BOARD STANDING COMMITTEE AGENDA

MENDOCINO COUNTY
BOARD OF SUPERVISORS
501 LOW GAP ROAD, ROOM 1010
UKIAH, CA 95482

CARRE BROWN	JOHN MCCOWEN	TOM WOODHOUSE	DAN GJERDE	DAN HAMBURG
First District	Second District	Third District	Fourth District	Fifth District

CARMEL J. ANGELO
Chief Executive Officer/Clerk of the Board

KATHARINE L. ELLIOTT
County Counsel

GENERAL GOVERNMENT COMMITTEE

Special Meeting

FRIDAY, JULY 8, 2016 • 1:30 P.M. • BOARD OF SUPERVISORS CHAMBERS

COMMITTEE MEMBERS: SUPERVISORS CARRE BROWN AND DAN GJERDE

ORDER OF AGENDA

(1) DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING A DRAFT MEDICAL CANNABIS CULTIVATION ORDINANCE AND MEDICAL CANNABIS CULTIVATION SITE ZONING REGULATIONS
(Referred from the June 7, 2016, Board of Supervisors meeting)

- Local Agency Comment
- Public Comment

(2) OTHER BUSINESS:

a. Public Expression
b. Announcements/Other Business
c. Matters from Staff
d. Adjournment

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE

The Board Standing Committees comply with ADA requirements and upon request, will attempt to reasonably accommodate individuals with disabilities by making meeting material available in appropriate alternative formats (pursuant to Government Code Section 54953.2). Anyone requiring reasonable accommodation to participate in the meeting should contact the Clerk of the Board's Office by calling (707) 463-4221 at least five days prior to the meeting.

PUBLIC EXPRESSION: (PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA)

- Members of the public are welcome to address the Committee on items not listed on the agenda and within the jurisdiction of the Committee. The Committee is prohibited by law from taking action on matters not on the agenda, but may ask questions to clarify the speaker's comment and/or briefly answer questions. The Committee limits testimony on matters not on the agenda to 3 minutes per person and not more than 10 minutes for a particular subject at the discretion of the Chair of the Committee.
- Individuals wishing to address the Committee under Public Expression are welcome to do so. If you wish to submit written comments, please provide information to the Clerk of the Board staff, located in the Administration Center, Room 1010.

MENDOCINO COUNTY BOARD OF SUPERVISORS
STANDING COMMITTEE AGENDA SUMMARY

AGENDA ITEM #1

-Agenda Summaries must be submitted no later than *noon* Thursday, 10 days prior to the meeting date (along with electronic submittals)
-Send 1 complete original single-sided set and 1 photocopy set
-Transmittal of electronic Agenda Summaries, records, and supporting documentation must be emailed to: cob@co.mendocino.ca.us
-Electronic Transmission Checklist: ☐ Agenda Summary ☐ Supp. Doc. ☐ If applicable, list other online information below

TO: General Government Committee **DATE:** June 30, 2016

FROM: Agriculture, Planning and Building, County Counsel and Executive Office **MEETING DATE:** July 8, 2016

DEPARTMENT RESOURCE/CONTACT:	Chuck Morse	**PHONE:** 234-6830	Present ☒	On Call ☐
DEPARTMENT RESOURCE/CONTACT:	Andy Gustavson	**PHONE:** 463-4281	Present ☒	On Call ☐
DEPARTMENT RESOURCE/CONTACT:	Matthew Kiedrowski	**PHONE:** 234-6885	Present ☒	On Call ☐
CEO RESOURCE/CONTACT:	Sarah Dukett	**PHONE:** 463-4441	Present ☒	On Call ☐

Time Allocated for Item: 3 hrs.

■ **AGENDA TITLE: Discussion and Possible Direction to Staff Regarding a Draft Medical Cannabis Cultivation Ordinance and Medical Cannabis Cultivation Site Zoning Regulations**

■ **PREVIOUS BOARD/BOARD COMMITTEE ACTIONS:** March 15, April 18 and May 16, 2016, the Marijuana Ad Hoc brought forward recommendations regarding the development of a permanent medical marijuana cultivation ordinance; May 17, 2016, Board adopted a medical marijuana cultivation urgency ordinance and directed staff to bring back an item to disband the Marijuana Ad Hoc and refer the development of a permanent ordinance to the General Government Standing Committee; June 7, 2016, Board disbanded the Marijuana Ad Hoc and referred the development of a permanent marijuana cultivation ordinance to the General Government Standing Committee. On June 20, 2016, the General Government Standing Committee provided direction to staff regarding a medical cannabis cultivation ordinance and zoning regulation.

■ **SUMMARY OF REFERRAL:** Staff from the Department of Agriculture, Planning and Building, County Counsel and Executive Office have reviewed the recommendations from the Standing Committee and modified the draft Medical Cannabis Cultivation Compliance Program and a Medical Cannabis Cultivation Site Zoning Regulation for your consideration. Staff will present an overview of the changes to the cultivation ordinance and zoning regulation and further information requested by the Standing Committee. In addition, staff has provided a memorandum and attachments outlining items for review and consideration. The following items are included: memorandum, setback table, area of potential cultivation map, community specific detailed map, draft Medical Cannabis Cultivation Compliance Program and draft Medical Cannabis Cultivation Site Zoning Regulation. Following the staff presentation, government agencies will have an opportunity to comment on the draft documents.

Staff requests the General Government Standing Committee review the draft Medical Cannabis Cultivation Compliance Program, draft Medical Cannabis Cultivation Site Zoning Regulations and items for consideration to solicit feedback from the public and give direction to staff regarding changes to the proposed documents. In addition, staff recommends the draft documents go before the Board on July 12, 2016, for review prior to staff starting the environmental review process.

■ **SUPPLEMENTAL INFORMATION AVAILABLE ONLINE AT:**
■ **ADDITIONAL INFORMATION ON FILE WITH THE CLERK OF THE BOARD (CHECKED BY COB IF APPLICABLE):** ☐

COMMITTEE ACTION ❑ Yes ❑ No **ACTION:** _____

MENDOCINO COUNTY BOARD OF SUPERVISORS **BOARD AGENDA #_____**

ONLINE AGENDA SUMMARY

FISCAL IMPACT:			
Source of Funding	**Current F/Y Cost**	**Annual Recurring Cost**	**Budgeted in Current F/Y**
N/A	N/A	N/A	Yes ☐ No ☐

■ **SUPERVISORIAL DISTRICT:** 1☐ 2☐ 3☐ 4☐ 5☐ All☒

■ **RECOMMENDATION:** Provide direction to staff regarding the draft Medical Cannabis Cultivation Compliance Program and Medical Cannabis Cultivation Site Zoning Regulation.

■ **CEO REVIEW (NAME):** Carmel J. Angelo, CEO **PHONE:** 463-4441

BOARD ACTION

❑ Approved _____

❑ Records Executed _____

Date of Meeting _____

❑ Referred to _____

❑ Other _____

MENDOCINO COUNTY *MEMORANDUM*

Date: July 8, 2016

To: General Government Standing Committee

From: Agricultural Commissioner, Planning and Building Services and Executive Office

Subject: Cannabis Cultivation Compliance Program and Cultivation Site Zoning Regulation

Dear Standing Committee Members:

At the direction of the Standing Committee, staff is submitting the following items for consideration regarding the Cannabis Cultivation Compliance Program and Cultivation Site Zoning Regulation. Following Standing Committee review, the draft cultivation ordinance and zoning regulation will need to be reviewed by the full Board in order to confirm the draft document to commence preparation of a CEQA project description and initial study.

The following attachments are included for review: residential use and property line setbacks table, areas of potential cultivation map, specific areas of cultivation map, Cannabis Cultivation Compliance Program and Cultivation Site Zoning Regulation. In conjunction with the attachments, below are items for the Committee's discussion and consideration:

CalFire

Per Standing Committee direction, staff met with local CalFire representatives regarding TPZ conversion concerns. CalFire representatives will present on TPZ conversions, the process to bring a non-permitted conversion into compliance and address questions from the Standing Committee.

Setbacks

Attachment A, outlines proposed residential use and property line setbacks based on Standing Committee direction on June 20, 2016. Staff is seeking agreement with the proposed changes or alternative direction.

GIS Maps

The proposed medical cannabis zoning regulation would allow cannabis cultivation, subject to the Chapter 10A.17 permit program, on lots exceeding 2 acres in most of the County's rural area. The allowed area and method of cultivation and the related planning permit requirements are based on the zoning designation and parcel size as specified by the proposed Medical Cannabis Cultivation Site Zoning Regulation. The attached map shows parcels located in the RR-2, RR-5, RR-10, UR, AG, I-1, I-2 and PI zoning districts that are eligible for cultivation permits based on acreage. It also shows parcels that lie within the TPZ and FL zoning district where existing cultivation sites, established before January 1, 2016, and approved by Cal Fire, may be allowed to continue subject to cultivation permit requirements. At this time cultivation of medical cannabis would not be allowed within the Coastal Zone. Cultivation in the Coastal Zone will need a separate ordinance.

The second detail map shows that the addition of RR-2 parcels, larger than 2 acres, which has increased the number of qualified parcels in the vicinity of the City of Fort Bragg (outside the

Coastal Zone). It also has increased the number of potential cultivation sites in Comptche and Redwood Valley.

