

MENDOCINO COUNTY CODE

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 4381, enacted April 4, 2017.

See the Code Comparative Table and Disposition List for further information.

Remove Old Page

iii
SH:3
243
252.5
393—406
435, 436
532.36.17—532.36.21
692.7, 692.8
699, 700
715, 716

Insert New Pages

iii
SH:3
243
252.5—252.28
393—405
435, 436
532.36.17—532.36.26
692.7, 692.8
699—700.1
715—716.1

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.



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PREFACE

The Mendocino County Code, has been kept current by regular supplementation by Municipal Code Corporation, its successor in interest.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the Title, chapter, and section. Thus, Section 2.12.040 is Section .040, located in Chapter 2.12 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification; and beginning with Supplement No. 22, legislation can be tracked using the "Code Comparative Table and Disposition List."

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the Code up to date through Ordinance No. 4381, passed April 4, 2017.

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Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
4376	1-10-2017	Included	47
4377	1-10-2017	Included	47
4378	1-24-2017	Included	47
4380	3- 7-2017	Included	48
4381	4- 4-2017	Included	48

Title 10A

AGRICULTURE

Chapter 10A.04	Aerial Application of Phenoxy Herbicides Prohibited
Chapter 10A.08	Protection Against Plant Pests
Chapter 10A.12	Agricultural Pest Control Advisors
Chapter 10A.13	Agricultural Nuisances and Consumer Disclosures
Chapter 10A.14	Prevention of Grapeleaf Infestation
Chapter 10A.15	Prohibition on the Propagation, Cultivation, Raising and Growing of Genetically Modified Organisms in Mendocino County
Chapter 10A.16	Device Registration and Inspection Fees
Division A.	Inspection and Testing of Weighing and Measuring Devices
Division B.	Penalties for Violations of Registration Provisions
Chapter 10A.17	Medical Cannabis Cultivation Ordinance

inal fee and late fee charge. A subsequent violation will be treated as a second offense, punishable as set forth in subsection (b)(2) of this Section.

(2) Any subsequent offense shall be charged as a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) and not less than five hundred dollars (\$500.00), or any other penalty imposed by a court, or both.

(c) Payment of any fine or other penalty imposed by a court shall not relieve a person from the responsibility of registering a weighing or measuring device and paying the applicable registration fee, as required by this Chapter.

(d) In addition to all other remedies provided by this Chapter or state law, the department may seek injunctive relief to restrain continuing violations of the provisions of this Chapter. Nothing in this Chapter shall preclude the Sealer from seeking civil penalties pursuant to Business and Professions Code Section 12015.3 or pursuing any other remedy available to the Sealer under Division 5 of the Business and Professions Code.

(Ord. No. 4228, 9-1-2009)

Sec. 10A.16.060 Severability.

It is the intent of the Board of Supervisors by adopting the ordinance codified in this Chapter to exercise its statutory authority to impose a fee as permitted by law. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application and to this end the provisions of this Chapter are severable.

(Ord. No. 4228, 9-1-2009)

CHAPTER 10A.17

**MEDICAL CANNABIS CULTIVATION
ORDINANCE**

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

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

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

Adoption of this Chapter will protect the public health, safety and welfare of the residents of the County of Mendocino by adopting a local permitting structure that will operate in conformance with State licensing requirements for the cultivation of medical cannabis, once state licenses become available.

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

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

1) Allow persons to engage in conduct that endangers others or causes a public nuisance,

2) Allow the use or diversion of cannabis for nonmedical purposes, or

3) 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.

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

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.020 Definitions.

As used herein the following definitions shall apply:

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

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

"Cannabis" means all parts of the plant Cannabis sativa, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the 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.

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

"Collective" means a medical marijuana collective, as defined below.

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

"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 one or more locations or facilities on one legal parcel subject to a single approved Permit where medical cannabis is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport, or that does all or any combination of those activities. One or more areas of cannabis cultivation may exist on the legal parcel used for that purpose.

"Dwelling unit" means a legal residential structure providing complete, independent living facil-

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

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

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

"Indoors" means within a fully enclosed and secure structure that complies with the California Building Code, as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 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 lot of real property which was created pursuant to the Subdivision Map Act prior to January 1, 2016, or for which a certificate of compliance was recognized and recorded prior to January 1, 2016; provided, however, for real property within Industrial zoning districts, subdivisions or certificates of compliance may be recognized and recorded after January 1, 2016

"Licensee" means a person issued a state license under the MCRSA 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. Included in this definition is the process of solely manipulating natural light to cultivate cannabis for medical use.

"Nursery producer" means a Permittee that produces vegetative immature medical cannabis plants, through cloning, seed germination, or tissue culture. A nursery producer may also apply to be a "seed producer" as defined herein.

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

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

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

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

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

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

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

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

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

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

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

"Residential treatment facility" means a State licensed residential facility that provides treatment for drug and/or alcohol dependency.

"School" means an institution of learning for minors, whether public or private, offering a regu-

lar 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 permitted nursery producer that has applied for and been approved to grow medical cannabis plants for the expressed purpose of producing specific breeds or varieties of cannabis seeds 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.

"Third party inspector" means an individual that has been approved by the Agricultural Commissioner to conduct compliance consultations with permittees to assess compliance with this section.

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

"Wildlife exclusionary fence" means fencing that is designed to prevent 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.

"Youth-oriented facility" means an elementary school, middle school, high school, public park, or any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

(Ord. No. 4381, § 1, 4-4-2017)

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

(A) Except as provided for by paragraph (B) of this Section, cultivation of cannabis for medical use shall be allowed only following the issuance of a 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 authorizes the cultivation of cannabis for medical use only in specifically enumerated zoning districts, as determined by permit type, subject either to a zoning clearance, administrative permit or minor use permit.

(B) Qualified patients, persons with an identification card or primary caregivers cultivating medical cannabis are exempt from the permit requirements of paragraph (A) of this Section, subject to the following requirements:

(1) Registration with the Agricultural Commissioner on an annual basis and maintaining such registration.

(2) Compliance with the provisions of Section 10A.17.040.

(3) Any and all cannabis cultivated by a qualified patient or person with an identification card shall be for the sole and exclusive use by the patient only; such cannabis may not be provided,

donated, sold or distributed to any other person. A maximum of 100 square feet of medical cannabis may be cultivated by a qualified patient.

(4) Any and all cannabis cultivated by a primary caregiver shall be for the sole and exclusive use of up to a maximum of two (2) patients which have provided written designation to the primary caregiver to provide those services; the primary caregiver may not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Health and Safety Code section 11362.765. A maximum of 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 200 square feet.

(Ord. No. 4381, § 1, 4-4-2017)

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

The following limitations shall apply to all cultivation of cannabis for medical use in Mendocino County, whether pursuant to a Permit issued under this Chapter or the exemption provided for in Section 10A.17.030. Cultivation of cannabis for medical use shall also be subject to all applicable restrictions of Mendocino County Code Chapter 20.242.

(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; provided, however, that on January 1, 2020, this setback shall be increased to two hundred (200) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

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

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

(5) Outdoors or using mixed light within fifty (50) feet from any adjoining legal parcel under separate ownership or access easement (whichever is most restrictive); provided, however, that on January 1, 2020, this setback shall be increased to one hundred (100) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

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

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

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

The distance between the listed uses in the above paragraph (A)(1) and cannabis that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 10A.17.040(g), 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 paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 10A.17.040(G) to the nearest exterior wall of the residential structure.

Applicants may seek a reduction in the setback described in paragraph (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242.

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

(C) The use of light assistance for the indoor or mixed light cultivation of medical cannabis shall not exceed a maximum of 35 watts of lighting capacity per one square foot of growing area. The indoor or mixed-light cultivation of medical cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power.

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

(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.

(F) All cultivation of medical cannabis shall not utilize water that has been or is illegally diverted from any spring, wetland, stream, creek, or river. The activities associated with the cultivation

of medical cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(G) 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, caregiver or permittee (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

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

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

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.050 Medical Marijuana Collectives.

Until such time as State law provides otherwise, medical marijuana collectives operating pursuant to Health and Safety Code section 11362.775 shall obtain any Permit or other approval required by the MCCR and shall also comply with 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 twenty one (21) 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. Allow reimbursements and allocations of medical cannabis as set forth in Section IV B.6. of the Attorney General's Guidelines.

(F) 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.

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

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.060 Permit Types.

The cultivation Permits that may be applied for under this Chapter are for the production of flowering medical cannabis plants and for nursery and seed production, as defined in section 10A.17.020. A Permittee producing flowering medical cannabis plants may maintain an area scaled appropriately for their operation where they may propagate their own starts through cloning, seed germination or tissue culture. Starts produced in this manner shall be for the exclusive and personal use of the permittee only and the sale, trade, barter, etc. of such starts is prohibited. The square footage of cultivation area dedicated to propaga-

tion of starts will be included in measuring the cumulative total square footage allowed under a given Permit.

