conditionally permitted as a coastal agricultural use type.
 - (2) A processing facility for cannabis cultivated on site pursuant to a Coastal Development Permit issued pursuant to Chapter 20.537 and a cultivation

permit issued pursuant to Chapter 10A.17 shall be allowed as an accessory use to the permitted cultivation operation and a separate Coastal Development Permit pursuant to this Chapter shall not be required for the processing facility.

- (3) Processing may be permitted as an accessory use to a retail license for a storefront dispensary but shall be limited to cannabis to be sold at that retail location. The square footage of the processing area shall not be greater than twenty-five (25) percent of the retail floor square footage that is open to the general public; in calculating the retail floor area, the administrative space, storage space, or any other space not visible to customers shall not be included.
- (4) A cultivator with multiple cultivation permits and/or locations may process the cultivator's own cannabis at a single facility located on one of the parcels, provided, however, that the parcels on which the cultivation is occurring are contiguous and under the same ownership.

(B) Manufacturing Facilities.

- (1) Manufacturing Level 1 (Non-volatile), as defined herein, shall be principally permitted as a coastal industrial use type.
- (2) Manufacturing Level 2 (Volatile), as defined herein, shall be conditionally permitted as a coastal industrial use type.
- (3) Exception for home manufacturing.
 - (a) Manufacturing Level 1 (Non-volatile) as an accessory use to cultivation is allowed as a Home Occupation or Cottage Industry in all zones where cultivation is allowed pursuant to Chapter 20.537 and is subject to the provisions of Chapter 20.448 or Chapter 20.452, as applicable, and the following provisions:
 - (i) The cultivator engaging in home manufacturing must be permitted to cultivate pursuant to Chapter 20.537 and must reside on the property where the home manufacturing is occurring.
 - (ii) All cannabis used in home manufacturing must be cultivated on site, under a Coastal Development Permit issued pursuant to Chapter 20.537, and under a cultivation permit issued pursuant to Chapter 10A.17.

- (iii) The manufacturing of edible cannabis products is permitted in compliance with State of California regulations.
 - (iv) Only non-volatile extraction methods may be used.
 - (4) Multiple manufacturing facilities may occupy a single structure and operate as a "Shared Facility" in zones where Manufacturing Level 1 (Non-volatile) is permitted, provided that:
 - (a) At least one of the manufacturing facilities has obtained a Coastal Development Permit pursuant to this Chapter; and
 - (b) Use of the "Shared Facility" shall be limited to Manufacturing Level 1 (Non-volatile); and
 - (c) All manufacturing facilities at the "Shared Facility" shall obtain a manufacturing CFBL from the County.
- (C) Testing Laboratories and Research Institutions.
 - (1) Testing laboratories and research institutions, as defined herein, shall be permitted as a coastal commercial use type pursuant to Table 1 of Section 20.538.030.
- (D) Retailer/Dispensary.
 - (1) A Retailer/Dispensary, as defined herein, shall be a coastal commercial use type.
 - (2) A Retailer/Dispensary with a storefront shall only be allowed pursuant to Table 1 of Section 20.538.030.
 - (3) A Retailer/Dispensary may operate as a Non-Storefront Retailer, in which case all retail sales shall be conducted exclusively by delivery and the premises shall be closed to the public.
 - (a) A Non-Storefront Retailer may be permitted in any zoning district as an accessory use to any other cannabis facility and a separate Coastal Development Permit pursuant to this Chapter shall not be required.
 - (b) A Non-Storefront Retailer may be permitted in any zoning district as an accessory use to a cultivation site permitted pursuant to

Chapter 20.537 and Chapter 10A.17 and a separate Coastal Development Permit pursuant to this Chapter shall not be required. A Non-Storefront Retailer as an accessory use to a cultivation site shall only retail cannabis cultivated on the cultivation site.

(4) Additional requirements for all retailers/dispensaries:

- (a) Retailers/dispensaries that cultivate nursery stock or seeds must comply with the provisions of Mendocino County Code Chapter 20.537 and Chapter 10A.17.
- (b) Retailers/dispensaries that engage in mobile deliveries are prohibited from having any advertisement of their business or services on their delivery vehicles.
- (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.
- (d) Promotional items and free product give-a-ways by A-license retailers/dispensaries is prohibited.

(E) Distribution Facility.

- (1) A distribution facility as defined herein, shall be principally permitted as a coastal industrial use type and conditionally permitted as a coastal agricultural use type, and shall be a site or location where distribution, as defined herein, occurs.
- (2) A Coastal Development Permit for distribution may be issued in the following categories, as these categories are defined in State laws and regulations, and subject to the restrictions of this Chapter: Distributor Transport Only and Distributor.
- (3) A distribution facility may operate as Self-Distribution and a separate Coastal Development Permit pursuant to this Chapter shall not be required, for a location in any zoning district as an accessory use to a cultivation site (which has a Coastal Development Permit issued pursuant to Chapter 20.537 and a cultivation permit issued pursuant to Chapter 10A.17) or other cannabis facility types at that location, provided that the Self-Distribution facility shall be limited to the distribution of cannabis cultivated at that location, cannabis processed at that location, cannabis

products manufactured at that location, or, for a retailer/dispensary, the distribution of cannabis or cannabis products to be sold at that location.

- (4) A cultivator with multiple cultivation permits and/or locations may operate a Self-Distribution facility located on one of the parcels, provided, however, that the parcels on which the cultivation is occurring are contiguous and under the same ownership.

(F) Microbusinesses.

- (1) Microbusiness, as defined herein, shall be conditionally permitted as a coastal commercial use type.
- (2) Microbusinesses with on-site cannabis cultivation must comply with and obtain a Coastal Development Permit pursuant to Chapter 20.537 of the Mendocino County Coastal Zoning Code and a cultivation permit pursuant to Chapter 10A.17 of the Mendocino County Code.
- (3) Microbusinesses with on-site distribution, manufacturing, and/or retail sales or dispensing of its products shall comply with all applicable sections of this Chapter.
- (4) Microbusinesses proposed in the Commercial (C) and Rural Village (RV) zoning districts must demonstrate that the retail component of the Microbusiness is the primary use and other uses are incidental and subordinate to the retail component.
- (5) All components of a microbusiness must comply with the development requirements of the zoning district in which it is located.
- (6) The manufacturing of edible cannabis products is permitted in compliance with State of California regulations.
- (7) Notwithstanding Table 1 of Section 20.538.030, a microbusiness may be allowed in any zoning district provided that (a) the microbusiness either (i) qualifies as a Home Occupation pursuant to Chapter 20.448 or (ii) is permitted as a Cottage Industry pursuant to Chapter 20.452; and (b) there is a cultivation site permitted pursuant to Chapter 20.537 and Chapter 10A.17.
- (8) Microbusinesses which are either a Home Occupation or Cottage Industry shall (a) have any distribution component be limited to Self-Distribution of the microbusiness' own cannabis and cannabis products and (b) have

any retail/dispensary component be limited to that of a Non-Storefront Retailer.

- (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.
- (10) Square footage related to cultivation of cannabis or the processing of the cannabis grown on-site as part of a microbusiness shall not be counted toward the maximum square footage allowed under either a Home Occupation or Cottage Industry.

Sec. 20.538.025 - General Limitations on Cannabis Facilities in the Coastal Zone.