Power Usage Standard

The power usage standard of 600 watts of lighting capacity per 100 square feet of growing area in the draft ordinance on June 20, 2016, is a direct carry-over from the 9.31 ordinance. The power standard has been in place since 2008. Upon further research by the Agricultural Commissioner, the power usage established in 2008, is not sufficient for current mixed light and indoor cannabis cultivation or allow flexibility based on type of grow. Power usage can vary drastically from each grow site using artificial lighting, depending on the type of cultivation or type of lighting used. The power usage standard stems from environmental concerns of large scale generators, proper (vs. overloaded) electrical service drops and circuits, noise and light pollution in remote rural areas. Staff will be proposing generator standards provisions to address environmental concerns with generator use. The proposed program has provisions to require generators to be properly muffled and to be enclosed in a sound absorptive structure to address potential noise issues. Any indoor cultivation permit will have a pre-permit inspection that will assess and assure that the service to the structure is adequate and safe for the proposed operation. The night sky requirements in the draft ordinance address the light pollution concern. Staff recommends eliminating the power usage standard and adopting the following proposed language concerning generators on page 23 of the draft ordinance, section 110 E.:

"If a generator is used on site, identify the containment area construction and dimensions to contain any leak or spill that may develop or occur. Also, provide a maintenance plan for the generator that details 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. The generator shall be equipped with the manufacturer's specified muffler, shall be enclosed in a structure designed for sound suppression, and shall comply with General Plan Policies DE100, 101 and 103."

In addition, staff recommends incorporating mitigation measures refining requirements for power, noise and setback thresholds that result from the CEQA initial study.

If a power usage/demand limit is desired for indoor and mixed light cultivation operations and based on recent research, the Agricultural Commissioner would recommend a maximum of 35 watts per square foot of cultivation area.

Legal Parcel

Per Standing Committee direction, staff has prepared an alternative legal parcel definition for consideration.

""Legal Parcel" or "Parcel" means a lot of real property which, upon application, is eligible for a certificate of compliance or which was created pursuant to the Subdivision Map Act."

Staff is seeking agreement with or possible changes to this definition.

Plant Count v. Square Footage

For consistency and enforcement purposes, staff recommends removing plant count designations for outdoor (no artificial light) grown cannabis. Below are key points regarding the proposed elimination of the plant count option.

1. The Permitting Program is the County's attempt to control the overall production of medical cannabis. With plant count, there is no limit to plant size and the volumes could surpass the intended limits for any given permit. It would seem reasonable that cultivators will use to the sq. ft. equivalent to maximize the returns from their permit.

2. Compliance for a square footage model is not an issue. Outdoor grown plants that are spread out around a parcel would be evaluated individually by the cultivator, the Third Party Inspector, and the Agriculture Department inspector for a cumulative sq. ft. of canopy cover. Therefore the concept and quick measurement/computation will already be in the skill-set of the cultivators and inspectors. It will be the responsibility of the cultivator to not exceed the cumulative maximum sq. ft. of canopy cover allowed under their permit, when those plants are at maturity.
3. In addition, the proposed cannabis tax ordinance before the Board of Supervisors on July 12, 2016, for General Election Ballot consideration, is based on a square footage model. Cultivators would be charged based on the sq. ft. of cultivation authorized in their permit and be required to report that information to the Treasure Tax Collector. Therefore, every cultivator would need a certified square footage associated with their permit.

In conclusion, the square footage model would ensure production volumes do not surpass the intended limits of any given permit, is flexible for outdoor growers who wish to spread out plants around their parcel and would simplify tax collection should the tax measure be place on the 2016 November General Election ballot and passed by the voters of Mendocino County.

Staff is seeking agreement with this proposed change or alternative direction.

Williamson Act Concerns

The County recently adopted new Policies and Procedures for Agricultural Preserves and Williamson Act Contracts. These Policies and Procedures set minimum parcel size requirements of 10 acres for prime agricultural land and 40 acres for non-prime agricultural land (See Table 5-1 on page 9). In addition, a minimum of 50% of the land to be contracted is to be continuously used or maintained for agricultural uses, unless the Board of Supervisors makes specific findings. These two requirements combined would essentially prevent land from being placed into a Williamson Act contract on the basis of cannabis cultivation alone, given the proposed area limitations on cannabis cultivation permit sizes.

In addition, staff has considered amending the Policies and Procedures to specifically provide that cannabis cultivation is a use compatible with the prior existing agricultural uses, but not a use that could qualify land for a Williamson Act contract or be counted as contributing to the continued eligibility of already contracted land. Staff intends to propose revision language that could be considered by the Board by the end of the year.

Marijuana Innovation Zone

In May of 2016, the City of Arcata voted to establish a Marijuana Innovation Zone that will apply over an idle timber processing facility site owned by the City. The zone will promote the clustering of cannabis processing, testing, and distribution activities. In this way the City is using the zone as an economic development tool to create jobs and capture tax revenue associated with the expansion of cannabis cultivation as the State's medical marijuana rules are formalized and as recreational use is potentially legalized. It also is an effective land use tool to concentrate cannabis related activities in locations where its potential odor impacts are minimized, existing public infrastructure (water, power and transportation) is available, and where youth oriented activity are not present.

While this tool is not proposed to direct the location and intensity of cannabis cultivation sites in the County's rural areas, it may be a useful zoning regulation to promote and direct the cannabis production and distribution activities to strategic locations within the County

Attachment A

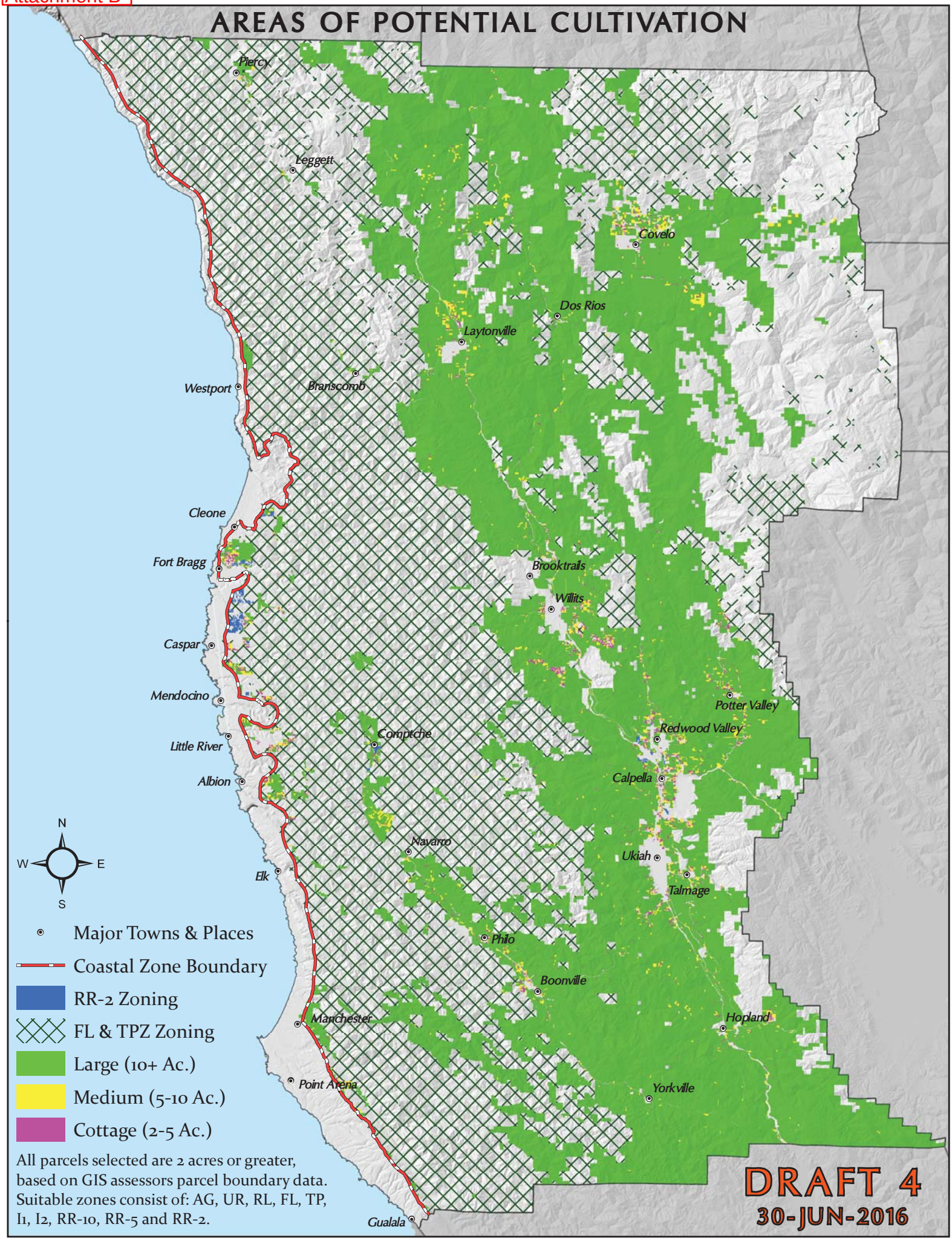
Residential Use and Property Line Setbacks				
M2C3P Permit Type	**Cultivation Description**	**Minimum Lot Area (ac)**	**Adjoining Residential Setback (ft)**	**Separate Legal Parcel Line Setback (ft)**
C	Sm Outdoor	2	100	50
C-A	Sm Indoor Artificial Light	2	Zoning	Zoning
C-B	Sm Structure Mixed Light	2	100	50
1	Med Outdoor	5	100 *	200 *
1A	Med Indoor Artificial Light	5	Zoning	Zoning
1B	Med Structure Mixed Light	5	100 *	200 *
2	Lg Outdoor	10	100 *	200 *
2A	Lg Indoor Artificial Light	10	Zoning	Zoning
2B	Lg Structure Mixed Light	10	100 *	200 *
4	Nursery	10	100 *	200 *

* A reduction in the setback from a residential use (Section 20.242.060.1) or a legal parcel line (Section 20.242.060.2) may be allowed with a Use Permit, approved according to Section 20.242.070.c, provided that the approved setback reduction is 50 feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive.