The following medical cannabis cultivation Permit types may be applied for and granted provided the applicant and the legal parcel that contains the cultivation site are determined to be in compliance with all applicable conditions of this Chapter and Mendocino County Code Chapter 20.242.

(1) "Type C" for small outdoor cultivation using no artificial lighting not to exceed a maximum of 2,500 square feet of total plant canopy.

(2) "Type C-A" for small indoor cultivation using exclusively artificial lighting not to exceed a maximum 2,500 square feet of total plant canopy within a structure or structures.

(3) "Type C-B" for small mixed light cultivation (using a combination of natural and supplemental artificial lighting) not to exceed a maximum of 2,500 square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle.

(4) "Type 1" for medium outdoor cultivation using no artificial lighting of 2,501 to a maximum of 5,000 square feet of total plant canopy on one legal parcel not less than five (5) acres in size.

(5) "Type 1A" for medium indoor cultivation using exclusively artificial lighting of 2,501 to a maximum of 5,000 square feet of total plant canopy within a structure or structures.

(6) "Type 1B" for medium mixed light cultivation (using a combination of natural and supplemental artificial lighting) of 2,501 to a maximum of 5,000 square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one legal parcel not less than five (5) acres in size.

(7) "Type 2" for large outdoor cultivation using no artificial lighting of 5,001 to a maximum of 10,000 square feet of total plant canopy on one legal parcel not less than ten (10) acres in size.

(8) "Type 2A" for large indoor cultivation using exclusively artificial lighting of 5,001 to 10,000 square feet of total plant canopy on one legal parcel.

(9) "Type 2B" for mixed light cultivation (using a combination of natural and supplemental artificial lighting) of 5,001 to a maximum of 10,000 square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one legal parcel not less than ten (10) acres in size.

(10) "Type 4" for the cultivation of medical cannabis nursery stock and/or seed production which shall not exceed a maximum of 22,000 square feet of total plant canopy on one legal parcel, subject to the limitation of paragraph (C) below regarding seed production Nursery stock and/or seed production may only be sold to a Permittee, a qualified patient, person with an identification card or a primary caregiver. The nursery product may take the form of vegetative and non-flowering plant starts or may also be in the form of seeds, if the applicant also applies and is approved as a seed producer under this type of Permit. The legal parcel shall not be less than ten (10) acres in size, provided, however, that legal parcels in industrial zoning districts are not subject to this parcel size restriction. Additional requirements for Type 4 Permits are as follows:

(A) The Permittee shall produce only vegetative immature medical cannabis plants through cloning, seed termination or tissue culture starts for the planting, propagation and cultivation of medical cannabis, provided, however, with the approval of the Agricultural Commissioner, plants may be grown to maturity for the purpose of verifying genetic expression. The Agricultural Commissioner's approval shall include a square footage limitation and the plants shall be included within the Track and Trace system. No consumable medical cannabis product of any kind shall be derived from the plants being cultivated.

(B) If plant starts are tiered vertically in racks during their growing phase, the maximum allowed power usage shall be 35 watts per shelf.

(C) A maximum of 5,000 square feet of plant canopy may be dedicated to medical cannabis seed production if the Permittee applies and is approved as a seed producer. The square footage of

plant canopy dedicated to seed production shall be counted towards the maximum square footage allowed under this type of permit and shall be entered into the approved Track and Trace system.

(D) Any on-site sales of nursery products which were produced on and occur on a parcel within the Timberland Production, Rangeland or Forestland zoning districts shall be limited to permitted cultivators only.

(E) At the time of sale, the nursery shall generate a manifest stating the date and time, nursery name, address, permit number (and license number, when applicable), buyers name, cultivation address, and permit number (and license number, when applicable). A copy of this manifest shall be retained by the purchaser and serve as a transport document for the purchaser to proceed directly from the nursery to the intended cultivation site. If the nursery is transporting nursery products to the cultivator's location, this manifest shall be filled-out and in possession of the nursery operator, their employee or their designated transporter during transport. Both the nursery and the buyer shall retain these records for a period of two (2) years.

(F) The permittee shall agree to abide by the Mendocino Cannabis Nursery and Seed Manual established by the Mendocino County Agricultural Commissioner.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.070 Requirements for All Permits.

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

(A) **Zoning Districts.** Cultivation of cannabis for medical use shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided in Chapter 20.242.

(B) **Indoor Cultivation Permits.** The use or conversion of habitable space (i.e., kitchen, bedrooms, bathrooms, living room or hallways) in any structure shall not be allowed for the indoor cultivation of medical cannabis.

(C) Cultivation of cannabis for medical use is not permitted within any required parking space.

(D) Persons may apply for and obtain a maximum of two (2) Permits listed in section 10A.17.060 at any given time. Permits shall be granted at a maximum density of one (1) Permit per applicant per legal parcel; provided, however, that a Person may obtain two (2) separate Permits of different Permit types on a single legal parcel if the total square footage of the two Permits does not exceed the largest maximum square footage permitted on a parcel for the relevant zoning district.

(E) Dwelling Unit Requirement. Legal parcels with a cultivation site are also required to have a dwelling unit; provided, however, that this requirement shall not apply to legal parcels within the following zoning districts: Upland Residential (U-R), Agricultural (A-G), Rangeland (R-L), Forest Land (F-L), Timberland Production (TPZ), Limited Industrial (I-1), General Industrial (I-2) Pinoleville Industrial (P-I). In addition, legal conforming parcels in Rural Residential, lot size ten (10) acres (R-R:L-10), shall also be exempt from the dwelling unit requirement of this paragraph, upon issuance of an administrative permit pursuant to Chapter 20.242.

(F) Generators. The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power. If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (1) the permittee shall install an alternative power source that will meet at least one-half of the combined power requirements by the expiration of twelve months from the date of initial application for a permit pursuant to this Chapter and (2) it will be a condition of the re-issuance of a permit that the cultivator commit, in writing, to expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit by the end of the second

permitted year. See also section 10A.17.090 regarding application requirements related to generators.

(G) Permittees shall be required to enroll in and comply with all requirements of any Track and Trace system adopted and implemented by the County to track the production and distribution of cannabis for medical use. Permittees shall obtain and use unique identifies from an approved source, maintain them in a readable state, comply with all data entry requirements (including, but not limited to, harvest dates, harvest data, and distribution or other disposition information), and pay all required Track and Trace fees. Non-compliance with Track and Trace requirements shall constitute a violation of the terms of the Permit.

(H) Fees: An annual application fee shall be paid at the time an application is submitted to the Agricultural Commissioner for initial review and prior to any annual renewal of the application. An annual Permit fee shall be paid prior to issuance of any Permit. No Permit shall issue without payment of the initial application fee or renewal fee.

(1) Fees prescribed by this Chapter shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the County's Master Fee Policy. Any fee prescribed by this Chapter shall be paid to the County Treasurer/Tax Collector and is non-refundable. A receipt for payment of the required fee shall be provided to the Agricultural Commissioner prior to the initial review and issuance or annual renewal of any application, permit or other program described herein where a fee has been established, including for required inspections.

(I) Inspections by Agricultural Commissioner. All applicants shall be subject to and shall facilitate an initial on-site pre-permit inspection and all Permittees shall be subject to and facilitate at least one annual on-site compliance inspection (Type 4 Permits shall be subject to two on-site compliance inspections annually), with additional inspections as required by this Chapter or as deemed necessary by the Agricultural Commissioner. All inspections will be scheduled with at least 24 hours

advance notice to the applicant or Permittee, and shall be conducted during regular business hours. Cancellation of scheduled inspections without notice to the Agricultural Commissioner shall result in the Permittee being invoiced for the actual travel time and mileage incurred by the Agricultural Commissioner.

(1) All site inspections conducted prior to issuance of a Permit for any indoor or mixed-light cultivation Permit shall include a representative from the Department of Planning and Building Services to confirm that the structure(s) used for the Permit complies with the requirements stated in the definitions of "indoor" and "mixed-light" found in Section 10A.17.020 and is suitable for support of the proposed cultivation activity.

(J) Third Party Inspectors. Permittees shall engage the services of a third party inspector approved by the Agricultural Commissioner, who shall conduct a minimum of one (1) consultation inspection at approximately the midpoint of each cultivation cycle; provided that Type 2, Type 2A, and Type 2B Permittees shall be subject to a minimum of two (2) consultation inspections conducted at approximately uniform intervals during each cultivation cycle, and Type 4 Permittees shall be subject to one (1) consultation inspection for each six-month period or operation.

(K) Non-Transferability of Permits. All Permits are non-transferable to another person, except that the Permittee may transfer the Permit to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the permittee serves as a trustee, provided the trust existed on or before January 1, 2016, which transfer shall not be deemed a change in ownership for purposes of this Chapter.