- (A) All cannabis facilities shall comply with all applicable regulations in the Mendocino County Coastal Zoning Code and State law.
- (B) Cannabis facilities, other than Microbusinesses with a cultivation site, shall not be allowed within a six hundred (600) foot radius of a youth-oriented facility, a school, a park, or a Coastal Access Point, as those terms are defined in Section 20.538.015 of the Mendocino County Code, that is in existence at the time a Cannabis Facility Business License is applied for; Microbusinesses with a cultivation site and Manufacturing Level 2 (Volatile) shall not be allowed within one thousand (1000) feet of such places or facilities. 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.
 - (1) Applicants may seek a reduction in the setback described in this paragraph (B) through the Coastal Development Permit process in Section 20.538.035 of this Chapter.
- (C) All structures associated with permitted cannabis facilities shall comply with the setbacks established by the zoning district in which the cannabis facility site is located.
- (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 Coastal Zoning Code Chapter 20.448 or Chapter 20.452.

- (E) The processing, manufacturing, testing, dispensing, retailing, and distributing of cannabis is not permitted within any habitable space (i.e., kitchen, bedroom, bathroom, living room or hallway) of a dwelling unit nor is it permitted within any required parking space, except as otherwise allowed in this Chapter, except as provided for by Mendocino County Coastal Zoning Code Chapter 20.448 or Chapter 20.452.
- (F) All cannabis facilities shall be subject to the findings in Sections 20.532.095 and 20.532.100, as applicable.
- (G) Cannabis facilities shall implement the following security measures:
 - (1) Sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products.
 - (2) Security measures to prevent individuals from remaining on the premises of the facility if they are not engaging in activity expressly related to the operations of the facility.
 - (3) Establishing limited access areas accessible only to authorized personnel.
 - (4) Storing all cannabis and cannabis products in a secured and locked room, safe, or vault and in a manner sufficient to prevent diversion, theft, and loss.
 - (5) Diversion, theft, loss or any criminal activity involving the facility, or any other breach of security must be reported immediately to law enforcement.
- (H) Cannabis remnants, infused products, bi-products, and other waste material shall be disposed of in a safe, sanitary, and secure manner. Any portion of the cannabis remnants, products or bi-products being disposed of will be rendered unusable before disposal, will be protected from being possessed or ingested by any person or animal, and shall not be placed within the facility's exterior refuse containers.
- (I) Signage associated with permitted cannabis facilities shall meet the applicable requirements set forth in the Mendocino County Coastal Zoning Code for signage and other applicable State regulations.

Sec. 20.538.030 - Coastal Permit Types and Zoning Districts.

All cannabis facilities in the unincorporated Coastal Zone of the County of Mendocino shall be permitted in accordance with this Section. All cannabis facilities shall obtain approval from other State and Local agencies with permitting jurisdiction. Cannabis facilities may be allowed with an approved Coastal Development Permit or Coastal Development Use Permit as required for the zoning district in which the cannabis facility is located as listed in Table 1, below:

Table 1

Permit Requirements for Processing, Manufacturing, Testing, Retailers, Distribution, and Microbusiness by Coastal Zoning District and Cannabis Facilities Code Permit Type

			6-A and 6-M	7-A and 7-M	8-A and 8-M	10-A and 10-M	11-A and 11-M	12-A
		Processing	Manufacturing Level 1 (Non-volatile)	Manufacturing Level 2 (Volatile)	Testing	Retail/ Dispensary	Distribution	Micro- business
Zoning District	Coastal							
	AG	CDP	—	—	—	—	CDU	—
	RL	CDP	—	—	—	—	—	—
	RR	CDP	—	—	—	—	—	—
	RMR	CDP	—	—	—	—	—	—
	RV	—	—	—	—	CDU	CDU	CDU
	C	—	CDP	—	—	ZC	CDU	CDU
	I	CDP	CDP	CDU	CDP	—	CDU	—
	Town of Gualala							
	GVMU	—	—	—	CDP	ZC	CDP	—
	GHMU	—	—	—	CDP	ZC	CDP	—
	GI	CDP	CDP	CDU	CDP	—	CDP	—

— = Not Allowed,

ZC = Zoning Clearance (If new 'Development' as defined in Definitions Section 20.308, a CDP may be required.),

CDP= Coastal Development Permit

CDU = Coastal Development Use Permit

Notwithstanding the above Table 1:

- (A) Distribution licenses shall be allowed in any zoning district as an accessory use to other cannabis facilities on the site, subject to the limitations of paragraph (E) of Section 20.538.020.

- (B) Non-Storefront Retail locations shall be permitted in any zoning district as an accessory use to a cultivation site or permitted pursuant to Chapter 20.538.
- (C) Microbusiness locations may be accessory to a cultivation site permitted pursuant to Chapter 20.538 provided the microbusiness qualifies as a Home Occupation pursuant to Chapter 20.448, or as a Cottage Industry pursuant to Chapter 20.452.
- (D) Microbusinesses which are a Home Occupation or Cottage Industry shall (a) have any distribution component be limited to Self-Distribution of the microbusiness' own cannabis and cannabis products and (b) have any retail/dispensary component be limited to that of a Non-Storefront Retailer.

Sec. 20.538.035 – Coastal Development Permit Review Procedure.

- (A) Planning Approval Procedure. Each cannabis facility site is subject to one (1) of the following planning procedures that correspond to the applicable zoning district, as specified by Table 1 in Section 20.538.030 of this Chapter. The Department shall review the application in accordance with the applicable planning approval process.
 - (1) Zoning Clearance. The Department of Planning and Building Services and the Division of Environmental Health shall review projects for compliance with applicable local regulations.
 - (2) Coastal Development Permit.
 - (a) In accordance with the Coastal Development Permit review procedure listed in Chapter 20.536.010, the Coastal Permit Administrator may approve, conditionally approve or deny a Coastal Development Permit for cannabis facility sites based on the findings in Sections 20.532.095 and 20.532.100 and the following special findings:
 - (i) The cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 20.537, as applicable.
 - (ii) The cannabis facility will avoid or minimize odor and light impact on residential uses.
 - (iii) The Coastal Development Permit shall expire at the end of any period stated in the permit. If the Coastal Development

Permit for the cannabis facility is dependent on a cannabis cultivation Coastal Development Permit, should the Coastal Development Permit for cultivation be revoked, the permit for the cannabis facility shall be revoked.

- (b) In addition to the requirements of paragraph (a) above, a Coastal Development Permit may be approved, conditionally approved or denied for the reduction of the setback provided for in Section 20.538.025(A) based 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 Local Coastal Program.
- (3) Coastal Development Use Permit. In accordance with the Coastal Development Use Permit review procedure listed in Chapter 20.536.005, the Planning Commission may approve, conditionally approve or deny a Coastal Development Use Permit for a cannabis facility based on findings in Sections 20.532.095 and 20.532.100 and the following special findings:
 - (a) The proposed cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 20.537, as applicable.
 - (b) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.
 - (c) The Coastal Development Use Permit shall expire at the end of any period stated in the permit. If the Coastal Development Use Permit for the cannabis facility is dependent on a cannabis cultivation Coastal Development Use Permit, should the Coastal Development Use Permit for cultivation be revoked, the permit for the cannabis facility shall be revoked.

- (B) The County shall notify any State licensing authority, as defined by the MAUCRSA, as applicable, whenever a Coastal Development Permit or Coastal Development Use Permit has been revoked or terminated.

Sec. 20.538.040 - Coastal Permit Application Submittal Requirements for Cannabis Facilities.

Any person or entity that wishes to engage in the processing, manufacturing, testing, dispensing, retailing, and distributing, of cannabis use in the unincorporated Coastal Zone Mendocino County's Cannabis Facility sites shall submit an application to the Department of Planning and Building Services. Applications for facilities shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department of Planning and Building Services so as to assure the fullest practical presentation of facts for the review of the application. An application fee will be due at the time the application is submitted and is non-refundable.