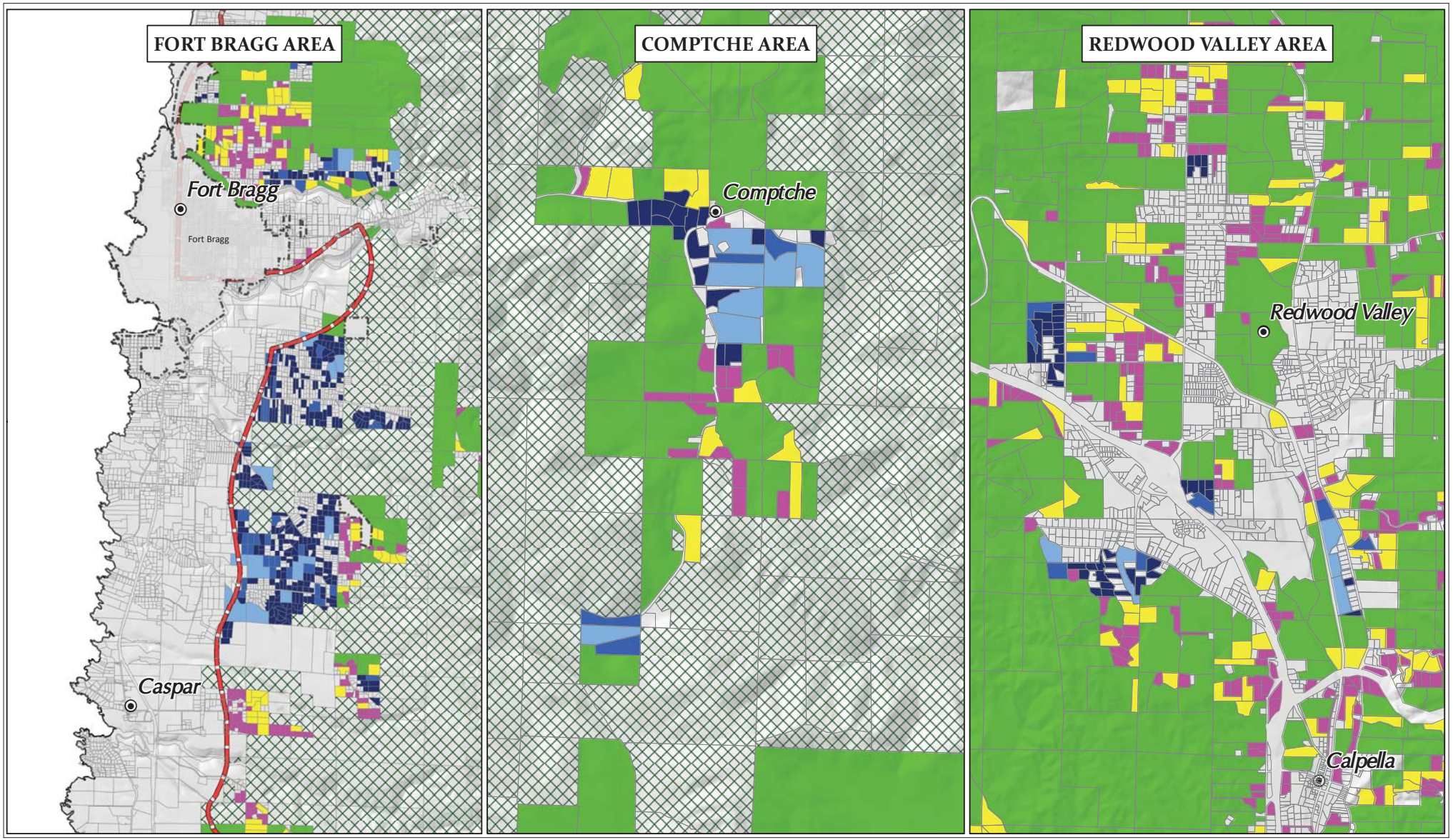
DRAFT

Attachment B

AREAS OF POTENTIAL CULTIVATION



Attachment C



Coordinate System: NAD 83, Calif. State Plane Zone II
Projection: Lambert Conformal Conic
Parcel Data: Mendocino County Info. Svcs., October, 2014
Aerial Imagery: US Dept. of Agriculture, NAIP series, unless otherwise indicated
Topographic Data: USGS 7.5 minute quad series
Flood Data: FEMA FIRM Maps, June 2011

All parcels selected are 2 acres or greater, based on GIS assessors parcel boundary data. Suitable zones consist of: AG, UR, RL, FL, TP, I1, I2, RR-10, RR-5 and RR-2.

- Coastal Zone Boundary
- RR-2 Large (10+ Ac.)
- RR-2 Medium (5-10 Ac.)
- RR-2 Cottage (2-5 Ac.)
- FL & TPZ Zoning
- Large (10+ Ac.)
- Medium (5-10 Ac.)
- Cottage (2-5 Ac.)
- Cities Master (10-2014)
- Assessors Parcels (10-15)

DRAFT 4
30-JUN-2016

MAJOR RR-2 ZONES

0 2,500 5,000 Feet
0 0.5 1 Miles
1:62,500

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

Attachment D

Chapter 10A.17 – Medical Cannabis Cultivation Compliance Program

TABLE OF CONTENTS

CHAPTER 10A.17

SECTION 10A.17.010 PURPOSE AND INTENT **1**

SECTION 10A.17.020 DEFINITIONS **3**

SECTION 10A.17.030 CULTIVATION PERMIT REQUIRED; EXEMPTIONS **6**

SECTION 10A.17.040 GENERAL LIMITATIONS ON CULTIVATION OF MEDICAL CANNABIS **7**

SECTION 10A.17.050 UNIQUE IDENTIFIER; TRACK & TRACE **8**

SECTION 10A.17.060 MEDICAL MARIJUANA COLLECTIVES **9**

SECTION 10A.17.070 PERMIT TYPES **10**

SECTION 10A.17.080 CULTIVATION PERMITS – SPECIFIC REQUIREMENTS **11**

SECTION 10A.17.090 CULTIVATION PERMIT APPLICATION AND ZONING REVIEW **19**

SECTION 10A.17.100 PERMIT REVIEW AND ISSUANCE **21**

SECTION 10A.17.110 PERFORMANCE STANDARDS **22**

SECTION 10A.17.120 CERTIFICATIONS **24**

SECTION 10A.17.130 THIRD PARTY INSPECTORS **25**

SECTION 10A.17.140 CULTIVATION SITE INSPECTIONS: VIOLATIONS AND ENFORCEMENT **26**

SECTION 10A.17.150 CULTIVATION SITE INSPECTIONS AND APPEALS **27**

SECTION 10A.17.160 PUBLIC NUISANCE **27**

SECTION 10A.17.170 ATTORNEYS' FEES **28**

SECTION 10A.17.180 CONFIDENTIAL NATURE OF MEDICAL CANNABIS INFORMATION – LEGISLATIVE INTENT **28**

SECTION 10A.17.190 SEVERABILITY **28**

7/8/16 Draft

Section 10A.17.010 – Purpose and Intent

This Chapter shall be known as the Mendocino Medical Cannabis Cultivation Compliance Program (M2C3P).

It is the purpose and intent of this Chapter to regulate the cultivation of cannabis intended exclusively for medical use (which may also be referred to herein as medical cannabis) within the unincorporated areas of Mendocino County in a manner that is consistent with current State law and establish a program in coordination with the State of California's future implementation of the Medical Marijuana Regulation and Safety Act ("MMRSA"; Assembly Bill ("AB") 243,

AB 266 and Senate Bill ("SB") 643, Stats. 2015, ch. 688, 689, and 719, respectively SB 643, AB 266, and AB 243, Stats. 2015, ch. 688, 689, and 719, respectively, chaptered October 9, 2015).

This Chapter is intended to address the County of Mendocino's prerogative to permit and control, in the unincorporated areas of the county, the cultivation of cannabis for medical use in a manner 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.

The intent of this Chapter is to offer persons wishing to cultivate cannabis for medical use the option to do so in the context of the parameters set forth within the MMRSA, including, but not limited to, the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360, and Health and Safety Code Section 11362.777, in order to protect the public health, safety and welfare of the residents of the County of Mendocino. This Chapter is intended to operate in alignment with the future state licensing requirements for the cultivation of medical cannabis and to provide the local permitting structure that will be required to obtain a state license to cultivate cannabis for medical use, once state licenses become available.

All cultivation of medical cannabis within the jurisdiction of the County of Mendocino shall be controlled by the provisions of this Chapter, regardless of whether the cultivation site existed or occurred prior to the adoption of this Chapter.

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, 2) to allow the use or diversion of cannabis for nonmedical purposes, or 3) to 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 for medical use 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 upon qualified patients and their primary caregivers the right to create or maintain a public nuisance in the course of cultivating cannabis plants for medical purposes.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis for medical use, 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 for medical use.

7/8/16 Draft

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

Section 10A.17.020 - Definitions

As used herein the following definitions shall apply:

"Agricultural Commissioner" or "Agricultural Commissioner's Office" means the Mendocino County Agricultural Commissioner's Office or the authorized representatives thereof.

"Attorney General's Guidelines" means guidelines for the security and non-diversion of cannabis grown for medical use issued by the Attorney General in August 2008.

"Cannabis" means all parts of the plant Cannabis sativa *Linnaeus*, 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 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 Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Collective" mean a Medical Marijuana Collective, as defined below.

"Cultivation of cannabis for medical use" means the planting, growing, harvesting, drying or processing at a cultivation site of cannabis plants or any part thereof.

"Cultivation site" means the location or a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, trimmed, or packaged for transport, or that does all or any combination of those activities.

"Dwelling Unit" means a single unit 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.

"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, which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

"Hoop House" means a structure that whose structural members are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be

7/8/16 Draft

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.

“Indoors” means within a fully enclosed and secure structure that complies with the California Building Code (CBC), 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 2" x 4" or thicker studs overlain with 3/8" 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 legal parcel of land for which one (1) legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single legal parcel for purposes of this Chapter.

“Licensee” means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

“Medical Marijuana Collective” means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense cannabis for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

“Mixed Light” means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate cannabis for medical use.