(Ord. No. 4381, § 1, 4-4-2017)

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

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

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

(1) Phase One: Following the effective date of the MCCO, Permits will only be issued to applicants who provide to the Agricultural Commissioner pursuant to paragraph (B)(1) of this section proof of cultivation at a cultivation site prior to January 1, 2016 ("proof of prior cultivation"), and who comply with all other applicable conditions of this Chapter and Chapter 20.242. Applications for Permits during Phase One shall only be accepted until December 31, 2017. Applicants able to provide proof of prior cultivation may apply for a Permit on a relocation site pursuant to paragraph (B)(3) of this section.

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

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

(B) Requirements specific to Phase One Permits.

(1) Proof of Prior Cultivation. Persons applying for a Permit during Phase One shall be required to provide to the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016,

which cultivation site shall have been in compliance with the provisions of section 10A.17.040. Evidence shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The location and operation of the proposed cultivation site on the destination parcel

complies with all requirements and development standards that apply to a new cultivation site as of January 1, 2020, pursuant to this Chapter and Chapter 20.242; provided, however:

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

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

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

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

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

(iii) Remove or compost agricultural wastes;

(iv) Remove trash and other debris; and

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

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

(e) Prior to the issuance of the Permit to cultivate cannabis for medical use at the destination parcel, the applicant shall provide the Agricultural Commissioner with an agreement, on a form approved by the Agricultural Commissioner

and County Counsel, providing that the applicant releases any right to continue or resume cultivation of medical cannabis on the origin parcel.

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

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

(4) Multiple Permits may be applied for and granted on a single legal parcel that is owned by multiple persons residing in separate habitable dwelling units on that legal parcel. Each owner may individually apply for a Permit to cultivate cannabis for medical use, provided that each owner must provide proof of prior cultivation pursuant to paragraph (B)(1) above. Each owner shall be limited to a Type C, Type C-A or Type C-B Permit, unless that owner was previously enrolled in a permit program pursuant to the County's Chapter 9.31, or unless the cumulative total square footage of plant canopy applied for by all owners does not exceed the maximum square footage permitted on a parcel for the relevant zoning district.

(C) Requirements specific to Phase Three Permits.

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

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

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

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

(Ord. No. 4381, § 1, 4-4-2017)

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

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 Permit shall be approved without clearance or final permit approval as required by Chapter 20.242.

The Agricultural Commissioner's Office shall consult with the Mendocino County Air Quality Management District (MCAQMD) prior to the issuance of the Permit to determine if a permit or

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

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

(A) The name, business and residential address, and phone number(s) of the applicant.

(B) If the applicant is not the record title owner of the legal parcel, written consent from the owner allowing the cultivation of medical cannabis on their property by the applicant with original signature of the record title owner.

(C) Written evidence that each person applying for the permit and any other person who will be engaged in the cultivation of cannabis for medical use is at least twenty-one (21) years of age.

(D) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:]

(1) easements (access and utility and all roadways public and private);

(2) streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;

(3) the location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis for medical use and showing that all setbacks required by section 10A.17.040 are being met;

(4) all areas of ground disturbance or surface water disturbance associated with cultivation of medical cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;

(5) all structures, which shall be clearly labeled; and

(6) all septic systems, leach fields and water wells.

(E) Applications submitted for any Permit during Phase One shall include proof of prior cultivation pursuant to section 10A.17.080

(F) A cultivation and operations plan which includes elements that meet or exceed the minimum legal standards for the following: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, the approximate date(s) of all cannabis cultivation activities that have been conducted on the legal parcel prior to the effective date of this ordinance, and schedule of activities during each month of the growing and harvesting season.

If a generator is proposed to support any aspect of the cultivation site or related operations, the cultivation and operations plan shall identify any containment structure and dimensions necessary to contain any leak or spill that may develop or occur as a result of relying on any generator for backup power generation. The plan shall also include a maintenance plan for the generator, detailing how spent oil, used oil filters, expired batteries and other hazardous wastes generated from the operation of the generator will be handled, including fuel storage and delivery systems.

(G) Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.

(H) An irrigation plan and projected water usage for the proposed cultivation activities, as well as a description of legal water source, if not covered by item (G).

(I) Copy of Notice of Intent and Monitoring Self-Certification and any other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in and compliance with (or proof of exemption from) Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.

(J) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, show proof they have notified the California Department of Fish and Wildlife (CDFW) pursuant to section 1602 of the Fish and Game Code and provide a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

(K) If the source of water is a well, a copy of the County well permit, if available; applicant shall provide documentation showing the approximate date of installation.

(L) A unique identifying number from a State of California Driver's License or Identification Card for each person applying for the permit and any other person who will be engaged in cultivation of cannabis for medical use.

(M) Evidence that the applicant or any individual engaged in the management of, or employed by, the cultivator has not been convicted of a violent felony as defined in Penal Code section 667.5(c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(N) A statement describing the proposed security measures for the facility that shall be sufficient to ensure the safety of members and employees and protect the premises from theft.

(O) If the applicant is organized as a non-profit corporation, the applicant shall set forth the name of the corporation exactly as shown in its Articles of Incorporation, and the names and residence addresses of each of the officers and/or directors. If the applicant is organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. Copies of the Articles of Incorporation or a statement listing the members of the partnership shall be attached to the application.

(P) The applicant shall provide proof, by way of a written agreement or agreements, that the applicant is authorized by one or more medical marijuana dispensing collectives or processors to produce medical marijuana for the use of the members of said collective(s) or processor(s).

(Q) A copy of a Board of Equalization Seller's Permit if applicant intends to sell directly to qualified patients or primary caregivers.

(R) Written consent for an onsite pre-permit inspection of the legal parcel pursuant to section 10A.17.070 by County officials or other appropriate agency representatives at a prearranged date and time in consultation with the applicant prior to the approval of a permit to cultivate medical cannabis, and at least once annually thereafter.

(S) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes. Also, provide documentation that addresses the handling of waste discharge from the grow location of items including, but not limited to nutrients, spent growing media, un-used containers and other associated hardware, supplies, and garbage.

(T) If the application would include the conversion of timberland as defined under Public Resources Code section 4526, in order to create or expand a cultivation site, 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 that environmental impacts have been mitigated, to the extent feasible, as required by the resource protection agencies including CalFire, the NCRWQCB and the CDFW.

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

(V) For activities that involve construction and other work in Waters of the United States, that are not otherwise exempt or excluded, including streams and wetlands, the application shall include a copy of a federal Clean Water Act (CWA) Section 404 permit obtained from the Army Corps of Engineers and a CWA Section 401 water quality certification from the NCRWQCB.

(W) Projects that disturb one (1) or more acres of soil or projects that disturb less than one acre but that are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009- 0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

(X) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the site is listed on the "Cortese List", the application shall include sufficient information to demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.

(Y) If water or sewer services to the cultivation site will be provided by a community provider, a will-serve letter from the provider indicating adequate capacity to serve the cultivation site.

The Agricultural Commissioner is authorized to require in the permit application any other information reasonably related to the application

including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.100 Permit Review and Issuance.

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

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

(B) Following review by qualified County staff and/or qualified third party inspectors to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species on the parcel with a proposed Permit location. Upon consultation, CDFW may recommend approval of the proposed development, ask to conduct a site inspection or request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a Permit. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against and when during Phases 1 and 2 a formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the development of the policy referred to in the previous sentence, consultation with CDFW shall not be required but be performed pursuant to the policy. During Phase 3 all applications will be referred to CDFW; and

(C) After the Agricultural Commissioner's Office, and other County and State agency staff, as appropriate, have reviewed the application and performed a pre-permit site inspection to confirm adherence to the requirements established in the MCCO; and

(D) Following receipt of evidence of payment of the required permit fee, pursuant to Section 10A.17.070.

As a condition of approval for any cultivation permit, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis 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 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 Permit.

Track & Trace unique identifiers will only be made available following the issuance of a Permit by the Agricultural Commissioner's Office. The Permittee will have 72 hours to register with the County track & Trace system. Upon Track & Trace system registration, the system will provide unique identifiers. The unique identifiers shall be affixed to the individual plants within 72 hours of being provided to the Permittee.

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.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.110 Performance Standards.

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

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

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

(C) A unique identifier for compliance with the County's Track & Trace system shall be affixed to each permitted medical cannabis plant cultivated in Mendocino County. It shall be the responsibility of the permittee to ensure complete and accurate entry of information into the Track & Trace system within 72 hours of the reportable activity occurring.

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

(E) If a generator is used to support any aspect of the permitted cultivation operations, (excluding the conditions set forth in section 10A.17.070(F)), it shall be as a secondary or back-up power source. The use of the generator is only allowed when the primary alternative power source is unable to provide its normal output and generate sufficient power to meet the needs of the cultivation operation and the legal dwelling unit. The Owner's Manual and/or Operation Manual (or operational fact sheet) providing the operational characteristics and maintenance schedule for the generator shall be on-site and available for review.