Applicants for a coastal permit for cannabis facility shall provide the standard application materials for a Coastal Development Permit or Coastal Development Use Permit as applicable, and all of the following information on, or as an attachment to, the application:

- (A) An operations plan which provides a description of the proposed processing, manufacturing, testing, dispensing, retailing, or distributing of cannabis activities including, but not limited to, permit type, size of facility or structure where business will be conducted, description of the nature of the activity, product type, average production amounts (including each product produced by type, amount, process, and rate), source of medical or adult use cannabis material product(s), estimated number of employees, hours of operation, visibility, and anticipated number of deliveries and pickups.
- (B) The Department of Planning and Building Services is hereby authorized to require in the permit application any other information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

Sec. 20.538.045 - Permit Revocation.

A Coastal Development Permit or Coastal Development Use Permit may be revoked or modified according to the revocation or modification provisions in Mendocino County Coastal Zoning Code Section 20.536.030 and any successor provisions. Grounds for seeking revocation or modification include: non-compliance with one (1) or more of the requirements listed in this Code or failure to comply with the requirements of the Mendocino County Certified Unified Program Agency (CUPA).

Sec.20.538.050 – Cannabis Events

- (A) An event at which cannabis is retailed shall apply for a permit pursuant to Section 20.460.020, including events of less than 100 people, provided, however, that venues shall also be subject to the following:
 - (1) The event venue shall be permitted with the state licensing body.
 - (2) The parcel(s) on which the event is located shall be located at least six hundred (600) feet from any youth-oriented facility, school, and/or park. The distance between the uses listed in the preceding sentence and the event shall be measured in a straight line from the property line of the event venue to the nearest point of any fenced, maintained or improved area where the users of the sensitive receptor are typically present during normal hours of operation.
 - (3) All retailers shall be licensed with both local and state entities.

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Sec. 10A.17.010 - Title, Purpose and Intent.

This Chapter is known and may be cited as the Mendocino Cannabis Cultivation Ordinance ("MCCO"). Chapter 20.242 of the Mendocino County Code, titled Cannabis Cultivation Sites, and Chapter 20.537 of the Mendocino County Code, titled Coastal Cannabis Cultivation Sites, are ~~is~~ complementary to this Chapter and together the chapters may be cited as the Mendocino Cannabis Cultivation Regulation ("MCCR").

It is the purpose and intent of this Chapter, together with complementary regulations found in Chapters 20.242 and 20.537 of the Mendocino County Zoning Code, to regulate the cultivation of cannabis within the unincorporated areas of Mendocino County in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses within those areas by balancing the needs of medical patients and their caregivers for enhanced access to medical cannabis, the needs of neighbors and communities to be protected from public safety and nuisance impacts, and the need to limit harmful environmental impacts that are sometimes associated with cannabis cultivation.

Adoption of this Chapter will protect the public health, safety and welfare of the residents of the County of Mendocino by adopting regulations regarding the cultivation of cannabis by individuals consistent with the provisions of State law and a local permitting structure that will operate in conformance with State licensing requirements for the commercial cultivation of cannabis, as state licenses become available.

All cultivation of cannabis within the County of Mendocino, ~~except for cultivation allowed pursuant to Chapter 9.31,~~ shall comply with the provisions of the MCCR, as well as all applicable state and local laws, regardless of whether the cultivation site existed or occurred prior to the adoption of the MCCR.

Nothing in this Chapter is intended, nor shall it be construed, to:

- 1) Allow persons to engage in conduct that endangers others or causes a public nuisance, or
- 2) Allow any activity relating to the cultivation, distribution or consumption of cannabis that is otherwise illegal under California State law.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis from compliance with all other applicable Mendocino County zoning and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

Nothing in this Chapter is intended, nor shall it be construed, to confer the right to create or maintain a public nuisance in the course of cultivating cannabis plants.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis, as defined herein, from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

Nothing in this Chapter is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting the cultivation of cannabis.

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All persons operating facilities and conducting activities associated with the cultivation of cannabis, as defined in this Chapter, are subject to possible federal prosecution, regardless of the protections provided by state or local law.

Sec. 10A.17.020 - Definitions.

As used herein the following definitions shall apply:

"A-license" means a state license issued under the State of California Medicinal and Adult-Use Cannabis Regulatory Safety Act (MAUCRSA), or subsequent legislation, for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician's recommendations.

"A-licensee" means any person holding a license under the MAUCRSA, or subsequent legislation, for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician's recommendations.

"Agricultural Commissioner" or "Agricultural Commissioner's Office" or the "Department of Agriculture" means the Mendocino County Department of Agriculture or the authorized representatives thereof, or such other department, division or representative as designated by the Board of Supervisors.

"Attorney General's Guidelines" means the document titled "Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use issued by the California State Attorney General in August 2008.

"Baseline date" means August 26, 2016, ~~which is the date the Initial Study under the California Environmental Quality Act for the MCCR was initiated.~~

"Cannabis" means all parts of the plant *Cannabis sativa*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the State of California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the State of California Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Cannabis product" has the same meaning as in Health and Safety Code section 11018.1.

"Clone" means a portion of a stem that is cut from a parent plant and induced to form roots by chemical, mechanical, or environmental manipulation.

"Cultivation cycle" means each individual cycle where cannabis plants are grown to maturity from seeds, clones or nursery starts.

"Cultivation of cannabis" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming or processing of cannabis.

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"Cultivation site" means one (1) or more locations or facilities on one (1) legal parcel (or one (1) or more legal parcels if specifically allowed for by this Chapter 10A.17) subject to a single approved Permit for the cultivation of cannabis where cannabis is planted, grown, harvested, dried, cured, graded, trimmed, or processed, or that does all or any combination of those activities. One (1) or more areas of cannabis cultivation may exist on the legal parcel used for that purpose.

"Disturbance" means areas of land where natural plant growth has been removed whether by physical, animal, or chemical means, or natural grade has been modified for any purpose. Land disturbance includes all activities whatsoever associated with developing or modifying land for cannabis cultivation related activities or access. Land disturbance activities include, but are not limited to, construction of roads, buildings, or water storage areas; excavation; grading; and site clearing. Disturbed land includes cultivation areas and storage areas where soil or soil amendments (e.g., potting soil, compost, or biosolids) are located. Areas where plant material has been removed for the purpose of wildfire suppression are not considered disturbed.

"Dwelling unit" means a legal residential structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

"Expansion" means an increase in the size of Plant Canopy above the area cultivated as of the Baseline Date.

"Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one-half ($\frac{1}{2}$) inch wide at its widest point.

"Greenhouse" means a completely enclosed structure whose structural members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place, and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

"Hoop House" means a structure with structural members are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

"Identification card" shall have the same definition as California Health and Safety Code section 11362.5 et seq., and as may be amended.

"Immature plant" or "immature" means a cannabis plant which has a first true leaf measuring greater than one-half inch long from base to tip (if started from seed) or a mass of roots measuring greater than one-half inch wide at its widest point (if vegetatively propagated), but which is not flowering.

"Indoor cultivation" or "indoors" means within a fully enclosed and secure structure that complies with the California Building Code, as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two (2)

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inches by four (4) inches or thicker studs overlain with three-eighths (3/8) inches or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Legal parcel" or "Parcel" means a lot of real property which was created pursuant to the Subdivision Map Act or for which an application for subdivision was on file with the Department of Planning and Building Services prior to January 1, 2016, or for which a certificate of compliance was recognized and recorded prior to January 1, 2016; provided, however, for real property within Industrial zoning districts, subdivisions or certificates of compliance may be recognized and recorded after January 1, 2016.

"License" means a state license issued under the MAUCRSA, or subsequent legislation, and includes both an A-license and an M-license.

"Licensee" means a person issued a state license under the MAUCRSA, or subsequent legislation, to engage in commercial cannabis activity, regardless of whether the license held is an A-license or an M-license.

"M-license" means a state license issued under the MAUCRSA, or subsequent legislation, for commercial cannabis activity involving medicinal cannabis.