“Nursery Producer” means a person that produces vegetative immature medical cannabis plants, through cloning, seed germination, or tissue culture. At no time shall a nursery producer have in their possession any cannabis plant that has developed to the point of initiating the process of developing flowers.

“Outdoors” means any cultivation site that uses no artificial or supplemental lighting.

“Permittee” means a person (or persons) issued a permit to cultivate medical cannabis in Mendocino County pursuant to the entirety of this Chapter.

“Primary Caregiver” or “Caregiver” means an individual designated by a qualified patient who has consistently assumed responsibility for the housing, health, or safety of that patient and as defined in Health and Safety Code Section 11362.7(d).

7/8/16 Draft

"Processing" means, for the purposes of this Chapter, to harvest, dry, cure, grade, trim, or package for transport medical cannabis.

"Qualified cardholder" or "Cardholder" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to sections 11362.7 – 11362.83 of the Health and Safety Code.

"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 sections 11362.71 – 11362.76 of the Health and Safety Code.

"Residential Treatment Facility" means a State licensed facility providing for treatment of drug and alcohol dependency.

"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.

"Seed Producer" means a person that grows medical cannabis plants for the expressed purpose of producing specific breeds or varieties of cannabis seeds for sale to other permittees or to develop unique strains or varieties.

"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 of the movement of legal medical cannabis in the production lifecycle and distribution off the cultivation site utilizing a unique identifier pursuant to section 11362.777 of the Health and Safety Code and including reporting capabilities to assist government with enforcing regulations and preventing the illegal diversion of medical cannabis.

"Unique Identifier" or "Unique ID" means individual, non-repeating identification issued to a permittee and attached to the base of each medical cannabis plant permitted at a cultivation site during the cultivation period.

"Wildlife Exclusionary fence" means fencing that is designed to hinder the access of wild animals to the cultivation area by incorporating exclusionary measures designed to prevent the surface digging of wild animals under the upright portion of the fencing, the scaling of the fencing itself, and intrusion over the fencing. A number of methods are available to develop such fencing, including but not limited to: use of "no climb" wire fencing, addition of electrified "hot" wire(s) to the exterior of a solid fence, height extensions to a standard fence (where permissible) using hot wire or barbed wire strung between the extensions, etc.

7/8/16 Draft

"Youth-Oriented Facility" means elementary school, middle school, high school, public park, and 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.

"Zip-Ties" means plastic ties with individualized numbers stamped on them, issued by the Mendocino County Sheriff's Office for the purpose of identifying a legal cannabis plant.

Section 10A.17.030 – Cultivation Permit Required; Exemptions.

(A) All cultivation of cannabis for medical use shall operate in compliance with this Chapter, as well as all applicable state and local laws.

(B) Cultivation of cannabis for medical use shall be permitted only following the issuance of a Cultivation Permit pursuant to the provisions of this Chapter, and the issuance of a permit pursuant to the provisions of Chapter 20.242 of the Mendocino County Zoning Code, if required. Chapter 20.242 permits the cultivation of cannabis for medical use only in specifically enumerated zoning, as determined by permit type, subject either to zoning clearance or an administrative permit or use permit.

(C) Persons or entities may apply for and hold a maximum of two (2) Cultivation Permits listed in Section 10A.17.070 at any given time.

(D) Qualified patients or primary caregivers cultivating medical cannabis are exempt from the permit requirements of paragraph (B) of this Section provided that the qualified patient or primary caregiver shall register with the Agricultural Commissioner's Office and must comply with the provisions of Sections 10A.17.040 and 10A.17.050(B) hereof.

(1) Any and all cannabis cultivated by a qualified patient shall be for the sole and exclusive use by the patient only. A maximum of 100 square feet of medical cannabis may be cultivated by a qualified patient.

(2) Any and all cannabis cultivated by a primary caregiver shall be for the sole and exclusive use of up to a maximum of five (5) patients which have provided written designation to the primary caregiver to provide those services. A maximum of 100 square feet of cultivation area of medical cannabis may be cultivated by a Primary caregiver for each patient they are cultivating for, up to a maximum total of 500 square feet.

7/8/16 Draft

Section 10A.17.040 – General Limitations on Cultivation of Medical Cannabis.

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

(1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein.

(2) Outdoors or using mixed light within one hundred (100) 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) 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 of a legal parcel under separate ownership.

The distance between the above-listed uses in Subsection (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 boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in Subsections (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in Section 10A.17.040 (H) to the nearest exterior wall of the residential structure.

(B) The outdoor, indoor or mixed light cultivation of medical cannabis shall not subject residents of neighboring legal parcels who are of normal sensitivity to objectionable odors.

(C) The use of light assistance for the indoor or mixed light cultivation of medical cannabis shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area.

(D) All lights used for the "mixed light" cultivation of medical cannabis 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.

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

7/8/16 Draft

(F) All cultivation of medical cannabis shall not utilize water that has been or is illegally diverted from any stream, creek, or river.

(G) The activities associated with the cultivation of medical cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(H) All medical cannabis grown in Mendocino County (excluding indoor growing) must be within a secure, wildlife exclusionary fence of at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when a qualified patient or caregiver 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 medical cannabis is cultivated or stored shall be properly secured to prevent unauthorized entry.

(J) Cultivation of medical cannabis by qualified patients or by primary caregivers shall be subject to the restrictions of Mendocino County Code Chapter 20.242.

Section 10A.17.050 – Unique Identifier; Track & Trace

(A) All cannabis plants grown for medical use shall have a unique identifier tag affixed to the base of the plant. A Track and Trace (T&T) system will be used by the County of Mendocino to track the production of cannabis for medical use and all permitted cultivators will be required to either use that system or use another system that will upload identical information to the County's system. The unique ID tags will be generated by the T&T system for the cultivator's use. It is the responsibility of the permittee to affix each tag and maintain them in a readable state for movement tracking, data entry and compliance inspections. The permittee must then provide the appropriate data into the T&T system that accurately reflects the particulars and activities related to each plant, including, but not limited to, movement, harvest dates, harvest data, and destruction.

(B) Qualified patients or primary caregivers that qualify for the permit exemption found in Section 10A.17.030(D) are not required to participate in the T & T system. However, to assist in the enforcement of this Chapter and to avoid unnecessary confiscation and destruction of medicinal cannabis plants, qualified patients or primary caregivers may purchase "zip-ties" from the Mendocino County Sheriff's Office. For patients and caregivers that wish to purchase "zip-ties", the Agricultural Commissioner's Office shall provide an embossed copy of their registration which can be used to obtain the ties. These "zip-ties" should be securely attached to the base of individual flowering cannabis plants. All applicants for "zip-ties" must present a State-issued medical cannabis

7/8/16 Draft

identification card or a valid medical recommendation, or those of the up to five (5) patients they are caregiving for. The fee for the "zip-ties" shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the Master Fee Policy. Any zip-tie fees may be discounted by fifty (50) percent for Medi-Cal, SSI, and CMSP recipients, and equivalent income-qualified veterans.

Section 10A.17.060 - Medical Marijuana Collectives

Medical marijuana collectives currently operate to produce medical cannabis for seriously ill Californians under an array of State law and guidelines established for that purpose, including Proposition 215 and Senate Bill 420 (2004). Under the provisions of MMRSA, the current collective/cooperative model for the production and dispensing of medical cannabis remains in effect until the moment an entity obtains the required State license issued under MMRSA for that activity. From that point forward, the State regulations developed in response to MMRSA will define the operational model for any entity conducting activities related to commercial medical cannabis cultivation.

MMRSA, in Health and Safety Code section 11362.775, also provides that one (1) year from the date that the Department of Consumer Affairs posts on its public internet webpage a notice stating that State licenses are being issued for activities covered under MMRSA, cannabis activities may no longer operate under the Proposition 215/Senate Bill 420 model. The provisions of this Section shall similarly sunset as of that date.

Medical marijuana collectives engaged in cultivation shall comply with all of the following:

(A) Operate on a non-profit basis as set forth in Section IV B.1. of the Attorney General's Guidelines.

(B) Employ only persons who are at least eighteen (18) years of age and comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or contributions for unemployment insurance, state workers' compensation and liability laws.

(C) Follow the membership and verification guidelines as set forth in Section IV B.3. of the Attorney General's Guidelines, except that wherever "should" appears it shall be replaced with "shall".

(D) Require all prospective members to complete and sign a written membership application acknowledging and agreeing to abide by all the rules of the collective and all applicable requirements of this Section.

(E) Prohibit sales to non-members as set forth in Section IV B.5. of the Attorney General's Guidelines.

7/8/16 Draft

(F) Allow reimbursements and allocations of medical cannabis as set forth in Section IV B.6. of the Attorney General's Guidelines.

(G) Possess cannabis only in amounts consistent with the medical needs of the members of the collective; and only cultivate cannabis consistent with the limits set forth in this Ordinance.

(H) Exterior signage shall not indicate or advertise the presence or availability of medical cannabis.

Section 10A.17.070 – Permit Types

The following types of cultivation permits will be offered through the M2C3P at a maximum density of one (1) cultivation permit per applicant per legal parcel. However, if a single legal parcel is owned by multiple individuals residing in separate habitable residential units on that legal parcel, each owner may individually apply for a permit to cultivate medical cannabis, provided that the cumulative total square footage of cultivation of all owners shall not exceed the total maximum square footage allowed based on the permit type. All owners seeking to cultivate in this manner shall initiate the application process at the same time; any partial owner of the legal parcel not cultivating medical cannabis shall provide a statement, as part of the application, that he or she will not so cultivate.

(A) "Type C" for outdoor cultivation using no artificial lighting of a maximum of 25 plants or 2,500 square feet of total canopy size on one legal parcel.

(B) "Type C-A" for indoor cultivation using exclusively artificial lighting not to exceed 2,000 square feet of cultivation area within a structure on one legal parcel.