If a generator is being used pursuant to the conditions set forth in section 10A.17.070(F), the Permit shall be conditioned on the conducting of an analysis of the noise levels produced by the generator at full operational speed, performed by an accredited acoustical engineer, and such analysis shall show compliance with Mendocino County General Plan Policies DE100, 101 and 103. All

generators shall be, at a minimum, equipped with the manufacturer's specified muffler; if compliance with Policies DE100, 101 and 103 requires additional measures, the generator shall be equipped with such measures, which may include a hospital-grade muffler and/or a structure to enclose the generator designed for sound suppression.

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

(F) Establish and maintain enrollment in Tier 1, 2 or 3 with the North Coast Regional Water Quality Control Board (NCRWQB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.

(G) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015—0023 is required, the site shall comply with the standard conditions set forth in that Order, as well as the applicable "Best Management Practices for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects" as presented in Appendix B of the Water Board Order.

(H) Maintain the applicable "Defensible Space" protocols and distances, as established by the California Department of Forestry and Fire Protection around structures located on the legal parcel.

(I) Comply with the terms of any applicable Streambed Alteration Permit obtained from the California Department of Fish & Wildlife.

(J) All weighing and measuring devices shall be type approved by the California Department of Food and Agriculture, Division of Measurement Standards and issued either a California Type Evaluation Program (CTEP) Certificate of Approval (COA) or a National Type Evaluation Program (NTEP) Certificate of Conformance (CC) before commercial use. All weighing and measuring de-

vices shall be registered and inspected by the Agricultural Commissioner in accordance with Mendocino County Code Chapter 10A.16.

(K) Consent to the minimum prescribed number of visits by an approved Third Party Inspector, and at least one (1) annual on-site compliance inspection by the Agricultural Commissioner's office, as more specifically provided for in section 10A.17.070.

(L) Any guard dog(s) or guard animals kept at the cultivation site shall be restrained to a fixed point or contained in some manner to facilitate the inspections performed by any entity necessitating inspect as required by this Chapter. Animals considered family pets will be kept on a leash at all times and under control when any entity is performing a required inspection.

(M) All buildings, including greenhouses, used for the cultivation of medical cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.

(N) Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner's Office. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans, to exclude large animals that may be attracted by odors, and to ensure that they will not enter or be released into surface or ground waters.

(O) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

(P) 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.17.080(B)(3).

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.120 Certifications.

Permittees who demonstrate compliance with all of the requirements set forth in this Chapter and the additional guidelines to be established by the Agricultural Commissioner in a Mendocino Sustainably Farmed Operations Manual will be issued a "Certified Mendocino County Grown" certificate through the Agricultural Commissioner's Office. Cannabis labeled with this certification shall be produced following production standards used in the production of crops labeled as organic according to United States Department of Agriculture, National Organic Program. 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. An annual fee shall be paid for participation in this certification program, pursuant to the provisions set forth in Section 10A.17.070(H)(1).

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 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. The County shall develop policies in consultation with CDFW to determine required qualifications of third party inspectors. 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, adherence to the standards established by this Chapter will be greatly enhanced and the possibility of enforcement actions being initiated by the County will be reduced.

Any third party inspector must receive approval by the Agricultural Commissioner's Office in order to serve individual permittees and to be recognized 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, and 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. An annual application fee will be due at the time the application is submitted for initial review or prior to any annual renewal of the application, and paid pursuant to the provisions set forth in Section 10A.17.070(H)(1).

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. with the Agricultural Commissioner's Office within 24 hours of an inspection.

(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 MCCO.

(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.

(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.

The Agricultural Commissioner may establish additional criteria for third party programs and inspectors and may request any other information deemed reasonably related to verification of the qualifications of the third party program and/or inspector.

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.

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. Any dispute regarding findings or outcomes of Third Party inspections will be handled through the process established in the Third Party Inspector Program guidance and procedures manual.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.140 Cultivation Site Inspections:
Violations and Penalties.**

If the Third Party inspector determines that the site does not comply with the requirements established by this Chapter, the inspector shall serve notice to the permit holder and the Agricultural Commissioner with a written statement identifying the items not in compliance and identifying a time frame in which the permit holder has to

correct the items out of compliance. This statement may also 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 appropriate. 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 schedule the above mentioned re-inspection by the end of the timeframe identified in the notice of non-compliance. Failure to request and schedule re-inspection by the Third Party inspector and cure the items of non-compliance identified in the notice of non-compliance prior to the expiration of the time permitted in the notice of non-compliance shall prompt 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.17.070. 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. The fees shall be paid and paid pursuant to the provisions set forth in Section 10A.17.070(H)(1).

If any non-compliance(s) identified in the notice of non-compliance are substantiated during the un-scheduled compliance inspection above, the Department of Agriculture may issue an administrative citation pursuant to Mendocino County Code Chapter 1.08 against the permittee for a violation of the specific portion of this Chapter constituting the non-compliance and notify other public agencies or County departments, including the Department of Planning and Building Ser-

vices, of these findings. The cultivation permit issued pursuant to this Chapter shall be in temporary "alert status" for possible action against the permit, pending a final compliance re-inspection from the Department of Agriculture within ten (10) days. If the permit holder desires additional time to cure any non-compliance(s) identified in the notice of non-compliance, it is the responsibility of the permit holder to request an extension of time from the Agricultural Commissioner prior to final re-inspection. The Agricultural Commissioner is not obligated to grant the requested extension, but may do so if deemed appropriate. No request for additional time to cure will be considered if requested during the final re-inspection, unless the Agricultural Commissioner determines that the request practicably could not have been made prior to the final re-inspection and that such extension is otherwise appropriate. This final re-inspection will be to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request and schedule this final re-inspection and cure any items of non-compliance shall result in the issuance of a "Notice to Terminate Permit". The permit shall be terminated upon the final determination after the hearing on the order to show cause pursuant to Section 10A.17.150.

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

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.150 Administrative Order to Show Cause.

(A) Issuance of Order to Show Cause. At the same time as issuance of a Notice to Terminate Permit, or as soon as practicable thereafter, the Agricultural Commissioner's Office shall also issue a notice and order to show cause why the permit in question should not be terminated. Issuance may be completed by personal delivery, or by

first class mail, postage prepaid and return receipt requested. The notice and order to show cause shall:

(1) Identify the permittee and the permit in question;

(2) Contain a statement describing the violations that caused the issuance of a Notice to Terminate Permit;

(3) Contain a description of the actions required to abate the violations;

(4) Notify the permittee that unless the owner or occupant abates the conditions, a hearing will be held to determine whether there is any good cause why the permit in question should not be terminated, which will be heard before a Hearing Officer, the Agricultural Commissioner, or the Commissioner's authorized designee within the Agricultural Commissioner's Office who did not also issue the Notice to Terminate Permit;

(5) Specify the date, time and location of the hearing to be held, or state that the date, time and location of the hearing will be specified in a subsequent notice, which will not be set for a date earlier than 5 days after personal delivery, or 10 days after mailing, of the notice specifying the date, time and location of the hearing;

(6) State that the permittee will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether there is any good cause why the permit in question should not be terminated;

(7) Contain a statement that, unless the permittee abates the conditions causing the violations, or shows good cause why the conditions should not be abated, the permit in question shall be terminated.

(B) Use of Hearing Officers. Whenever the Agricultural Commissioner issues an order to show cause why a permit issued pursuant to this Chapter should not be terminated, the Agricultural Commissioner is authorized to use the services of a Hearing Officer pursuant to Mendocino County Code Chapter 2.76. Such use of a Hearing Officer shall be made whenever a Hearing Officer is available, and the Agricultural Commissioner shall co-

ordinate with County Counsel to appoint and maintain at least one Hearing Officer to the extent possible. In the event that a Hearing Officer is unavailable, the duty to hear the appeal shall remain with the Agricultural Commissioner.

(C) Hearing Procedure.

(1) The Hearing Officer shall hold an administrative hearing to determine whether the violations identified in the Notice to Terminate Permit created a sufficient basis on which to terminate the permit in question. The hearing shall be held at the date, time and location indicated on the notice to permittee, which shall be no less than five (5) calendar days after personal service, or no less than ten (10) calendar days after mailing of all the notices required by this section.

(2) Parties may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(3) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Mendocino.

(4) The person who issued the Notice to Terminate Permit shall first describe the acts or conditions constituting the violations identifying in the Notice to Terminate Permit and present evidence to demonstrate how the identified violations form a basis for terminating the permit in question. Thereafter, the permittee shall be given an opportunity at the hearing to present and elicit testimony and other evidence to show good cause why the permit should not be terminated.

(5) In the event that the permittee does not appear and present evidence at the hearing, the Hearing Officer may base his or her decision solely upon the evidence submitted by the person issuing the Notice to Terminate Permit.