"M-licensee" means any person holding a license under the MAUCRSA, or subsequent legislation, for commercial cannabis activity involving medicinal cannabis.

"Mature plant" or "mature" means a cannabis plant that is flowering.

"Mixed light cultivation" or "mixed light" means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate cannabis. Included in this definition is the process of solely manipulating natural light to cultivate cannabis.

"Nursery" means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

"Outdoor cultivation" or "outdoors" means any cultivation site that uses no artificial or supplemental lighting to cultivate cannabis. Use of supplemental lighting to maintain vegetative starts or immature plants prior to transplanting outdoors shall be considered consistent with this definition.

"Park" means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth. State or Federal designated parks and forestlands as recognized within the Mendocino County General Plan are not included within this definition.

"Permit" means a permit to cultivate cannabis in Mendocino County pursuant to this Chapter.

"Permittee" means a Person issued a permit to cultivate cannabis in Mendocino County pursuant this Chapter.

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"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Person with an identification card" means an individual who is a qualified patient who has applied for and obtained a valid identification card pursuant to Article 2.5 of Chapter 6 of Division 10 of the California Health and Safety Code (Section 11362.7 et seq.).

"Plant canopy" or "square footage" or "total square footage of plant canopy" or "cultivation area" means the cumulative total of square footage occupied by growing cannabis plants as calculated by the Agricultural Commissioner's Office but does not include aisles or other open areas outside the canopy area of growing cannabis plants.

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as defined in Health and Safety Code section 11362.7(d).

"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, for purposes of this Chapter.

"Process," "processing," and "processes" means all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of nonmanufactured cannabis products.

"Publically traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.008.052(26).

"Qualified patient" or "Patient" means a person who is entitled to the protections of section 11362.5 of the Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Section 11362.7 et seq.).

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed child day care or preschool facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

"Sheriff" or "Sheriff's Office" means the Sheriff's Office of the County of Mendocino or the authorized representatives thereof.

"Track and Trace" means a monitoring system providing traceability throughout the production and distribution lifecycle of permitted cannabis utilizing a unique identifier pursuant to section 11362.777 of the Health and Safety Code to assist government with enforcing regulations and preventing the illegal diversion of cannabis.

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"Unique identifier" or "Unique ID" means individual, non-repeating identification issued to a permittee and attached to the base of each cannabis plant permitted at a cultivation site during the cultivation period or otherwise utilized in connection with an approved Track and Trace system.

"Youth-oriented facility" means an elementary school, middle school, high school, public park, or any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Youth-oriented facility shall include "day care center," as defined in Section 1596.76 of the California Health and Safety Code, as that section may be modified or superseded, and shall include "youth center" as defined in Section 11353.1 of the Health and Safety Code, as that section may be modified or superseded.

Sec. 10A.17.030 - Cultivation Permit Required; Exemptions.

- (A) Except as provided for by this Section, cultivation of cannabis shall be allowed only following the issuance of a Permit pursuant to the provisions of this Chapter, and the review of a permit pursuant to the provisions of Chapters 20.242 or 20.537 of the Mendocino County Zoning Code, as applicable. Chapters 20.242 and 20.537 authorizes the cultivation of cannabis only in specifically enumerated zoning districts, as determined by permit type, subject either to a zoning clearance, administrative permit or minor use permit, coastal development permit or coastal development use permit.
- (B) Qualified patients, persons with an identification card or primary caregivers cultivating cannabis are exempt from the permit requirements of paragraph (A) of this Section, subject to the following requirements:
 - (1) Intentionally Omitted.
 - (2) Compliance with the provisions of Section 10A.17.040.
 - (3) Any and all cannabis cultivated by a qualified patient or person with an identification card shall be for the sole and exclusive use by the patient only; such cannabis may not be provided, donated, sold or distributed to any other person. A maximum of one hundred (100) square feet of medical cannabis may be cultivated on a legal parcel by a qualified patient or patients.
 - (4) Any and all cannabis cultivated by a primary caregiver shall be for the sole and exclusive use of up to a maximum of two (2) patients which have provided written designation to the primary caregiver to provide those services; the primary caregiver may not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Health and Safety Code section 11362.765. A maximum of one hundred (100) square feet of cultivation area of medical cannabis may be cultivated by a primary caregiver for each patient they are cultivating for. A maximum total of two hundred (200) square feet may be cultivated on a legal parcel by a primary caregiver or caregivers. Primary caregivers cultivating more than one hundred (100) square feet shall be required to register with the Agriculture Department on an annual basis.

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- (5) Persons eligible to cultivate cannabis under this paragraph (B) may also cultivate cannabis for adult use, but any such cannabis plants must be contained within the square footage allowed in this paragraph (B).
- (C) Individuals desiring to cultivate cannabis for adult use are exempt from the permit requirements of paragraph (A) of this section, subject to compliance with the following requirements:
 - (1) Compliance with the provisions of Section 10A.17.040.
 - (2) Cultivation of cannabis must occur in or on the grounds of a private residence or accessory structure, may be within one (1) or more cultivation sites, and contain no more than six (6) cannabis plants with a total plant canopy not to exceed one hundred (100) square feet.
 - (3) ~~Cultivation of adult use cannabis under this paragraph (C) on legal parcels where medical cannabis plants are being cultivated pursuant to Chapter 9.31 shall not be used to increase the total number of cannabis plants that may be cultivated on the legal parcel, but up to six (6) of the total allowed number of twenty-five (25) plants may be set aside as personal cultivation of adult use cannabis. Intentionally omitted.~~
 - (4) Cultivation of adult use cannabis under this paragraph (C) on legal parcels where cannabis plants are being cultivated under a Permit issued pursuant to this Chapter 10A.17 is allowed, provided that the person or persons cultivating the adult use cannabis reside on the legal parcel, the adult use cannabis plants do not exceed one hundred (100) square feet of total plant canopy, and the adult use cannabis plants shall be identified on the site plan required pursuant to section 10A.17.090.
 - (5) Cultivation of adult use cannabis under this paragraph (C) on any legal parcel less than ten (10) acres in size shall only be allowed indoors.

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; provided, however, that cannabis cultivation in the Coastal Zone shall be subject to the general limitations found in Section 20.537.025. 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, or a park 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;

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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

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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 fence of at least six (6) feet in height that fully encloses the 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).

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- (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.

Sec. 10A.17.060 - Permit Types.

The cultivation Permits that may be applied for under this Chapter are for the production of flowering cannabis plants and for nursery and seed production, as defined in section 10A.17.020. A Permittee producing flowering cannabis plants may maintain an area scaled appropriately for their operation where they may propagate their own immature plants (starts) through cloning, seed germination or tissue culture. Starts produced in this manner shall be for the exclusive and personal use of the permittee only and the sale, trade, barter, etc. of such starts is prohibited. The square footage of cultivation area dedicated to propagation of starts shall not be included in measuring the cumulative total square footage allowed under a given Permit and must not constitute any new disturbance, as defined by this chapter.

The following cannabis cultivation Permit types may be applied for and granted provided the applicant and the legal parcel (or legal parcels, subject to section 10A.17.070(D)(3)) that contains the cultivation site are determined to be in compliance with all applicable conditions of this Chapter and Mendocino County Code Chapters 20.242 and 20.537; all Permit types shall be applied for stating whether the applicant will be applying for an A-License or an M-License, or a stated combination thereof.

- (1) "Type C" for small outdoor cultivation using no artificial lighting not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy.
- (2) "Type C-A" for small indoor cultivation using exclusively artificial lighting not to exceed a maximum two thousand five hundred (2,500) square feet of total plant canopy within a structure or structures.
- (3) "Type C-B" for small mixed light cultivation (using a combination of natural and supplemental artificial lighting) not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle.
- (4) "Type 1" for medium outdoor cultivation using no artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy on one legal parcel not less than five (5) acres in size.
- (5) "Type 1A" for medium indoor cultivation using exclusively artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy within a structure or structures.
- (6) "Type 1B" for medium mixed light cultivation (using a combination of natural and supplemental artificial lighting) of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy, all or a

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portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than five (5) acres in size.