(C) "Type C-B" for cultivation using a combination of natural and supplemental artificial lighting (mixed light) not to exceed 2,500 square feet of cultivation area within a structure on one legal parcel.

(D) "Type 1" for outdoor cultivation using no artificial lighting of 26 to 50 plants or 2,501 to 5,000 square feet of total canopy size on one legal parcel.

(E) "Type 1A" for indoor cultivation using exclusively artificial lighting not to exceed 5,000 square feet of cultivation area within a structure on one legal parcel.

(F) "Type 1B" for cultivation using a combination of natural and supplemental artificial lighting (mixed light) not to exceed 5,000 square feet of cultivation area on one legal parcel.

(G) "Type 2" for outdoor cultivation using no artificial lighting of 51 to 99 plants or 5,001 to 10,000 square feet of total canopy size on one legal parcel.

7/8/16 Draft

(H) "Type 2A" for indoor cultivation using exclusively artificial lighting having a cumulative cultivation area within a structure of 5,001 to 10,000 square feet on one legal parcel.

(I) "Type 2B" for cultivation using a combination of natural and supplemental artificial lighting (mixed light) having a cumulative cultivation area within a structure of 5,001 to 10,000 square feet on one legal parcel.

(J) "Type 4" for the cultivation of medical cannabis solely as a nursery product to be sold to a permittee, a qualified patient or a primary caregiver. The nursery product shall be in the vegetative and non-flowering state or in the form of seeds, if the applicant is applying as a seed producer under this type of permit. The cumulative cultivation area shall not exceed 22,000 square feet on one legal parcel.

Section 10A.17.080 – Cultivation Permits – Specific Requirements

This section contains specific requirements that apply to each of the permit types listed in Section 10A.17.070. In addition, Chapter 20.242 contains additional zoning permit requirements for each of the below cultivation permit types, which vary based on how the legal parcel is zoned. As provided in Section 10A.17.090, cultivation permit applications will be referred to the Department of Planning and Building Services to determine compliance with Chapter 20.242.

In addition to any other requirements listed in this Chapter, the following limitations and requirements shall apply to cultivation permits issued by the M2C3P:

(A) "Type C" permits: (Small, outdoor (natural light only))

(1) Will be issued to qualifying applicants for a maximum of 25 plants or 2,500 square feet of total canopy size.

(2) The legal parcel size for cultivation under this permit shall be a minimum of two (2) acres.

(3) Cultivation under this type of permit requires that there be a legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed below.

(~~3~~4) The permittee shall engage the services of an approved third party inspector and have a minimum of one (1) consultation inspection performed by that entity approximately 1/2 way through the total cultivation period for each harvestable crop.

(~~4~~5) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R2"; Rural

7/8/16 Draft

Residential "R-R 5"; Rural Residential "R-R 10"; Agriculture "A-G"; Upland Residential "U-R"; Rangeland "R-L", Forest Land "F-L", or Timberland Production "TPZ"; Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(B) "Type C-A" permits: (Small, indoor (artificial light only))

(1) The required pre-permit site inspection must include a representative from the Department of Planning and Building Services to confirm that the structure used for the permit is suitable for support the proposed cultivation activity.

(2) Will be issued for qualifying applicants for a cumulative maximum of 2,000 square feet of cultivation area within a structure or structures on one legal parcel.

(3) The legal parcel size for cultivation under this permit shall be a minimum of two (2) acres.

(4) Cultivation under this type of permit requires that there be a legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed below.

(~~4~~5) All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.

(~~5~~6) No structure shall be used for cultivation under this type of permit that has undergone a conversion of habitable space to cultivation area.

(~~6~~7) The permittee shall engage the services of an approved third party inspector and have a minimum of one (1) consultation inspection performed by that entity approximately 1/2 of the way through the total cultivation period for each harvestable crop.

(~~7~~8) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R 2"; Rural Residential "R-R 5"; Rural Residential "R-R 10"; Agriculture "A-G"; Upland Residential "U-R"; Rangeland "R-L"; Forest Land "F-L", Timberland Production "TPZ"; Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(C) "Type C-B" permits: (Small, mixed light sources)

(1) Will be issued for qualifying applicants for a maximum of 2,500 square feet of total cultivation area within a structure or structures on one legal parcel.

7/8/16 Draft

(2) The legal parcel size for cultivation under this permit shall be a minimum of two (2) acres.

(3) Cultivation under this type of permit requires that there be a legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed below.

(~~3~~4) The permittee shall engage the services of an approved third party inspector and have a minimum of one (1) consultation inspection performed by that entity approximately 1/2 to 2/3 of the way through the total cultivation period for each harvestable crop.

(~~4~~5) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R 2"; Rural Residential "R-R 5"; Rural Residential "R-R 10"; Agriculture "A-G"; Upland Residential "U-R"; Rangeland "R-L"; Forest Land "F-L", Timberland Production "TPZ"; Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(D) "Type 1" permits: (Medium, outdoor (natural light only))

(1) Will be issued to qualifying applicants for a plant count of 26 to 50 plants or a maximum 2,501 to ~~of~~ 5,000 square feet of total canopy size on one legal parcel.

(2) The legal parcel size for cultivation under this permit shall be a minimum of five (5) acres.

(3) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R 2"; Rural Residential "R-R 5"; Rural Residential "R-R 10"; Agricultural "A-G"; Upland Residential "U-R"; Rangeland "R-L"; Forest Land "F-L", or Timberland Production "TPZ".

(4) The area of cannabis cultivation shall be set back at least 200 feet from any ~~legal dwelling unit~~ parcel under separate ownership.

(5) Cultivation under this type of permit requires that there be a~~n~~ legal dwelling unit on the legal parcel used for cultivation.

(6) The permittee shall engage the services of an approved Third Party Inspector and facilitate a minimum of one (1) consultation inspection performed by that entity at approximately ½ way through the total cultivation period for each harvestable crop.

7/8/16 Draft

(7) The permittee shall facilitate at least one on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

(E) "Type 1A" permits: (Medium, indoor (artificial light only))

(1) The required pre-permit site inspection must include a representative from the Department of Planning and Building Services to confirm that the structure used for the permit is suitable for support the proposed cultivation activity.

(2) Will be issued to qualifying applicants for a cumulative maximum of 2,001 to 5,000 square feet of cultivation area within a structure or structures located on one legal parcel.

(3) All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.

(4) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(5) The permittee shall engage the services of an approved Third Party Inspector and facilitate a minimum of one (1) consultation inspection performed by that entity at approximately ½ way through the total cultivation period for each harvestable crop.

(6) The permittee shall facilitate at least one annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

(F) "Type 1B" permits: (Medium, mixed light sources)

(1) Will be issued to qualifying applicants for a cumulative maximum of 2,501 to 5,000 square feet of cultivation area within a structure or structures on one legal parcel.

7/8/16 Draft

(2) The legal parcel size for cultivation under this permit shall be a minimum of five (5) acres, excluding legal parcels with the industrial zoning listed below .

(3) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R 2"; Rural Residential "R-R 5"; Rural Residential "R-R 10"; Agriculture "A-G"; Upland Residential "U-R"; Rangeland "R-L"; Forest Land "F-L", Timberland Production "TPZ"; Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(4) The area of cannabis cultivation shall be set back at least 200 feet from any ~~legal dwelling unit~~ parcel under separate ownership.

(5) Cultivation under this type of permit requires that there be a~~n~~ legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed above.

(6) The permittee shall engage the services of an approved Third Party Inspector and facilitate a minimum of one (1) consultation inspection performed by that entity at approximately uniform intervals through the total cultivation period for each harvestable crop.

(7) The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

(G) "Type 2" permits: (Large, outdoor (natural light only))

(1) Will be issued to qualifying applicants for a plant count of 51 to 99 plants or a maximum of 5,001 to 10,000 square feet of total canopy size on one legal parcel.

(2) The legal parcel size for cultivation under this permit shall be a minimum of ten (10) acres.

(3) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R 10"; Agricultural "A-G"; Upland Residential "U-R"; Rangeland "R-L"; Forest Land "F-L", or Timberland Production "TPZ".

7/9/16 Draft

(4) The area of cannabis cultivation shall be set back at least 200 feet from any ~~legal dwelling unit~~ parcel under separate ownership .

(5) Cultivation under this type of permit requires that there be a~~n~~ legal dwelling unit on the legal parcel used for cultivation.

(6) The permittee shall engage the services of an approved Third Party Inspector and facilitate a minimum of two (2) consultation inspections performed by that entity at approximately uniform intervals through the total cultivation period for each harvestable crop.

(7) The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

(H) "Type 2A" permits: (Large, indoor (artificial light only))

(1) The required pre-permit site inspection must include a representative from the Department of Planning and Building Services to confirm that the structure used for the permit is suitable for support the proposed cultivation activity.

(2) Will be issued to qualifying applicants for a cumulative maximum of 5,001 to 10,000 square feet of cultivation area within a structure or structures located on one legal parcel.

(3) All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.

(4) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(5) The permittee shall engage the services of an approved Third Party Inspector and facilitate a minimum of two (2) consultation inspections performed by that entity at approximately uniform intervals through the total cultivation period for each harvestable crop.

(6) The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding

7/16 Draft

holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

(I) "Type 2B" permits: (Large, mixed light sources)

(1) Will be issued to qualifying applicants for a cumulative maximum of 5,001 to 10,000 square feet of cultivation area within a structure or structures on one legal parcel.

(2) The legal parcel size for cultivation under this permit shall be a minimum of ten (10) acres, excluding legal parcels with the industrial zoning listed below.

(3) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential "R-R 10"; Agriculture "A-G"; Upland Residential "U-R"; Rangeland "R-L"; Forest Land "F-L", Timberland Production "TPZ" ; Limited Industrial "I-1"; General Industrial "I-2"; or Pinoleville Industrial "P-I".