(D) Determination after Hearing. The Hearing Officer shall consider the evidence presented by the parties, and shall issue a written decision and order that either affirms or reverses the determination to terminate the permit in question. Such decision shall be delivered to the permittee by personal delivery or by first class mail, postage prepaid and return receipt requested. The decision shall become effective when signed by the Hearing Officer and on the day the decision is personally delivered to the permittee, or five (5) days after the decision is mailed to the permittee.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 10A.17.160 Enforcement and Declaration of Public Nuisance.

(A) All of the remedies provided for in this Chapter, or elsewhere in the law, shall be cumulative and not exclusive for violations of this Chapter. Violations of this Chapter include, but are 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, such as a violation of section 10A.17.040 when a person is otherwise exempt pursuant to section 10A.17.030. The County may enforce this Chapter by using any applicable state or county law, including, but not limited to Mendocino County Code Chapters 1.08, 8.75 or 8.76, and may use either the administrative process to achieve code compliance or available civil remedies, such as injunctive relief.

(B) The cultivation of cannabis with a valid permit pursuant to this Chapter shall not be declared a public nuisance under County Code Chapter 8.75 or 8.76. Any cultivation of cannabis in the absence of a permit issued pursuant to this Chapter is a public nuisance and may be abated by the

County as a public nuisance in accordance with the provisions of either County Code Chapter 8.75 or 8.76 unless such cultivation either: is exempt pursuant to County Code section 10A.17.030; is otherwise in compliance with State Proposition 64 and all regulations adopted by the County related to cannabis for adult use pursuant to Proposition 64; or is being cultivated by an entity whose application for a permit pursuant to this Chapter has been submitted, accepted and is currently pending, and who has also submitted a sworn affidavit to the Agricultural Commissioner on a form prepared by the Agricultural Commissioner that includes, but is not limited to, an affirmation that they have met the requirements to obtain a permit or are actively in the process of fulfilling the requirements.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 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.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 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.

(Ord. No. 4381, § 1, 4-4-2017)

Sec. 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.

(Ord. No. 4381, § 1, 4-4-2017)

CHAPTER 18.04

IN GENERAL*

Sec. 18.04.005 Declaration.

This Title is enacted as a result of requirements of State law and the determination that within the unincorporated area of this county, certain types of construction require regulation to provide minimum standards to safeguard lives and property and protect the public health, safety and general welfare. The Board of Supervisors of the County of Mendocino has determined that the adoption of this Title will assure local control of the mandatory building inspection requirements of the State of California.

(Ord. No. 4333, § 1, 3-17-2015)

Sec. 18.04.010 Definitions.

Whenever any of the following names or terms are used herein or in any of the codes adopted by reference by this Chapter, unless the context directs otherwise, such names or terms so used shall have the meaning ascribed thereto by this section, to-wit:

(A) "Administrative Authority" and similar references to a chief administrative position shall mean the Building Official of Mendocino County; provided, however, that where such terms are used in connection with those duties imposed by statute or ordinance upon the County Health Officer;

*Editor's note—Ord. No. 4333, § 1, adopted March 17, 2015, repealed ch. 18.04, §§ 18.04.010—18.04.095, in its entirety, and enacted a new ch. 18.04 to read as set out herein. Former ch. 18.04, pertained to similar subject matter, and was derived from Ord. No. 465, adopted 1964; Ord. No. 465, §§ 104, 108 109, adopted 1964; Ord. No. 466, § 100, adopted 1964; Ord. No. 529, adopted 1968; Ord. No. 559, adopted 1969; Ord. No. 1044, adopted 1973; Ord. No. 1055, adopted 1973; Ord. No. 1652, adopted 1976; Ord. No. 1756, adopted 1976; Ord. No. 3295, adopted 1980; Ord. No. 3298, adopted 1980; Ord. No. 3307, adopted 1980; Ord. No. 3310, adopted 1980; Ord. No. 3317, adopted 1980; Ord. No. 3341, adopted 1981; Ord. No. 3444, adopted 1983; Ord. No. 3371, adopted 1982; Ord. No. 346, adopted 1985; Ord. No. 3546, adopted 1985; Ord. No. 3556, adopted 1985; Ord. No. 3592, adopted 1985; Ord. No. 3593, adopted 1985; Ord. No. 3654, adopted 1987; Ord. No. 3658, adopted 1987; Ord. No. 3737 (part), adopted 1990; Ord. No. 3828 (part), adopted 1992; Ord. No. 3832 (part), adopted 1992; Ord. No. 4178, adopted 2006.

said terms shall include the County Health Officer; and further provided, however, that, for the purpose of implementing Section 116 of the California Building Code the term "authorized representative" of the Building Official shall refer to and include the County Health Officer and such personnel of the Mendocino County Department of Public Health or the Code Enforcement Division as he/she may designate.

(B) "Board of Appeals" and any other reference to an appellate body in any of the California codes adopted by reference by this title shall mean the Board of Building and Housing Appeals provided for in Section 2.24.030 of Title 2 of the Mendocino County Code.

(C) "Building Department" shall mean the Department of Planning and Building Services of the County of Mendocino.

(D) "Building Official" shall mean "Chief Building Official, or an authorized designee."

(E) "Chief Electrical Inspector" shall mean "Building Official, or an authorized designee."

(F) "Chief Mechanical Inspector" shall mean "Building Official, or an authorized designee."

(G) "Chief Plumbing Inspector" shall mean "Building Official, or an authorized designee."

(H) "City" shall mean the County of Mendocino when referring to a political entity, or an unincorporated area of said County when referring to area.

(I) "City Clerk" shall mean Clerk of the Board of Supervisors.

(J) "City Council" shall mean the Board of Supervisors of the County of Mendocino.

(K) "Electrical Department" shall mean the Department of Planning and Building Services of the County of Mendocino.

(L) "Electrical Inspector" shall mean "Building Official, or an authorized designee."

(M) "HCD" shall mean the State Department of Housing and Community Development.

(N) "Housing Advisory and Appeals Board" and any other reference to an appellate body in any of the California codes adopted by reference

by this title shall mean the Board of Building and Housing Appeals provided for in Section 2.24.030 of Title 2 of the Mendocino County Code.

(O) "Manufactured Home" shall mean a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following.

(P) "Mayor" shall mean the Board of Supervisors of the County of Mendocino.

(Q) "Mechanical Department" shall mean the Department of Planning and Building Services of the County of Mendocino.

(R) "Mobile Home" shall mean:

A structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or when erected onsite, is 320 or more square feet, is built on a permanent chassis, and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Mobilehome" includes any structure that meets all the requirements of this paragraph and complies with the state standards for mobilehomes in effect at the time of the construction. "Mobilehome" does not include a commercial modular or a manufactured home as defined herein.

(S) "Commercial modular" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under a permit, and shall include a trailer coach as defined in Section 635 of the California Vehicle Code.

(T) "Office of Administrative Authority" shall mean the Department of Planning and Building Services of the County of Mendocino.

(U) "Plumbing Department," shall mean the Department of Planning and Building Services of the County of Mendocino.

(V) "Permit" shall mean an official document or certificate issued by the building official authorizing performance of a specified building, plumbing, mechanical, or electrical activity or any combination of such permits issued jointly by the building official.

(W) "Technical Codes" shall mean those codes adopted by this chapter containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures and building service equipment as herein defined which include but are not limited to the California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Historical Building Code, California Fire Code, California Green Building Standards Code, and the California Referenced Standards Code.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 1, 3-7-2017)

Sec. 18.04.015 Intentionally Omitted.

[See editor's note following the historical notation]

(Ord. No. 4380, § 12, 3-7-2017)

Editor's note—Ord. No. 4380, § 10, adopted March 7, 2017, renumbered § 18.04.015 as § 18.08.015; and amended the title of § 18.05.015 to read as set out herein. Previously § 18.04.015 was titled "Environmental Impact Reports."

Sec. 18.04.020 Prior Construction.

For the purposes of this Title, any building or structure constructed prior to January 1, 1974, shall be conclusively presumed to have been lawfully constructed.

(Ord. No. 4333, § 1, 3-17-2015)

Sec. 18.04.025 California Codes Adopted.

Subject to applicable sections of this title, the following primary and secondary codes are hereby adopted and incorporated into the Mendocino County Code by reference and as having the full legal effect as if their respective contents were set forth verbatim herein:

(A) CALIFORNIA ADMINISTRATIVE CODE, 2016 Edition, Part 1, as published by the International Code Council.

(B) CALIFORNIA BUILDING CODE, 2016 Edition, Part 2, Volumes I and II, together with Appendix C (Agricultural Buildings); Appendix G (Flood Resistant Construction); Appendix H (Signs); and Appendix (I) Patio Covers as published by the International Code Conference subject to the changes and modifications set forth in Section 18.04.035 and other provisions of this Title.