- (7) "Type 2" for large outdoor cultivation using no artificial lighting of five thousand one (5,001) to a maximum of 10,000 square feet of total plant canopy on one legal parcel not less than ten (10) acres in size.
- (8) "Type 2A" for large indoor cultivation using exclusively artificial lighting of five thousand one (5,001) to ten thousand (10,000) square feet of total plant canopy on one legal parcel.
- (9) "Type 2B" for mixed light cultivation (using a combination of natural and supplemental artificial lighting) of five thousand one (5,001) to a maximum of ten thousand (10,000) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than ten (10) acres in size.
- (10) "Type 4" for the cultivation of cannabis nursery stock and/or seed production which shall not exceed a maximum of twenty-two thousand (22,000) square feet of total plant canopy on one (1) legal parcel. Seed production activities, if any, shall be described in the application for a Type 4 Permit. The legal parcel shall not be less than ten (10) acres in size, provided, however, that legal parcels in industrial zoning districts are not subject to this parcel size restriction. Any on-site sales of nursery products which were produced on and occur on a parcel within the Timberland Production, Rangeland or Forestland zoning districts shall be limited to permitted cultivators only.

Sec. 10A.17.070 - Requirements for All Permits.

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements: provided, however, that where Chapter 20.537 applies to the cultivation site and where Chapter 20.537 contains alternate requirements than those provided herein, the requirements of Chapter 20.537 shall be used instead of the following:

- (A) Zoning Districts. Cultivation of cannabis shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided in Chapter s 20.242 or 20.537, as applicable.
- (B) Indoor Cultivation Permits. The use or conversion of habitable space (i.e., kitchen, bedrooms, bathrooms, living room or hallways) in any structure shall not be allowed for the indoor cultivation of cannabis.
- (C) Cultivation of cannabis is not permitted within any required parking space.
- (D) Permit Density. A Person may apply for and obtain a maximum of two (2) Permits listed in section 10A.17.060 at any given time. Permits shall be granted at a maximum density of one (1) Permit per legal parcel; provided, however, that
 - (1) A Person may obtain two (2) separate Permits of different Permit types on a single legal parcel if the total square footage of the two (2) Permits does

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not exceed the largest maximum square footage permitted on a parcel for the relevant zoning district. A Person who applies for and obtains a Type 4 Permit in combination with any other Permit, shall not exceed a total square footage of twenty-two thousand (22,000) square feet per legal parcel, of which not more than ten thousand (10,000) square feet may be grown to maturity and entered into the Track and Trace system for commercial use. Plants may be grown to maturity by a Type 4 Permit holder for seed production or genetic expression, where the mature flowers are destroyed, and not used for commercial purposes, shall not require a separate cultivation permit.

- (2) A Person may apply for one (1) Permit of a single size (e.g. Type C, Type 1 or Type 2) that may include any combination of all three (3) cultivation types (e.g. indoor, outdoor, mixed-light), but if any cultivation would require the issuance of a permit pursuant to Chapter 20.242, the entire Permit shall be subject to review under Chapter 20.242.
 - (3) A Person may obtain one (1) Permit for multiple legal parcels, so long as the parcels are contiguous and under the same ownership. Should the Person sell any of the parcels subject to the Permit, subsequent permits shall be required to modify the cultivation site to adhere to required setbacks.
- (E) Dwelling Unit Requirement. Legal parcels with a cultivation site are also required to have a dwelling unit; provided, however, that this requirement shall not apply to legal parcels within the following zoning districts: Upland Residential (U-R), Agricultural (A-G), Rangeland (R-L), Forest Land (F-L), Timberland Production (TPZ), Limited Industrial (I-1), General Industrial (I-2) Pinoleville Industrial (P-I). In addition, legal conforming parcels in Rural Residential, lot size ten (10) acres (R-R:L-10), shall also be exempt from the dwelling unit requirement of this paragraph, upon issuance of an administrative permit pursuant to Chapter 20.242.
- (F) Generators. The indoor or mixed-light cultivation of cannabis shall not rely on a generator as a primary source of power. If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (1) the permittee shall install an alternative power source that will meet at least one-half ($\frac{1}{2}$) of the combined power requirements by the expiration of twelve (12) months from the date of initial application for a permit pursuant to this Chapter and (2) it will be a condition of the re-issuance of a permit that the cultivator commit, in writing, to expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit by the end of the second permitted year. See also section 10A.17.090 regarding application requirements related to generators.
- (G) Permittees shall be required to enroll in and comply with all requirements of any Track and Trace system as designated by the County to track the production and distribution of cannabis. Permittees shall obtain and use unique identifiers from an approved source, maintain them in a readable state, comply with all data entry

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requirements, and pay all required Track and Trace fees. Non-compliance with Track and Trace requirements shall constitute a violation of the terms of the Permit.

- (H) Fees: An application fee shall be paid at the time an application is submitted to the Agricultural Commissioner for initial review. A Permit fee shall be paid prior to issuance of any Permit. Once a Permit is issued, the Permittee may renew the Permit upon submission of a renewal application and payment of a renewal fee. No Permit shall issue without payment of the required fees.
- (1) Fees prescribed by this Chapter shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the County's Master Fee Policy. Any fee prescribed by this Chapter shall be paid to the County Treasurer/Tax Collector and is non-refundable. A receipt for payment of the required fee shall be provided to the Agricultural Commissioner prior to the initial review and issuance or annual renewal of any application, permit or other program described herein where a fee has been established, including for required inspections.
- (I) Inspections by Agricultural Commissioner. All applicants shall be subject to and shall facilitate an initial on-site pre-permit inspection and all Permittees shall be subject to and facilitate at least one (1) annual on-site compliance inspection (Type 4 Permits shall be subject to two (2) on-site compliance inspections annually), which shall serve as the inspection required to be performed prior to any renewal of the Permit, with additional inspections as required by this Chapter or as deemed necessary by the Agricultural Commissioner. All inspections will be scheduled with at least twenty-four (24) hours advance notice to the applicant or Permittee, and shall be conducted during regular business hours. Cancellation of scheduled inspections without notice to the Agricultural Commissioner shall result in the Permittee being invoiced for the actual travel time and mileage incurred by the Agricultural Commissioner.
- (1) All site inspections conducted prior to issuance of a Permit for any indoor or mixed-light cultivation Permit may include a representative from the Department of Planning and Building Services.
- (J) Intentionally Omitted.
- (K) Non-Transferability of Permits. All Permits are non-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, provided the trust existed on or before January 1, 2016, which transfer shall not be deemed a change in ownership for purposes of this Chapter.

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:

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(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, and from Monday, April 1, 2019, until Friday, October 4, 2019. 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.
- (4) Coastal Zone: Permit applications will be accepted in conjunction with coastal development permit applications or coastal development use permit applications applied for pursuant to Chapter 20.537, following the operative date of Chapter 20.537. Paragraphs (B) and (C) of this section shall not apply to Permits within the Coastal Zone.

(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

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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 ther 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

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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;

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- (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. 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, that not more than once in a five-year period, a Permittee may file with the Department of

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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.

Sec. 10A.17.090 - Cultivation Permit Application and Zoning Review.