(4) The area of cannabis cultivation shall be set back at least 200 feet from any ~~legal dwelling unit~~ parcel under separate ownership.

(5) Cultivation under this type of permit requires that there be a~~n~~ legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed above.

(6) The permittee shall engage the services of an approved Third Party Inspector and facilitate a minimum of two (2) consultation inspection performed by that entity at approximately uniform intervals through the total cultivation period for each harvestable crop.

(7) The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

(J) "Nursery" permits:

(1) The applicant shall complete a supplemental "Application for Medical Cannabis Nursery / Seed Production" and file it with the Agricultural Commissioner's Office. The applicant shall declare on this form if they

7/8/16 Draft

intend to produce medical cannabis nursery stock or medical cannabis seeds or both.

(2) Will be issued to qualifying applicants for a cumulative maximum of 22,000 square feet of cultivation area within a structure or structures on one legal parcel for all activities.

(3) The legal parcel size for cultivation under this permit shall be a minimum of ten (10) acres, excluding legal parcels with the industrial zoning listed below.

(4) If the permittee is producing nursery stock, the permittee shall produce only tissue culture starts, vegetative starts (clones), or immature plants for the planting, propagation, and cultivation of medical cannabis by other permittees or exempt individuals. For nursery producers (the production of tissue cultures, clones, and immature plants), no consumable medical cannabis product of any kind shall be derived from the plants being cultivated under this permit.

(5) The area of cannabis cultivation for nursery stock production shall be set back at least 100 feet from any ~~legal dwelling unit~~ parcel under separate ownership .

(6) Cultivation of nursery stock under this type of permit requires that there be a legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed above.

(7) If the permittee is producing seed, the medical cannabis plant materials (flowers, leaf, etc.) derived from the plants, once the seeds have been extracted, shall be entered into the Track and Trace program and become medical cannabis product destine for dispensing.

(8) The area of cannabis cultivation for seed production shall be set back at least 200 feet from any ~~legal dwelling unit~~ parcel under separate ownership.

(9) Cultivation for seed production under this type of permit requires that there be a legal dwelling unit on the legal parcel used for cultivation, excluding legal parcels with the industrial zoning listed above.

(10) The legal parcel where cultivation is occurring must have one of the following inland zoning designations: Rural Residential “R-R 10”; Agriculture “A-G”; Upland Residential “U-R”; Rangeland “R-L”; Forest Land “F-L”; Limited Industrial “I-1”; General Industrial “I-2”; or Pinoleville Industrial “P-I”.

7/9/16 Draft

(11) The permittee agrees to abide by and operate in accordance with the requirements established by the Mendocino County Agricultural Commissioner relating to nursery and seed operations which pertain to the cultivation of medical cannabis.

(12) The permittee shall engage the services of an approved Third Party Inspector and facilitate one (1) consultation inspection for each six (6) month period of operation to be performed by that entity.

(13) The permittee shall facilitate two (2) on-site compliance inspections annually, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner (or appointed staff) during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official to schedule the annual on-site compliance inspections.

Section 10A.17.090 – Cultivation Permit Application and Zoning Review

Any person or entity that wishes to engage in the cultivation of cannabis for medical use shall submit an application to the Agricultural Commissioner's Office. Applications for Cultivation Permits shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Agricultural Commissioner's Office 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.

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

Until January 1, 2018, the Agricultural Commissioner's Office shall only consider applications for cultivation permits for persons or entities that were cultivating cannabis for medical use in Mendocino County prior to January 1, 2016.

Applicants for a Cultivation 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 medical cannabis on their property by the applicant with original signature of the record title owner.

7/8/16 Draft

(C) Site plan showing the entire legal parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the legal parcel, with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. The site plan shall include dimensions showing that the distance from any school, youth oriented facility, church, public park, or residential treatment facility to the nearest point of the cultivation area is at least 1,000 feet.

(D) Photographs of any cultivation activities that existed on the legal parcel prior to January 1, 2016, including: 1) ground level views of the cultivation activities and 2) aerial views from Google Earth, Bing Maps, Terraserver, or other comparable services showing: a) the entire legal parcel and b) the cultivation area in more detail. The date these images were captured shall be noted as well.

(E) Photographs of any cultivation activities that currently exist on the legal parcel, including: 1) ground level views of the cultivation activities from at least three different vantage points, and 2) aerial views from Google Earth, Bing Maps, Terraserver, or other comparable services showing: a) the entire legal parcel and b) the cultivation area in more detail. The date these images were captured shall be noted as well.

(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. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation, 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.

(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. Description of legal water source, irrigation plan, and projected water usage.

(H) Copy of Notice of Intent and Monitoring Self-Certification and any other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in 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.

7/5/16 Draft

(I) 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 or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

(J) If the source of water is a well, a copy of the County well permit, if available.

(K) Written consent for an onsite pre-permit inspection of the legal parcel by County officials at a prearranged date and time in consultation with the applicant prior to approval of a~~n~~ permit to cultivate medical cannabis, and at least once annually thereafter.

(L) 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.

(M) If the legal parcel is zoned FL or TPZ and the application would include the conversion of timberland as defined under Public Resources Code section 4526, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection ("CalFire"). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, the applicant must provide evidence showing that they have completed a civil or criminal process and/or entered into a negotiated settlement with CalFire.

(N) If applicable, clearance from CalFire related to compliance with the requirements of Public Resources Code Section 4290 and any implementing regulations.

Section 10A.17.100 – Permit Review and Issuance

The Agricultural Commissioner's Office shall issue a Cultivation Permit pursuant to this Chapter only:

(A) Following the referral to and clearance or permit approval pursuant to Chapter 20.242; and

(B) After the Agricultural Commissioner's Office, and other County staff, have performed a pre-permit site inspection to confirm adherence to the requirements established in this Chapter and the M2C3P application process.

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

7/8/16 Draft

for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis for medical use 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 for medical use.

If, during the pre-permit site inspection, violations of any building or other health, safety or other state or county statute, ordinance, or regulation are discovered, the applicant shall be required to submit a written plan to remediate, abate, or cure the violations at the earliest feasible date, but in no event more than one (1) year after the date of issuance of the Cultivation Permit; said plan shall be signed by the applicant, approved by the relevant enforcement agency or agencies, and compliance with said plan shall be a condition of the Cultivation Permit.

T & T unique identifiers will only be made available following the issuance of a Cultivation Permit by the Agricultural Commissioner's Office. The applicant will have 72 hours to register with the County designated T & T system. Upon T & T system registration, the system will provide unique identifiers. The unique identifiers shall be affixed to the individual plants within 72 hours of them being provided to the permittee.

Cultivation 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.

Section 10A.17.110 – Performance Standards

All Cultivation Permits issued by the Agricultural Commissioner's Office shall obligate the permittee to comply ~~require compliance~~ with the following performance standards:

(A) Cultivation shall be located as shown on the approved application site plan and in compliance with all provisions of this Chapter 10A.17 and any permit issued pursuant to Chapter 20.242.

(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 MMRSA, and regulations promulgated thereunder covering a similar cannabis activity.

(C) A unique identifier for compliance with the County's T&T system shall be affixed to each permitted medical cannabis plant cultivated in Mendocino County, in compliance with Section 10A.17.050. The approved Third Party Inspector retained by the permittee will, upon the initial consultation visit, confirm adherence to this section. The Agricultural Commissioner's Office will likewise confirm adherence to this section during any compliance inspection. It shall be the responsibility of the permittee to ensure complete and accurate entry of information into the T&T system within 24 hours of the reportable activity occurring.

7/8/16 Draft

(D) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, including the statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.

(E) If a generator is used to support any aspect of the cultivation operations permitted, it shall have a maximum output capacity of no more than 3,000 watts, shall be enclosed in a structure designed for sound suppression and shall comply with General Plan Policies DE100, 101 and 103.

(F) Maintain enrollment in Tier 1, 2 or 3, certification 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 of approval for enrollment set forth in that Order, which is set forth in Appendix A to this Chapter.

(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) Consent to facilitate and conduct the minimum prescribed number of visits by an approved Third Party Inspector, as detailed by the permit type issued and at least one (1) annual on-site compliance inspection, as detailed by the permit type, by the Agricultural Commissioner's office.

(K) 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. At the present time, there are no pesticides or herbicides registered specifically for use directly on cannabis and the use of pesticides on cannabis plants has not been reviewed for safety, human health effects, or environmental impacts. Under California law, the only pesticide products not illegal to use on cannabis are those that contain an active ingredient that is exempt from residue tolerance requirements and are either registered and labeled for a broad enough use to include use on cannabis, or exempt from registration requirements as a minimum risk pesticide under the Federal Insecticide Fungicide Rodenticide Act section 25(b) and California Code of Regulations, Title 3, Section 6147. All product labelling and any products on the site shall be placed, used, and stored in a manner that ensures that they will not

7/8/16 Draft

enter or be released into surface or ground waters. 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 and to exclude large animals that may be attracted by odors.

(L) 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.

(M) Pay all applicable fees for application, unique identifiers, consultations, and inspections.

(N) Comply with any conditions that may apply as a result of an administrative or conditional use permit approved pursuant to Chapter 20.242, or with a written remediation plan required by Section 10A.17.100.

Section 10A.17.120 - Certifications

(A) Permittees who demonstrate compliance with all of the requirements set forth in this Chapter will be issued a "Certified Mendocino County Grown" certificate through the Agricultural Commissioner's Office. This certification shall be valid for one (1) year from the date of issuance and shall be renewed annually thereafter following annual inspection(s) of the registered cultivation site and continued compliance with all requirements. Mendocino County's cannabis certification would represent the County's appellation of origin for medical cannabis grown in Mendocino County. It is unlawful and a violation of Business and Professions Code section 19332.5 for medical cannabis that was not produced in Mendocino County to be labeled, marketed or packaged as originating from Mendocino County. The Bureau of Medical Marijuana Regulation (BMMR), within the California Department of Consumer Affairs, has been designated as the agency that will be assigning appellations for medical cannabis produced throughout the state. The Agricultural Commissioner will work with local producers and industry groups to assist, where appropriate, in the process to establish unique cannabis appellations within Mendocino County.