(C) CALIFORNIA RESIDENTIAL CODE, 2016 Edition, Part 2.5, together with Appendix E (Manufactured Housing Used as Dwellings); Appendix H (Patio Covers); Appendix J (Existing Building and Structures); Appendix K (Sound Transmission); Appendix R (Light Straw-Clay Construction); Appendix S (Strawbale Construction); and Appendix V (Swimming Pool Safety Act), as published by the International Code Council, subject to the changes and modifications set forth in Section 18.04.040 and other provisions of this Title.

(D) CALIFORNIA ELECTRICAL CODE, 2016 Edition, Part 3, together with Annex H (Administration) as published by BNi Publications subject to changes and modifications set forth in Section 18.04.045 and other provisions of this Title.

(E) CALIFORNIA MECHANICAL CODE, 2016 Edition, Part 4, as published by the International Code Council jointly with the International Association of Plumbing and Mechanical Officials subject to the changes and modifications set forth in Section 18.04.050 and other provisions of this Title.

(F) CALIFORNIA PLUMBING CODE, 2016 Edition, Part 5, together with Appendix A (Recommended Rules for sizing the Water Supply System); Appendix B (Explanatory Notes on Combination Waste and Vent Systems); Appendix D (Sizing Storm Water Drainage Systems); Appendix I (Installation Standards); Appendix J (Combination Indoor & Outdoor Combustion Air), as published by the International Association of Plumbing and Mechanical Officials and the International Code Council, subject to the changes and modifications set forth in Section 18.04.055 and other provisions of this Title.

(G) CALIFORNIA ENERGY CODE, 2016 Edition, Part 6, as published by the International Code Council.

(H) CALIFORNIA HISTORICAL BUILDING CODE, 2016 EDITION, Part 8, as published by the International Code Council.

(I) CALIFORNIA FIRE CODE, 2016 Edition, Part 9, as published by the International Code Council subject to changes and modifications set forth in Section 18.04.060 and other provisions of this Title.

(J) CALIFORNIA EXISTING BUILDING CODE, 2016 edition, Part 10, as published by the International Code Council.

(K) CALIFORNIA GREEN BUILDING STANDARDS CODE, 2016 Edition, Part 11, as published by International Code Council.

(L) CALIFORNIA REFERENCED STANDARDS CODE, 2016 Edition, Part 12, as published by the International Code Council.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 2, 3-7-2017)

Sec. 18.04.030 Modification to All California Codes Adopted: Board of Appeals.

Each of the California codes adopted by reference by this Title is amended to provide that the

appellate body referred to therein, whether it be the "Board of Appeals" in Section 113 of the California Building Code, 2013 Edition or any other similar provision in the remaining California codes, shall be the Board of Building and Housing Appeals as constituted and empowered by Section 2.24.030 of the Mendocino County Code. In the event of any inconsistency, Section 2.24.030 of the Mendocino County Code shall prevail.

(Ord. No. 4333, § 1, 3-17-2015)

Sec. 18.04.035 Modifications to California Building Code.

The California Building Code, 2016 Edition, as adopted in Section 18.04.025(B) of this Chapter, is adopted with the following changes and modifications:

Section 105.3.2 shall be amended to read as follows:

Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the Board of Supervisors.

Section 105.5 shall be amended to read as follows:
Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department

has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a re-instatement fee established by the Board of Supervisors.

Section 109.6 shall be amended to read as follows:
Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

Appendix C: Agricultural Buildings: Section C102.1 shall be amended to read as follows:

General. Buildings classified as U Agricultural shall not exceed the area in Table C102.1 or the height limits in Title 20 of the Mendocino County Code.

Appendix H: Signs: Section H101.1 shall be amended to include the following as a second paragraph:

Notwithstanding any other provision of this appendix, all external lighting for signs shall be designed to be shielded or downcast in order to minimize the illumination of the nighttime sky.

Appendix H: Signs: Section H101.2 shall be amended to read as follows:

Signs exempt from permits. The following signs are exempt from the requirements to obtain a permit before erection:

1. Nonilluminated signs painted on exterior surface of existing permitted or legal nonconforming buildings or structures.
2. Temporary signs announcing the sale or rent of property.
3. Signs erected by transportation authorities.
4. Projecting signs not exceeding 2.5 square feet (0.23 m²).
5. The changing of moveable parts of an approved sign that is designed for such changes, or the repainting or repositioning of display matter shall not be deemed an alteration.
6. Temporary signs on grade that are no higher than 7 feet in height above grade and no more than 32 square feet in size.

Exemption from the permit requirements of this Section shall not be deemed to grant authorization for any work done in any manner in violation of the provisions of Title 20 of the Mendocino County Code, or any other laws or ordinances of this jurisdiction.

Appendix H: Signs: Section H105.3 shall be amended to read as follows:

Wind load. Signs shall be designed and constructed to withstand wind pressure as provided for in Chapter 16. Exception: The Building Offi-

cial may waive the engineering design requirements for signs if he/she finds that the signs will not create a hazard to private or public property due to the type, size, location or placement of the sign.

Appendix H: Signs: Section H105.4 shall be amended to read as follows:

Seismic load. Signs designed to withstand wind pressures shall be considered capable of withstanding earthquake loads, except as provided for in Chapter 16. Exception: The Building Official may waive the engineering design requirements for signs if he/she finds that the signs will not create a hazard to private or public property due to the type, size, location or placement of the sign.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 3, 3-7-2017)

Sec. 18.04.040 Modifications to California Residential Code.

The California Residential Code, 2016 Edition as adopted in Section 18.04.025(C) of this Chapter, is adopted with the following changes and modifications.

Section R105.3.2 shall be amended to read as follows:

Time limitation of application. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the Board of Supervisors.

Section R105.5 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first

inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a re-instatement fee established by the Board of Supervisors.

Section R108.5 shall be amended to read as follows:

Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit

for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 4, 3-7-2017)

Sec. 18.04.045 Modifications to California Electrical Code.

The California Electrical Code, 2016 Edition, as adopted in Section 18.04.025(D) of this Chapter, is adopted with the following changes and modifications.

Annex H, Section 80.15 Electrical Board is deleted.

Annex H, Section 80.19(E) shall be amended to read as follows:

(E) Fees and Fee Refunds.

(1) Any political subdivision that has been provided for electrical inspection in accordance with the provisions of Article 80 may establish fees that shall be paid by the applicant for a permit before the permit is issued.

(2) The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

(3) The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

(4) The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

(5) The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

Annex H, Section 80.19(H) shall be amended to include the following as a new paragraph (4):

(4) Time limitation of application. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the Board of Supervisors.

Annex H, Section 80.19(H)(7) shall be amended to include the following new paragraph (5):

(5) Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a re-instatement fee established by the Board of Supervisors.

Annex H, Section 80.23, Notices of Violations, Penalties: Subsection (B)(3) is deleted.

Annex H, Section 80.27 Inspector Qualifications is deleted.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 5, 3-7-2017)

Sec. 18.04.050 Modifications to California Mechanical Code.

The California Mechanical Code, 2016 Edition, as adopted in Section 18.04.025(E) of this Chapter, is adopted with the following changes and modifications.

Section 104.3.3 Time Limitation of Application. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in any time, for periods of not more than 180 calendar days each. Each extension required payment of a fee as established by the Board of Supervisors.

Section 104.4.3 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will

correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a re-instatement fee established by the Board of Supervisors.

Expiration of Plan Review. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the Board of Supervisors.

Section 104.5, Subsection 104.5.3 Fee Refunds shall be amended to read as follows:

Fee Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 6, 3-7-2017)

Sec. 18.04.055 Modifications to California Plumbing Code.

The California Plumbing Code, 2016 Edition, as adopted in Section 18.04.025(F) of this Chapter, is adopted with the following changes and modifications:

Section 103.3.3 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing,

and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a re-instatement fee established by the Board of Supervisors.

Section 104.3 shall be amended to read as follows:

Expiration of Plan Review. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the Board of Supervisors.

Section 104.3.2 shall be amended to read as follows:

Fee Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

4. The Building Official shall not authorize the refunding of the plan review fee paid except

upon written application filed by the original permittee no later than one year after the date of fee payment.

Section 603.5.7 shall be amended to read as follows:

Outlets with Hose Attachments. Potable water outlets with hose attachments, other than water heater drains, boiler drains, and clothes washer connections, shall be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than 6 inches (152 mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker shall be used. One exterior hose bibb supplied by potable water shall be installed on each structure containing a Group R, Division 3 or Division 1 Occupancy.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 7, 3-7-2017)

Sec. 18.04.060 Modifications to California Fire Code.

The California Fire Code, 2016 Edition, as adopted in Section 18.04.025(H) of this Chapter, is adopted with the following changes and modifications:

Section 202 definition of FIRE CHIEF shall be amended to read as follows:

FIRE CHIEF. The chief officer of the fire department serving the jurisdiction, or a duly authorized representative; areas not located in the jurisdiction of a fire district shall be under the authority of the Building Official.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 8, 3-7-2017)

Sec. 18.04.065 Prior Local Codes.