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

Following the submission of an application for a Phase One Permit, an applicant may file with the Agricultural Commissioner's Office, on a form prescribed by the Agricultural Commissioner's Office, a Notice of Application Stay for the purpose of preventing the denial of an application for a Phase One Permit based on inactivity by the applicant for up to a one-year period. An applicant may only file a Notice of Application Stay one time. Nothing in this paragraph is intended to prevent the County or the applicant the ability to continue processing

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or perfecting the application. During the time period of this Application Stay, the applicant shall be prohibited from cultivating cannabis in excess of the limitations of paragraph (B) or (C) of section 10A.17.030 and shall allow the County to make and shall pay the reasonable costs for an inspection of the applicant's cultivation site (and origin site if the application involves a relocation) to confirm compliance with this paragraph; violation of this prohibition shall be a violation of County Code, subject to administrative penalties, and shall be cause for immediate denial of the permit application. Any denial of an application may be followed by nuisance abatement procedures. During the time period of the Application Stay, the applicant shall remain subject to all code enforcement provisions as identified in section 10A.17.100.

The Agricultural Commissioner's Office shall refer each application to the Department of Planning and Building Services for a determination pursuant to Chapters 20.242 or 20.537, as applicable, as to what type of clearance or permit is required. No application for a Permit shall be approved without clearance or final permit approval as required by Chapter 20.242 or Chapter 20.537.

The Agricultural Commissioner's Office shall consult with the Mendocino County Air Quality Management District (MCAQMD) prior to the issuance of the Permit to determine if a permit or other approval by the MCAQMD is necessary. The applicant shall obtain all approvals and permits required by the MCAQMD pursuant to state and federal laws, MCAQMD regulations, adopted air quality plans, MCAQMD policies and other applicable statutes prior to the issuance of a Permit. The required consultation with MCAQMD may be eliminated if MCAQMD authorizes County to determine when a permit or other approval by the District is necessary based on an objective set of criteria developed by MCAQMD for such purposes.

Applicants for a Permit shall provide the following information on, or as an attachment to, the application:

- (A) The name, business and residential address, and phone number(s) of the applicant.
- (B) If the applicant is not the record title owner of the legal parcel, written consent from the owner allowing the cultivation of cannabis on their property by the applicant with original signature of the record title owner.
- (C) Written evidence that each person applying for the permit and any other person who will be engaged in the cultivation of cannabis is at least twenty-one (21) years of age.
- (D) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:
 - (1) Easements (access and utility and all roadways public and private);
 - (2) Streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;
 - (3) The location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis and showing that all setbacks required by section 10A.17.040 are being met;

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- (4) All areas of ground disturbance or surface water disturbance associated with cultivation of cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;
 - (5) All structures, which shall be clearly labeled; and
 - (6) All septic systems, leach fields and water wells.
- (E) Applications submitted for any Permit during Phase One shall include proof of prior cultivation pursuant to section 10A.17.080.
- (F) A cultivation and operations plan which includes elements that meet or exceed the minimum legal standards for the following: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, the approximate date(s) of all cannabis cultivation activities that have been conducted on the legal parcel prior to the effective date of this ordinance, and schedule of activities during each month of the growing and harvesting season.
- If a generator is proposed to support any aspect of the cultivation site or related operations, the cultivation and operations plan shall identify any containment structure and dimensions necessary to contain any leak or spill that may develop or occur as a result of relying on any generator for backup power generation. The plan shall also include a maintenance plan for the generator, detailing how spent oil, used oil filters, expired batteries and other hazardous wastes generated from the operation of the generator will be handled, including fuel storage and delivery systems.
- (G) Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.
- (H) An irrigation plan and projected water usage for the proposed cultivation activities, as well as a description of legal water source, if not covered by item (G).
- (I) Copy of Notice of Intent and Monitoring Self-Certification and any other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in and compliance with (or proof of exemption from) Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.
- (J) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream

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or other watercourse, show proof they have notified the California Department of Fish and Wildlife (CDFW) pursuant to section 1602 of the Fish and Game Code and provide a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

- (K) If the source of water is a well, a copy of the County well permit, if available; applicant shall provide documentation showing the approximate date of installation.
- (L) A unique identifying number from a State of California Driver's License or Identification Card for each person applying for the permit and any other person who will be engaged in cultivation of cannabis.
- (M) Applicants and every individual engaged in the management of, or employed by, the applicant shall be subject to a criminal history check, which shall include a Live Scan criminal history inquiry. The reasonable costs of a Live Scan criminal history inquiry pursuant to this section shall be the responsibility of the applicant and every individual engaged in the management of, or employed by, the applicant. Live Scan criminal history inquiries completed at a certified and approved Live Scan location shall be transmitted to the Sheriff or District Attorney for review. An application shall be denied if any of the following is determined to be true:
 - (1) The applicant or any individual engaged in the management of, or employed by, the applicant has been convicted of any crime listed in subdivision (b)(4) of California Business and Professions Code section 26057, or any crime that if committed in the State of California would have constituted any of the crimes listed in subdivision (b)(4) of California Business and Professions Code section 26057. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 - (2) The applicant or any individual engaged in the management of, or employed by, the applicant has one or more felony convictions, occurring prior to January 1, 2018, for violations of California Health and Safety Code section 11358 that involved pled and proven environmental violations, including but not limited to violations of California Fish and Game Code sections 1602, 5650 and 5652.
 - (3) The applicant or any individual engaged in the management of, or employed by, the applicant has been convicted of a felony offense, occurring after January 1, 2018, under California Health and Safety Code section 11358, 11359, or 11360, as amended by Proposition 64 § 8.4, effective November 9, 2016, or any crime that if committed in the State of California would have constituted a felony offense under California Health and Safety Code section 11358, 11359, or 11360, as amended by Proposition 64 § 8.4, effective November 9, 2016.
 - (4) The applicant or any individual engaged in the management of, or employed by, the applicant has a conviction under section 11366 of the California Health and Safety Code.

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- (5) The applicant or any individual engaged in the management of, or employed by, the applicant has a conviction under section 11366.5(b) of the California Health and Safety Code or any felony conviction under section 11366.5(a) of the California Health and Safety Code involving chemical extraction, chemical synthesis or a controlled substance other than marijuana.
- (6) The applicant or any individual engaged in the management of, or employed by, the applicant has a conviction under section 11379.6 of the California Health and Safety Code.
- (7) The applicant or any individual engaged in the management of, or employed by, the applicant is subject to a condition of probation, mandatory supervision, Post Release Community Supervision, parole or any other lawful order which prohibits the possession or cultivation of cannabis.
- (N) A statement describing the proposed security measures for the facility that shall be sufficient to ensure the safety of members and employees and protect the premises from theft.
- (O) If the applicant is organized as a non-profit corporation, the applicant shall set forth the name of the corporation exactly as shown in its Articles of Incorporation, and the names and residence addresses of each of the officers and/or directors. If the applicant is organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. Copies of the Articles of Incorporation or a statement listing the members of the partnership shall be attached to the application.
- (P) Intentionally Omitted.
- (Q) A copy of a Board of Equalization Seller's Permit if applicant intends to sell directly to qualified patients or primary caregivers.
- (R) Written consent for an onsite pre-permit inspection of the legal parcel pursuant to section 10A.17.070 by County officials or other appropriate agency representatives at a prearranged date and time in consultation with the applicant prior to the approval of a permit to cultivate cannabis, and at least once annually thereafter.
- (S) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes. Also, provide documentation that addresses the handling of waste discharge from the grow location of items including, but not limited to nutrients, spent growing media, un-used containers and other associated hardware, supplies, and garbage.
- (T) No application shall be approved which identifies or would require the removal of tree species listed in paragraph (I) of Section 10A.17.040 after May 4, 2017, for the purpose of developing a cultivation site. For applications where trees were removed prior to May 4, 2017, applicants shall provide evidence to the

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Department of Agriculture that no trees were unlawfully removed to develop a cultivation site; such evidence may include, but is not limited to, a less-than-3-acre conversion exemption or timberland conversion permit issued by the California Department of Forestry and Fire Protection ("CalFire") and trees were removed prior to May 4, 2017. If during review of an application County staff determine that trees were unlawfully removed to develop a cultivation site, the County shall deny the application. Notwithstanding the foregoing, for cultivation sites created prior to May 4, 2017, through prior unauthorized conversion of timberland as defined in Public Resources Code section 4526, a Permit may be approved if the applicant provides evidence that environmental impacts of the tree removal have been mitigated to the extent feasible or otherwise resolved, as required by the resource protection agencies including CalFire, the NCRWQCB and the CDFW. County staff shall defer to the resource protection agencies referenced herein for determinations as to the unlawful removal of trees or unauthorized conversion of timberland or the sufficiency of any required remediation to address the environmental impacts. Nothing herein shall be construed to limit or condition in any way the regulatory or enforcement authority of the resource agencies listed herein.