(B) In addition to the standard compliance requirements of the cultivation and operations plan applicable to all cannabis cultivators in the M2C3P, the Agricultural Commissioner's Office shall develop standards for a separate "Mendocino Sustainably Farmed" (MSF Certified) cannabis certification. Cannabis labeled with this certification shall be produced following production standards used in the production of crops labeled as organic according to United Stated Department of Agriculture, National Organic Program. These standards shall be incorporated into the cultivation and operations plan. A fee for cost recovery associated with this certification process will be charged to the cultivator.

7/31/18 Draft

Section 10A.17.130 – Third Party Inspectors

The Agricultural Commissioner's Office is authorized to allow third party inspectors to assist medical cannabis cultivators in complying with the provisions of this Chapter. By performing field checks with the cultivators, identifying potential or real points of concern, and working with the cultivators to correct the issues(s) at hand, while communicating with the Agricultural Commissioner's office continually, adherence to the standards established by the M2C3P will be greatly enhanced and the possibility of enforcement actions being initiated by the County are reduced.

Any third party inspector must receive approval by the Agricultural Commissioner's Office in order to serve individual permittees and be recognized by the M2C3P as credible and ensuring compliance with the requirements of this Chapter. The Agricultural Commissioner shall have the authority to approve or deny any application to operate as a third-party inspector based on experience/ qualifications, education, incomplete applications, insufficient detail/scope of proposed work, conflicts of interest, and ability to perform. To ensure that a third party inspector is qualified to assist cannabis cultivators with the implementation of this Chapter, individuals desiring to be third party inspectors must submit an application/ proposal to the Agricultural Commissioner's Office and successfully pass an oral appraisal interview. Third party proposals shall include, at a minimum, the following:

(A) Program Purpose: Statement of the functions which the third party proposes to fulfill, including procedures to implement the proposed functions/roles.

(B) Technical experience and qualifications of the third party program necessary for implementation of technical functions/roles.

(C) Demonstration of organizational capacity and funding mechanisms to administer the program.

(D) Framework for filing consultation reports, photo-documentation, etc. to M2C3P within 24 hours of an inspection, as approved by the Agricultural Commissioner's Office.

(E) Sample liability waiver that demonstrates that the responsibility falls to the landowner/operator of the site to meet the stated terms and conditions of the M2C3P.

(F) Framework for confirmation of adherence to standard conditions and developed plans and addressing non-compliance(s) by individual permittees.

(G) Ability to provide proof of current and valid insurance for any vehicle used in the performance of Third Party Inspector duties.

7/8/16 Draft

(H) If a third party application/proposal is approved, the Agricultural Commissioner will send an approval letter. All approved third party programs will be listed on the Mendocino County Department of Agriculture website. The approval is conditional and subject to a probationary period. Approvals for third party inspector status expire one year from the date of issuance and may be renewed, subject to a positive evaluation based on performance, by the Agricultural Commissioner.

Successful candidates to become a Third Party Inspector will be required to sign an agreement letter with the County committing to certain conditions as part of being an approved Third Party Inspector.

Permit holders engaging the services of Third Party Inspectors may file a formal complaint against that inspector with the Agricultural Commissioner's Office. Any complaint shall have ample evidence to support the claim being made and be on a form supplied by the Agricultural Commissioner's office. The Third Party Inspector in question will be notified of the complaint that has been filed. An office hearing will be scheduled within ten (10) days of receipt of the complaint by the Department of Agriculture to review the claims and take any oral comments from both sides in the complaint. The relevant inspection documentation will be made available at the office hearing for all parties to review. The Agricultural Commissioner shall make a determination within seven (7) days of completion of the office hearing, either sustaining or denying the complaint. If sustained, the determination will be noted in the performance evaluation for the inspector and, if the issue at hand is program standards/performance related, the actions taken by the cultivator will be re-evaluated. If denied, the actions of the inspector will be upheld and the permittee will be required to remedy any noted non-compliance(s) within seven (7) days of the determination by the Agricultural Commissioner. (Editor's Note: This section may be deleted here and become part of the Third Party Inspector program guidance and procedures manual)

Section 10A.17.140 – Cultivation Site Inspections: Violations and Enforcement

All consultation inspection information and outcomes from Third Party Inspectors shall be forwarded to the Agricultural Commissioner's office within 24 hours of the completion of the inspection. If the Third Party inspector determines that the site does not comply with the conditions of approval, the inspector shall serve notice to the permit holder with a written statement identifying the items not in compliance, and may suggest action(s) that the permit holder may take to cure the non-compliance(s). Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The time frame allowed for the permit holder to take appropriate actions to cure the non-compliance will be the shortest feasible time frame as determined by the inspector. The Agricultural Commissioner's office may amend the time frame if deemed inappropriate. A re-inspection by the Third Party inspector will be required to confirm and document the curative measure(s) taken by the permit holder. It is the responsibility of the permit holder to facilitate the above mentioned re-inspection by the end of the allowed timeframe. Failure to request re-inspection or to cure any items of non-compliance shall initiate

an un-scheduled compliance inspection from the Department of Agriculture. Inspection fees shall be charged to the permittee for any additional compliance inspections required beyond those regularly scheduled and enumerated in Section 10A.17.080. All additional inspection fees shall consist of the hourly rate for an inspector from the Department of Agriculture for the travel and inspection time plus the standard IRS mileage rate for travel distance.
If the non-compliance(s) are substantiated during the un-scheduled compliance inspection above, the Department of Agriculture shall notify other public agencies or County departments, including the Department of Planning and Building Services, of these findings. The M2C3P permit shall be in suspension pending a final compliance re-inspection from the Department of Agriculture within seven (7) days. This final re-inspection will be to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request and facilitate this final re-inspection or to cure any items of non-compliance shall terminate the cultivation permit through the issuance of a "Notice to Terminate Permit. The permit shall be terminated immediately upon the expiration of any appeal period or, if an appeal to this determination and action is filed, per Section 10A.17.150, upon the final determination of the appeal.

The County shall additionally notify any state license authority, as defined by the MMRSA, whenever the County cultivation permit has been suspended or terminated, as appropriate.

Section 10A.17.150 – Cultivation Site Inspections and Appeals

If a "Notice to Terminate Permit" is issued to a permittee by the Agricultural Commissioner's office, the permittee may appeal said notice within ten (10) days after delivery. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The appeal shall be made in writing, on a form provided by the Agricultural Commissioner's Office. The fee for filing the appeal is $100.00. The appeal shall be heard by a Hearing Officer using the procedures outlined in Chapter 8.75, as modified by the following provisions:

(A) The appeal shall be heard by the Hearing Officer within ten (10) business days following the filing of the appeal. The Hearing Officer shall render a written ruling on the appeal within three (3) business days following the hearing.

Section 10A.17.160 – Public Nuisance

All of the remedies provided for in this Chapter shall be cumulative and not exclusive for violations of this Chapter. Any violation of this Chapter, including, but not limited to failure to obtain and maintain in good standing any permit required by this Chapter, compliance with any required element on which a permit was issued pursuant to this Chapter, or any violation of the provisions of this Chapter where a permit is not required, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the County under the applicable state and county laws, including but not limited to those set forth in Mendocino County Code and MMRSA .

7/8/16 Draft

The County may abate the violations of this Chapter in accordance with the provisions of County Code Section 8.75 or by the prosecution of a civil action, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

The County may also abate the violation of this Chapter through the abatement process established by Government Code Section 25845.

Section 10A.17.170 – Attorneys' Fees

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this Section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Section exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

Section 10A.17.180 - Confidential nature of medical cannabis information – legislative intent

To the fullest extent authorized by State and Federal law, all use information received by and/or generated by the operation of this Chapter or prior iterations of cannabis cultivation ordinances of the County has always been intended to be treated and held by the County as confidential information. Notwithstanding the foregoing, information provided to the county may be released as required by law, judicial order, or subpoena, and could be used in criminal prosecution.

Section 10A.17.190 – Severability

If any provision of this Chapter, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Section are severable.

7/8/16 Draft

Attachment E

Chapter 20.242 Medical Cannabis Cultivation Site

20.242.010 - Intent.

This chapter is intended to provide land use regulations for the County of Mendocino where medical cannabis may be cultivated, subject to the limitations established of this chapter and the provisions of Mendocino County Code Chapter 10A.17, the Mendocino Medical Cannabis Cultivation Compliance Program (M3C3P). The objective of this Chapter is allow the cultivation of medical cannabis in locations that are consistent with intent of the base 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 of the County of Mendocino.

Sec. 20.242.020 – Application.

The cultivation of medical cannabis is prohibited in all zoning districts in Mendocino County, except as allowed by this Chapter.

Sec. 20.242.030 – 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.

Sec. 20.242.040 - Exception.

(A) The cultivation of medical cannabis by qualified patients or primary caregivers is an allowed use subject to Mendocino County Code Chapter 10A.17 and all of the following restrictions:

~~(1)~~1. The cultivator must have authorization as a qualified patient or as a primary caregiver to cultivate medical cannabis for medical use.

~~(2)~~2. Each legal parcel may have only one medical cannabis cultivation site regardless if the cultivation site is for personal use or any other allowed use allowed by this Chapter or Chapter 10A.17.

~~1.~~3. The cultivation of medical cannabis is allowed as an accessory use to an existing legal dwelling, located on the same legal parcel, where the dwelling is a principal use in the Zoning District in which it is located.

~~(3)~~4. The cultivation of medical cannabis within an accessory structure shall be 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 medical cannabis in an accessory structure is not permitted prior to the construction of the legal dwelling on the parcel, and (b) cultivation of medical cannabis shall only be allowed on the same parcel as the allowed legal dwelling use.