Prior references to the former local codes shall be construed to apply to the corresponding provisions of the local codes adopted through this ordinance.

(Ord. No. 4333, § 1, 3-17-2015)

**Sec. 18.04.070 Copies of the Code Adopted—
Filed.**

One (1) copy of each of the codes adopted by reference in this Title have heretofore been filed with the County Clerk and with the Building Official, and shall be maintained for use and examination by the public in the office of the Clerk of the Board of Supervisors and the Department of Planning & Building Services. Additionally, one (1) copy of this Ordinance will be filed with the California Building Standards Commission as required by California Health & Safety Code Section 17958.7(a).

(Ord. No. 4333, § 1, 3-17-2015)

Sec. 18.04.075 Violations and Penalties.

(A) Violation of this Chapter may be an infraction, and may be punishable by fines as specified in Government Code Section 25132 or any successor statute. Further, these violations may be redressed by civil action through the Office of County Counsel.

(1) A separate offense shall be deemed for each and every week the first citation is issued, and shall be punishable as herein provided.

(B) Any violation of provision of this Chapter may cause to be filed for the record with the Recorders of the County in which the real property is located a notice of such violation and a lien of the estimated permit costs and penalties (such fees shall be further evaluated at the time of restitution). The notice shall specify the names of the record owners and particularly describing the real property, provided that, at least thirty (30) days prior to recording such notice the owner of the parcels or units to be affected by the notice of violation, shall be advised in writing of the intention to record the notice specifying the time, date and place at which the owner may present evidence to the Department of Planning and Building Services as to why such notice should not be recorded. The decision of Planning and Building Services may be appealed to the Board of Supervisors.

(Ord. No. 4333, § 1, 3-17-2015)

Sec. 18.04.080 Construction and Applicability.

The regulations and provisions contained in the body of this Title shall prevail over any inconsistent provision contained in any primary or secondary code adopted hereby; provided, however, that in the case of inconsistent regulations, no regulation shall prevail which is less stringent than the regulations established by the State of California.

(Ord. No. 4333, § 1, 3-17-2015)

Sec. 18.04.085 Appeals.

Appeal may be taken by an applicant or owner of property contiguous to the property to be regulated. For the purpose of determining contiguity, property lines shall be projected to the center of public streets or highways. Said appeals consistent with Section 2.24.030(G) and (H) may be taken from the decision of the Building Official or his Deputies, or the Health Officer, or the Public Health Sanitation Officer; provided, however, that such appeal may not be taken more than thirty (30) days after the decision from which appeal is being taken has been rendered. All applicants and appellants shall be given a reasonable opportunity to be heard and present evidence. Decisions of the Board of Building and Housing Appeals shall be in writing and shall be delivered to the appellant either in person or by mailing to the address stated on the appeal or applications. The decision of the Board of Building and Housing Appeals is final. The Board of Building and Housing Appeals shall render its decision within thirty (30) days of the date of the hearing.

(Ord. No. 4333, § 1, 3-17-2015)

CHAPTER 18.08
CONSTRUCTION PERMITS

Sec. 18.08.010 Construction Permits and Inspection Fees.

(A) Except as otherwise exempted by the California Building Code and/or other county ordinances, no person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, occupy, remove, convert, or demolish any building or structure in the unincorporated area of the County or cause the same to be done without first obtaining a separate building permit for each such building or structure as required by this Title. Permits shall be issued and fees collected by the Planning and Building Services Department. The schedule of fees collected is adopted from time to time by the Board of Supervisors of the County of Mendocino.

(B) The Director of Planning and Building Services or the Board of Supervisors may waive or refund any or all of the costs of enforcement recoverable pursuant to Section 18.08.015 as directed by it and upon such conditions as the Director or Board may provide. (Ord. No. 1107, adopted 1973; Ord. No. 3422, adopted 1983; Ord. No. 3592, adopted 1985; Ord. No. 3828 (part), adopted 1992; Ord. No. 4090, Sec. 1, adopted 2002.)
(Ord. No. 4333, § 2, 3-17-2015)

Sec. 18.08.015 Environmental Impact Reports.

No building permit or other permit shall be issued for any building or other project which is required by Title 20 or 21 of the Mendocino County Code to have an environmental impact report prepared and certified as complete by the County of Mendocino until such report has been prepared and so certified.

(Ord. No. 4333, § 1, 3-17-2015; Ord. No. 4380, § 12, 3-7-2017)

Editor's note—Ord. No. 4380, § 10, adopted March 7, 2017, renumbered § 18.04.015 as § 18.08.015; and § 11, renumbered existing § 18.08.015 as § 18.08.030.

Sec. 18.08.020 Prior to the Issuance of a Building Permit.

The County has previously and separately adopted code chapters regarding "Right to Industry" (County Code Chapter 6.35) and "Agricultural Nuisances and Consumer Disclosures" (also known as the Right to Farm ordinance, County Code Chapter 10A.13), both of which require the Department of Planning and Building Services to make disclosures prior to certain discretionary actions or the issuance of certain building permits. (Ord. No. 4380, § 13, 3-7-2017)

Editor's note—Ord. No. 4380, § 10, adopted March 7, 2017, renumbered § 18.08.020 as § 18.08.035; and § 13 enacted a new § 18.08.020, to read as set out herein.

Sec. 18.08.025 Placement of Permit.

The building permit card or an authorized substitution, as issued by the Planning and Building Services Department, shall be posted in a conspicuous place and shall be made accessible to the Building Inspectors at all times until the completion of the project.

(Ord. No. 4380, § 14, 3-7-2017)

Sec. 18.08.030 Penalties for Violations.

(A) In addition to any other relief, the County shall recover costs of enforcing the provisions of Title 18 of the Mendocino County Code, Chapter 1.5 of Division 13 of the California Health and Safety Code and any and all ordinances, rules, regulations, and orders pertaining to its Planning and Building Services Department. Investigation fees as described in Chapter 1 of the latest Model Codes adopted by the California Building Standards Commission, and violation fees collected under this section, shall be made available to the Planning and Building Services Department for use in training and further code enforcement. The hourly fees to be imposed and recovered shall be as set forth by resolution of the Board of Supervisors.

(B) Any person, firm, or corporation doing any work without first obtaining the permit required by this Title or any of the Model Codes adopted by reference in this Title or made appli-

cable to Mendocino County by state law shall, in addition to the permit fee normally charged for such permit, pay a violation fee as provided in this section.

(C) (1) For any construction project, other than commercial or industrial structures that do not qualify as a home occupation or cottage industry, where the owner or applicant brought the violation to the attention of the County Department of Planning and Building Services, the violation fee charged shall be equal to the amount of the permit fee normally required by the applicable Model Code or Codes.

(2) For minor construction projects such as heating appliances, water heaters, re-roofings, replacement of siding, electrical outlets, plumbing fixtures, awnings, decks, and other minor projects which typically require an "over the counter" type permit, regardless of whether the owner or applicant brought the violation to the attention of the County Department of Planning and Building Services, the violation fee charged shall be equal to the amount of the permit fee normally required by the applicable Model Code or Codes.

(D) For any construction project, other than commercial or industrial structures that do not qualify as a home occupation or cottage industry, where the Department of Planning and Building Services discovered and/or investigated the violation as a result of a complaint, that does not qualify under subdivision (C) of this section, the violation fee shall be equal to twice the amount of the permit fee normally required by the applicable Model Code or Codes.

(E) For any construction project involving a commercial or industrial structure that does not qualify as a home occupation or cottage industry, the violation fee shall be equal to three times the amount of the permit fee normally required by the applicable Model Code or Codes.

(F) In determining which violation fee applies, the actual use of the property or structure involved, and not the zoning of the property, shall

be the deciding factor. (Ord. No. 4090, Sec. 2, adopted 2002.)

(Ord. No. 4380, § 11, 3-7-2017)

Editor's note—Ord. No. 4380, § 11, adopted March 7, 2017, renumbered § 18.08.015 as § 18.08.030; and § 9, renumbered existing § 18.08.030 as § 18.08.040.

Sec. 18.08.035 Refunds.

Refunds of all or any portion of permit fees paid pursuant to this Title shall be made as directed by the Board of Supervisors and upon such conditions as said Board of Supervisors may provide. (Ord. No. 465, Sec. 106, adopted 1964.)

(Ord. No. 4380, § 10, 3-7-2017)

Editor's note—Ord. No. 4380, § 10, adopted March 7, 2017, renumbered § 18.08.020 as § 18.08.035.

Sec. 18.08.040 Valuation.