- (U) If applicable, clearance from CalFire related to compliance with the requirements of Public Resources Code Section 4290 and any implementing regulations.
- (V) For activities that involve construction and other work in Waters of the United States, that are not otherwise exempt or excluded, including streams and wetlands, the application shall include a copy of a federal Clean Water Act (CWA) Section 404 permit obtained from the Army Corps of Engineers and a CWA Section 401 water quality certification from the NCRWQCB.
- (W) Projects that disturb one (1) or more acres of soil or projects that disturb less than one acre but that are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.
- (X) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the site is listed on the "Cortese List", the application shall include sufficient information to demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.
- (Y) If water or sewer services to the cultivation site will be provided by a community provider, a will-serve letter from the provider indicating adequate capacity to serve the cultivation site.

The Agricultural Commissioner is authorized to require in the permit application any other information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

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Sec. 10A.17.100 - Permit Review and Issuance.

- (A) The Agricultural Commissioner's Office shall issue a Permit pursuant to this Chapter only:
- (1) Following the referral to and clearance or permit approval pursuant to Chapter 20.242 or Chapter 20.537, as applicable; and
 - (2) Following review by qualified County staff to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species on the parcel with a proposed Permit location. Upon consultation, CDFW may recommend approval of the proposed development, ask to conduct a site inspection or request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a Permit. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against and when during Phases 1 and 2 a formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the development of the policy referred to in the previous sentence, consultation with CDFW shall not be required but be performed pursuant to the policy. During Phase 3 all applications will be referred to CDFW. For applications within the Coastal Zone, referrals to CDFW shall occur as part of the permit review pursuant to Chapter 20.537; and
 - (3) After the Agricultural Commissioner's Office, and other County and State agency staff, as appropriate, have reviewed the application and performed a pre-permit site inspection to confirm adherence to the requirements established in the MCCO; and
 - (4) Following receipt of evidence of payment of the required permit fee, pursuant to Section 10A.17.070.
- (B) As a condition of approval for any cultivation permit, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation of cannabis.
- (C) Discovery of any violation(s) of the Mendocino County Code during the Permit application process will be treated in a similar manner to violation(s) that are self-reported during an active amnesty program. That is, the discovered violation(s) will still need to be corrected, but any investigative and/or penalty fees associated with an after-the-fact County permit will be waived.

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- (1) If the discovered violation(s) are directly related to a Phase One Permit application, and/or if it is discovered that the Permit would authorize a particular use for which a separate County permit is required but has not yet been obtained, the applicant shall be required to agree in writing to a compliance plan prior to issuance of the Permit. Failure by applicant to agree in writing to a required compliance plan shall be grounds for denial of the Permit.
 - (a) The compliance plan will identify the violation(s) and may suggest corresponding remedial action(s) that may be taken to correct the violation(s), will identify the required permit(s) based on the uses identified in the Permit application, and will include timelines for achieving code compliance for all violations and/or for submitting completed applications for each required permit.
 - (b) In no event will more time be given to correct all violations, and/or submit a complete application for each required permit, than one (1) year after the date of issuance of the Permit.
 - (c) After the applicant has signed the compliance plan, as presented by the Agricultural Department in coordination with the appropriate County department(s), the Agricultural Department may issue a Permit restricted as indicated in the compliance plan, so long as no other barrier(s) to such issuance exists. Failure to abide by the compliance plan shall be grounds for Permit termination, or non-renewal, pursuant to section 10A.17.140.
 - (d) The compliance plan will be the primary mechanism to obtain code compliance from Permit applicants with respect to violations directly related to Phase One Permits applications. However, nothing in this section is intended to limit the use of any other applicable code enforcement provision or the ability of any County department with the appropriate authority from enforcing the Mendocino County Code.
 - (2) If the discovered violation(s) are not directly related to a Phase One Permit application, such violation(s) will not affect the processing of the Phase One Permit application. However, any County department with appropriate enforcement authority with respect to such violation(s) may make use of any applicable code enforcement mechanism as if the violation(s) were discovered as a result of self-reporting during an active amnesty program.
- (D) Permit Application Denial.
- (1) The Agricultural Commissioner's Office may, at any time during the application process, deny an application based on the failure to meet the requirements of this Chapter 10A.17, including, but not limited to, the following:
 - (a) Incomplete application.

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- (b) Failure to provide additional information or documentation within the timeframe prescribed by the Agricultural Commissioner's Office.
 - (c) Cultivation of cannabis on a legal parcel (beyond what is exempt from a permit requirement pursuant to County Code section 10A.17.030) during an application stay pursuant to County Code section 10A.17.090.
 - (d) Cultivation of cannabis in illegal and/or non-compliant structures.
 - (e) Cultivation of cannabis, or activities related to preparing a cultivation site, that are non-compliant with the requirements of this Chapter 10A.17 or not consistent with the application as submitted, whether such issues are discovered during a pre-permit site inspection or other inspection of the property.
 - (2) If the applicant does not meet the requirements to obtain a permit and a permit with a compliance plan is not viable, the Agricultural Commissioner's Office shall deny the permit application unless:
 - (a) the applicant immediately files for a Notice of Application Stay pursuant to County Code section 10A.17.090 and corrects the conditions of the property in a manner that would allow for permit issuance no later than the expiration of the Application Stay; or
 - (b) the applicant immediately amends the application in a manner that allows for permit issuance.
 - (3) A permit may be denied based on confirmation that the applicant provided false or misleading information to the County, or any other agency if such communication was made as part of the process in securing a permit under this Chapter 10A.17.
 - (4) A permit may be denied if the applicant or any agent or employee of the applicant has engaged in or is engaging in activities related to the cultivation of cannabis that endangers the health or safety of people or property.
 - (5) This paragraph (D) in no way limits the authority of the Agricultural Commissioner's Office to deny an application as inherently or explicitly provided by this Chapter 10A.17.
- (E) Track & Trace unique identifiers will only be made available following the issuance of a Permit by the Agricultural Commissioner's Office. The Permittee will have seventy-two (72) hours to register with the County Track & Trace system. Upon Track & Trace system registration, the system will provide unique identifiers. The unique identifiers shall be affixed to the individual plants within seventy-two (72) hours of being provided to the Permittee.

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- (F) Permits shall remain valid for one (1) year from the date of issuance, subject to any enforcement action or other action that may result in earlier suspension or revocation.

Sec. 10A.17.110 - Performance Standards.