~~(4)~~5. The cultivation of medical 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.

~~(5)~~6. The cultivation of medical cannabis shall be limited to growing the plant from its vegetative state to maturity. The resulting flowers or crop may be trimmed or cured for direct consumption. The production of its legal byproducts for consumption is allowed provided it is

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Indent: Left: 0.25", Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Indent: Left: 0.25", Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

7/8/16 Draft

incidental and subordinate to allowed uses on the same site and that it does not involve any volatile substance or process.

Sec. 20.242.050 -Medical Cannabis Cultivation

(A) Medical cannabis cultivation is prohibited in all zoning districts with the exception that one (1) medical cannabis cultivation site ~~per legal parcel~~ may be allowed on one (1) legal parcel with an approved ~~an approved~~ Zoning Clearance, Administrative Permit or Minor Use Permit~~zoning permit~~, as listed in Table 1, for the zoning district in which the cultivation site is located and the M2C3P permit for the proposed cultivation method required by M3C2P.

TABLE 1
Zoning Permit Requirement for Medical Cannabis Cultivation
by Zoning District and Mendocino Medical Cannabis Cultivation (M2C3P) Permit Type

M2C3P Permit Type		C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm, Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial Light	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial Light	2-B Lg Mixed Light	4 Nursery
Min Parcel Area (ac)		2	2		2	5	5	5	10	10	10	10
Cultivation Area Limit (sf)		2,500	500	501 - 2,000	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
Plant Limit		25	NA	NA	NA	26-50	NA	NA	51-99	NA	NA	NA
Zoning District	RR 2	AP	ZC	AP	AP	AP	--	UP	--	--	--	--
	RR 5	AP	ZC	AP	ZC	AP	--	UP	--	--	--	--
	RR 10	AP	ZC	AP	ZC	AP	--	AP	AP	--	UP	UP
	AG	AP	AP	AP	AP	AP	--	UP	AP	--	UP	UP
	UR	AP	ZC	AP	AP	ZC	--	AP	ZC	--	UP	UP
	RL	ZC	ZC	ZC	ZC	ZC	--	AP	AP	--	UP	UP
	I1	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC
	I2	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC
	PI	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC

NA = Not Applicable, -- = Not Allowed, ZC = Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit

~~TABLE 1~~
~~Zoning Permit Requirement for Medical Cannabis Cultivation~~
~~by Zoning District and Medical Cannabis Cultivation Permit Type~~

~~Zoning District~~	~~M2C3P Permit Type~~									
	~~C~~	~~C-A~~	~~C-B~~	~~1~~	~~1-A~~	~~1-B~~	~~2~~	~~2-A~~	~~2-B~~	~~4~~
~~RR 5~~	~~ZC~~	~~UP~~	~~UP~~	~~AP~~	~~--~~	~~UP~~	~~--~~	~~--~~	~~--~~	~~--~~
~~RR 10~~	~~ZC~~	~~UP~~	~~UP~~	~~AP~~	~~--~~	~~AP~~	~~AP~~	~~--~~	~~UP~~	~~UP~~
~~AG~~	~~ZC~~	~~AP~~	~~AP~~	~~ZC~~	~~--~~	~~AP~~	~~AP~~	~~--~~	~~UP~~	~~UP~~

Formatted: Centered
Formatted Table
Formatted: Centered, Border: Right: (Single solid line, Auto, 0.5 pt Line width)
Formatted: Centered
Formatted: Left
Formatted: Left
Formatted: Left
Formatted: Left

UR	ZC	UP	UP	ZC	--	AP	ZC	--	UP	UP
RL	ZC	ZC	ZC	ZC	--	AP	AP	--	UP	UP
FL	ZC	AP	AP	UP	--	UP	UP	--	UP	UP
TPZ	AP	AP	AP	UP	--	UP	UP	--	UP	--
I1	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC
I2	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC
PI	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC	ZC

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

(A) The cultivation method, lighting, and area limit for each Chapter 10A.17 Permit Type in Table 1 are described below as well as any applicable zoning district exception or additional requirement.

a.(B) Notwithstanding Section 20.242,060.A, Only existing medical cannabis cultivation sites may be permitted within the Timber Production Zone (TPZ) and in the Forest Land (FL) Zoning District subject to the following limitations.

1. Only existing medical cannabis cultivation sites, which were allowed or permitted under prior programs (the Mendocino County expanded 9.31 Program of 2009 and 2010 or the Urgency Ordinance amending section 9.31, passed May 17, 2016), prior to January 1, 2016, are eligible for an an approved Administrative Permit or Minor Use Permit at their approved location and corresponding M2C3P cultivation area limitzoning permit, as follows.

    a. 9.31 Ordinance 25 Plant Maximum – Any permitted Type C, C-A, C-B M2C3P permitted cultivation site – cultivation area not exceeding 2,500 square feet - requires an Administrative Permit.
    b. 9.31 Permit Program 50 Plant Maximum (Type I) – Any permitted Type 1 and 1B M3C2P permitted cultivation site – cultivation area between 2,501 and 5,000 square feet - requires an Administrative Permit.
    c. 9.31 Permit Program 99 Plant Maximum (Type II) – Any permitted Type 2 and 2B M2C3P permitted cultivation site – cultivation area between 5,0001 and 10,000 square feet - requires a Use Permit.

2. Applications for permits for cultivation sites in the TPZ and FL must provide evidence of cultivation activities on the parcel prior to January 1, 2016, including, but not limited to 1) ground level views of the cultivation activities and 2) aerial views from Google Earth, Bing Maps, Terraserver, or other comparable services showing: a) the entire legal parcel and b) the cultivation area in more detail. The date these images were captured shall be noted as well.

b.3. Applications for cultivation sites in the TPZ and FL shall either provide a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection ("CalFire") or, for existing operations occupying sites created through prior unauthorized conversion of timberland, the applicant must provide evidence showing that they have completed a civil or criminal process and/or entered into a negotiated settlement with CalFire.

Formatted: Left
Formatted: Left
Formatted: Left
Formatted: Left
Formatted: Left
Formatted: Left
Formatted: Left
Formatted: Left, Numbered + Level: 1 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"
Formatted: Font:
Formatted: Font:
Formatted: Font:
Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"
Formatted: Font:
Formatted: Font:

7/6/16 Draft

~~3.~~4. All applications for TPZ and FL cultivation sites shall be submitted and deemed complete prior to January 1, 2020. The Department shall not accept applications for cultivation sites in the TPZ and FL after that date.

Formatted: Font:
Formatted: Font:
Formatted: Font:
Formatted: Font:

Sec. 20. 242.060 Development Standards

(A) All medical cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Medicinal Cannabis, Section 10.17.040.

(B) Cultivation Site Setback Requirements. The following setback backs, which are based on M2C3P permit types, are required in all zoning districts where a medical cannabis cultivation site is permitted.

1. Special Use Setback. All M3C2P permitted cultivation sites shall be located 1,000 feet or greater from any youth oriented facility, a school, a park, or any church or residential treatment facility as defined in M2C3P.

2. Residential Setback. M3C2P type C, C-B, 1, 1B, 2, 2B and 4 permitted cultivation sites shall be located 100 feet or greater from any legal residential structure located on a separate parcel.

3. Legal Parcel Setback. The following parcel line setbacks shall apply to any adjoining property under separate ownership or access easement, whichever is most restrictive, unless a greater setback is required in this section or by M3C2P.

    a. M3C2P type C and C-B cultivation sites (the smaller outdoor and mixed light sites) shall be 50 feet.
    b. M2C3P Type 1, 1B, 2 and 2B cultivation sites (the larger outdoor and mixed light sites) and Type 4 nurseries shall be 200 feet.
    c. M2C3P Type C-A, 1A and 2A (all indoor, artificial light sites) cultivation sites shall comply with the building setback established by the zoning district in which the cultivation site is located.

4. Setback Reduction. A reduction in the setback from a residential use (Section 20.242.060.1) or a legal parcel line (Section 20.242.060.2) may be allowed with a Use Permit, approved according to Section 20.242.070.c, provided that the approved setback reduction is 50 feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive.

Sec. 20.242.070 - Planning Approval Required to Cultivate Medical Cannabis

Each proposed medical cannabis cultivation site is subject to one of the following planning review processes that ~~corresponds~~correspond to the applicable zoning district and ~~a~~ Chapter 10A.17 permit in Table 1.

The Agricultural Commissioner's Office shall refer applications for cultivation permits pursuant to Chapter 10A.17 to the Department, which shall review the application to determine which of the

7/8/16 Draft

following processes applies. If the application needs only a zoning clearance, the Department will provide a zoning clearance approval to the Agricultural Commissioner's Office. If the application requires either an Administrative Permit or a Minor Use Permit, the Department will notify the Agricultural Commissioner's Office and the applicant that such a permit must be separately applied for and obtained from the Department.

(A) Zoning Clearance. The Department shall review the Chapter 10A.17 permit application to confirm the medical cannabis cultivation site is allowed in zoning district, subject to the performance standards and other provisions of Chapter 10A.17. The Department shall provide any information as requested by the Agricultural Commissioner's Office to confirm compliance with any of the provisions of Chapter 10A.17.

(B) Administrative Permit. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve or conditionally approve a proposed medical cannabis cultivation based on the following special findings.

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

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

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

4. If the proposed medical cannabis cultivation site is located within the FL or TPZ Zoning Districts, the cultivation site complies with the Cal Fire timberland conversion requirements, as defined under Public Resources Code section 4526.

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

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

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

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

7/8/16 Draft

4. If the proposed medical cannabis cultivation site is located within the FL or TPZ Zoning Districts, the cultivation site complies with the Cal Fire timberland conversion requirements, as defined under Public Resources Code section 4526.

7/8/16 Draft