All Cultivation Permits issued by the Agricultural Commissioner's Office shall obligate the permittee to comply with the following performance standards: provided, however, that where Chapter 20.537 applies to the cultivation site and where Chapter 20.537 contains alternate requirements than those provided herein, the requirements of Chapter 20.537 shall be used instead of the following:

- (A) Cultivation shall be located as shown on the approved application site plan and in compliance with all provisions of this Chapter and any permit issued pursuant to Chapter 20.242 or 20.537, as applicable.
- (B) Once they become available, possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder covering a similar cannabis activity.
- (C) A unique identifier for compliance with the County's Track & Trace system shall be affixed to each permitted cannabis plant cultivated in Mendocino County. It shall be the responsibility of the permittee to ensure complete and accurate entry of information into the Track & Trace system within seventy-two (72) hours of the reportable activity occurring.
- (D) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, including obtaining and complying with any applicable and approved permit, license or registration or the annual filing of a statement of diversion and use of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101.
- (E) If a generator is used to support any aspect of the permitted cultivation operations, (excluding the conditions set forth in section 10A.17.070(F)), it shall be as a secondary or back-up power source. The use of the generator is only allowed when the primary alternative power source is unable to provide its normal output and generate sufficient power to meet the needs of the cultivation operation and the legal dwelling unit. The Owner's Manual and/or Operation Manual (or operational fact sheet) providing the operational characteristics and maintenance schedule for the generator shall be on-site and available for review.

If a generator is being used pursuant to the conditions set forth in section 10A.17.070(F), the Permit shall be conditioned on the conducting of an analysis of the noise levels produced by the generator at full operational speed, performed by an accredited acoustical engineer, and such analysis shall show compliance with Mendocino County General Plan Policies DE100, 101 and 103. All generators shall be, at a minimum, equipped with the manufacturer's specified muffler; if compliance with Policies DE100, 101 and 103 requires additional measures, the generator shall be equipped with such measures, which may

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include a hospital-grade muffler and/or a structure to enclose the generator designed for sound suppression.

Any electrical wiring associated with the generator shall be of sufficient capacity and installed in such a way as to provide for the minimum installation and safety standards for the electrical service provided by that generator.

- (F) Establish and maintain enrollment in Tier 1, 2 or 3 with the North Coast Regional Water Quality Control Board (NCRWQB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.
- (G) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023 is required, the site shall comply with the standard conditions set forth in that Order, as well as the applicable "Best Management Practices for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects" as presented in Appendix B of the Water Board Order.
- (H) Maintain the applicable "Defensible Space" protocols and distances, as established by the California Department of Forestry and Fire Protection around structures located on the legal parcel.
- (I) Comply with the terms of any applicable Streambed Alteration Permit obtained from the California Department of Fish & Wildlife.
- (J) All weighing and measuring devices shall be type approved by the California Department of Food and Agriculture, Division of Measurement Standards and issued either a California Type Evaluation Program (CTEP) Certificate of Approval (COA) or a National Type Evaluation Program (NTEP) Certificate of Conformance (CC) before commercial use. All weighing and measuring devices shall be registered and inspected by the Agricultural Commissioner in accordance with Mendocino County Code Chapter 10A.16.
- (K) Consent to at least one (1) annual on-site compliance inspection by the Agricultural Commissioner's office, as more specifically provided for in section 10A.17.070.
- (L) Any guard dog(s) or guard animals kept at the cultivation site shall be restrained to a fixed point or contained in some manner to facilitate the inspections performed by any entity necessitating inspect as required by this Chapter. Animals considered family pets will be kept on a leash at all times and under control when any entity is performing a required inspection.
- (M) All buildings, including greenhouses, used for the cultivation of cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.

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- (N) Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner's Office. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans, to exclude large animals that may be attracted by odors, and to ensure that they will not enter or be released into surface or ground waters.
- (O) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.
- (P) The square footage of cultivation area dedicated to propagation of starts must not constitute any new disturbance, as defined by this chapter.
- (Q) Comply with any conditions that may apply as a result of an administrative or conditional use permit approved pursuant to Chapter 20.242 or Chapter 20.537, as applicable, or with a written remediation plan required by Section 10A.17.080(B)(3).

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Section 6.36.010 - Definitions.

Unless otherwise defined in this Chapter, the terms and phrases used in this Chapter shall have the same definitions as provided in Chapter 10A.17, ~~and~~ Chapter 20.243, and Chapter 20.538, as applicable.

"Cannabis Facility Business License" means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, retailing/dispensing, distributing, and/ or microbusiness within the County. The business license shall be in the form prescribed by the Tax Collector and must contain, at a minimum, the licensee's name, the business name, type of business, location of business, commencement and expiration dates of the license, and fee remitted. A Cannabis Facility Business License shall be required for the operation of any cannabis facility, as that term is defined in Section 20.243.030 or Section 20.538.015, as applicable.

Section 6.36.020 - Requirement for Cannabis Facility Business License.

- (A) It shall be unlawful for any Person to transact any business in the unincorporated area of Mendocino County for which a license is required by this Chapter, without possessing a valid and current Mendocino County Cannabis Facility Business License for such business issued by the Mendocino County Treasurer-Tax Collector (Tax Collector).
- (B) Cannabis facilities shall be required to comply with other provisions of the Mendocino County Code, including but not limited to, Chapters 10A.17, 20.242, ~~and~~ 20.243, 20.537, and 20.538, as applicable.
- (C) All cannabis facilities, regardless of where located, shall comply with the following:
 - (1) Cannabis facilities other than Manufacturing Level 2 (Volatile) or Microbusinesses with a cultivation site shall not be allowed within a six hundred (600) foot radius of a youth-oriented facility, a school, a park, or any church or residential treatment facility, as those terms are defined in sections 10A.17.020 or 20.538.020, as applicable, of the Mendocino County Code, that is in existence at the time a Cannabis Facility Business License is applied for; Manufacturing Level 2 (Volatile) facilities and Microbusinesses with a cultivation site shall not be allowed within one thousand (1000) feet of such places or facilities. 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. A cannabis facility not in compliance with the setback requirement of this paragraph (1) shall not be issued a cannabis facility business license unless the facility is first

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issued an administrative permit pursuant to Chapter 20.243 or Chapter 20.538 for a reduction in this required setback. The setback requirement of this paragraph (1) 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.

- (2) A cannabis facility shall comply with the general limitations set forth in section 20.243.050, except for paragraph (B) of section 20.243.050.
- (D) Persons applying for a Cannabis Facility Business License shall obtain a valid California State license required under MAUCRSA as soon as such State licenses become available.
- (E) A Person who obtains a Cannabis Facility Business License under this Chapter 6.36 for a cannabis facility shall not be required to obtain a separate business license under Chapter 6.04 for the same activity.
- (F) The business license requirement set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
- (G) Cannabis facilities in existence prior to January 1, 2017, that had an approved County business license under Chapter 6.04 may continue to operate under that business license until that license is scheduled to be renewed, at which time the cannabis facility shall apply for a license under this Chapter 6.36.

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, described and limited in Chapter 20.243 or Chapter 20.538, as applicable:

- (A) Processing Facilities.
- (B) Manufacturing Facilities.
- (C) Testing Laboratories and Research Institutions.
- (D) Retailers/Dispensaries.
- (E) Distribution Facilities.
- (F) Microbusinesses.

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Section 6.36.050 – Location.

Cannabis facilities may be located in the unincorporated areas of Mendocino County in conformance with Chapters 10A.17 of the Mendocino County Code, as well as the provisions of the Mendocino County Zoning Code, including but not limited to Chapters 20.242, ~~and 20.243,~~ 20.537 and 20.538.

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.
- (B) The application or the facility is not in compliance with the provisions of the Mendocino County Code including but not limited to this Chapter and Chapters 10A.17, 20.242, ~~and 20.243,~~ 20.537 and 20.538.
- (C) The provision of false or misleading information by the Applicant to the County.
- (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.
- (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 cannabis.

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.
- (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

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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, ~~and Chapter 20.243~~ and 20.538.

- (C) Cannabis Facility Business License renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations in place at the time of the initial or previous application(s) and may require the submittal of additional information to ensure that new standards are met. Renewal applications shall be referred to all relevant departments of the County to determine compliance with the Mendocino County Code.