The Board of Supervisors may by resolution establish its policy governing the determination of value for the purpose of establishing the fees to be paid pursuant to the valuation fee schedule contained in this Title and codes adopted by this Title. Such policy shall be based upon building valuation data published periodically by the International Code Council. In the absence of a policy resolution of the Board of Supervisors, the Planning and Building Services Department may use valuation data so published. At the discretion of the Building Official, RSMeans Square Foot Cost Book may be used to gather such data.

(Ord. No. 4380, § 9, 3-7-2017)

Editor's note—Ord. No. 4380, § 9, adopted March 7, 2017, renumbered § 18.08.030 as § 18.08.040, and amended it to read as set out herein.

CHAPTER 18.12
STRUCTURES NOT OTHERWISE
REGULATED IN THIS TITLE

Sec. 18.12.010 Purpose and Scope.

The purpose of this Chapter is to provide rules and regulations for the erection, construction and enlargement, alteration, repair, removal, moving, conversion, occupancy, equipment, use, height, area and maintenance of all residential, commercial and industrial type buildings or structures within the unincorporated area of this County except those structures regulated by Chapter 18.20 hereof. Regulations imposed by this Chapter are intended to be equal to those imposed by Part 1.5, Division 13, of the Health and Safety Code. (Ord. No. 465, Sec. 201, adopted 1965.)

Sec. 18.12.020 Regulations.

Pursuant to and for the purpose and scope of this Chapter as declared in Section 18.12.010, supra, the County of Mendocino adopts and incorporates into the Mendocino County Code by reference, and as having the full legal effect as if their respective contents were set forth verbatim herein, each of the uniform codes referred to in Section 18.04.040, supra. (Ord. No. 465, Sec. 201, adopted 1964, and amended by Ord. No. 819, adopted 1971.)

Sec. 18.12.030 Exemption for Agricultural Buildings.

(A) Exemption. The regulations imposed by Section 18.12.020, supra, except for Sections 203 and 204 of the Uniform Building Code, 1991 Edition, and any other provisions of any of the uniform codes adopted by this Title that pertain to unsafe or dangerous buildings, shall not apply to any agricultural building for which a written exemption, referred to as an agricultural building exemption, has been secured from the Chief Building Inspector or his/her designee.

(B) Definition. For purposes of this Title, an "agricultural building," shall be defined as any

building which is designed and constructed primarily for use in housing livestock, poultry, hay, or grain and which is located on a parcel of land that is currently zoned or primarily used for agriculture. None of the following structures shall be considered an agricultural building:

(1) Any building which has workers or customers present, bathrooms, assemblages, display of products, packaging or processing, sales, work stations or storage warehousing of processed products in quantity, within said building.

(2) Any building located on a parcel of land under one (1) acre in size.

(3) Any building, any part of which is within fifty (50) feet of a property line regardless of the size of the parcel.

(4) Any building, any part of which is within forty (40) feet of a residence.

(5) Wineries, sawmills, dairies, commercial greenhouses, warehouses and firewood storage structures.

(6) An addition to any structure or building not designated "Agricultural Exempt."

(C) Standards.

(1) Agricultural buildings located on parcels of one (1) to ten (10) acres in size are limited to six hundred (600) square feet and fifteen (15) feet in height. Agricultural buildings located on parcels in excess of ten (10) acres have no maximum square footage restrictions, however, the height of a structure shall not exceed twenty-five (25) feet.

(2) The ground floor of an agricultural building shall be on grade and must be concrete, dirt or asphalt concrete.

(D) Standard permits and inspections are required for electrical and plumbing installations. Electrical installations are limited to one hundred (100) amp services. Plumbing installations are limited to exterior hose bibbs and a clean up sink (commercial or residential rated). Mechanical installations are prohibited. Waste systems for plumbing installations require approvals prior to issuance from the Division of Environmental Health.

- Sec. 20.232.045 Approvals.
- Sec. 20.232.050 Appeals.
- Sec. 20.232.055 Conduct of Appeal.
- Sec. 20.232.060 Conduct of Hearings.
- Sec. 20.232.065 Violations.
- Sec. 20.232.070 Severability.

CHAPTER 20.236 TOWERS AND ANTENNAS

- Sec. 20.236.005 Declaration.
- Sec. 20.236.010 Superseding Effect, Exceptions.
- Sec. 20.236.015 Exempt Facilities.
- Sec. 20.236.020 Permit process.
- Sec. 20.236.025 Development Standards.
- Sec. 20.236.030 Noticing.
- Sec. 20.236.035 Application requirements.
- Sec. 20.236.040 Validity.

CHAPTER 20.238 INCLUSIONARY HOUSING

- Sec. 20.238.005 Purpose.
- Sec. 20.238.010 Applicability.
- Sec. 20.238.015 Inclusionary Housing Unit Requirement.
- Sec. 20.238.020 Affordable Housing Standards.
- Sec. 20.238.025 Inclusionary Housing Credit.
- Sec. 20.238.030 Alternatives.
- Sec. 20.238.035 Affordable Housing In-Lieu Fees.
- Sec. 20.238.040 Incentives.
- Sec. 20.238.045 Density Bonus and Other Incentives.
- Sec. 20.238.50 Inclusionary Housing Plan Compliance.
- Sec. 20.238.055 Eligibility to Occupy Inclusionary Housing Units.
- Sec. 20.238.060 Equity Sharing.

- Sec. 20.238.065 Owner-occupied Units.
- Sec. 20.238.070 Renter-occupied Units.
- Sec. 20.238.075 Affordable Housing Trust Fund.
- Sec. 20.238.080 Adjustments, Modifications, or Waivers.
- Sec. 20.238.090 Ordinance Review.
- Sec. 20.238.095 Severability.

CHAPTER 20.239 REQUESTS FOR REASONABLE ACCOMODATIONS UNDER THE FAIR HOUSING ACTS

- Sec. 20.239.010 Purpose and Intent.
- Sec. 20.239.015 Definitions.
- Sec. 20.239.020 Applicability.
- Sec. 20.239.025 Application Requirements.
- Sec. 20.239.030 Review Authority.
- Sec. 20.239.035 Review Procedure.
- Sec. 20.239.040 Findings and Decision.
- Sec. 20.239.045 Appeals.

CHAPTER 20.240 DEVELOPMENT REVIEW WITHIN THE BRUSH STREET TRIANGLE

- Sec. 20.240.003 Declaration.
- Sec. 20.240.005 Intent.
- Sec. 20.240.010 Designation of Area.
- Sec. 20.240.015 CEQA.
- Sec. 20.240.020 Site Development Permits.
- Sec. 20.240.025 Site Development Permit Processing.
- Sec. 20.240.030 Site Development Permit Findings
- Sec. 20.240.035 Conditions of Approval.
- Sec. 20.240.040 Effective Date.
- Sec. 20.240.045 Expiration, Revocation and Renewal
- Sec. 20.240.050 Sunset of Ordinance.

**CHAPTER 20.242 MEDICAL CANNABIS
CULTIVATION SITE**

Sec. 20.242.010 Intent.

Sec. 20.242.020 Application.

Sec. 20.242.030 Definitions.

**Sec. 20.242.040 Existing Medical
Cannabis Cultivation Sites.**

**Sec. 20.242.050 New Medical Cannabis
Cultivation Sites Located in
Industrial Zoning Districts.**

**Sec. 20.242.060 New Medical Cannabis
Cultivation Sites.**

**Sec. 20.242.070 Planning Approval
Required to Cultivate Medical
Cannabis.**

**Appendix A Industrial Uses Which Normally
Will Not Require Development Review**

**Appendix B Industrial Uses Which Require
Environmental Review**

Appendix C Exterior Noise Limit Standards

2. If the established land use for which the permit was granted has ceased or has been suspended for twenty four (24) consecutive months.

B. Procedure: If a site development permit is subject to revocation under subsection 20.240.045(A) of this Section, the County shall follow the procedures set forth herein.

1. Notice: Notice of a hearing before the Planning Commission shall be provided in accordance with subsection 20.240.025(C) of this Section.

2. Hearing: The Planning Commission shall conduct a public hearing to determine whether the permit shall be revoked and shall make findings that comply with Section 20.240.030.

3. Appeal: The Planning Commission decision shall be subject to appeal in accordance with Section 20.208.015 of this Title.

C. New Application: Nothing herein shall prohibit the holder of a permit revoked pursuant to this Section, from applying for a new permit in accordance with the procedures for new applications.

D. Renewal: Site development permits may be renewed for an additional period not to exceed one year provided, prior to the expiration of the permit, an application for renewal is filed with the Planning and Building Services Department. The applications shall consist of a detailed letter explaining the reason(s) for the request. The Planning Director shall grant or deny an application to renew a site development permit, and shall provide an explanation of his decision, in writing, to the applicant. The Planning Director's decision to approve a renewal shall generally be based upon a determination that all the circumstances associated with the original approval are substantially the same at the time of the renewal applications. An appeal of the Planning Director's decision may be made to the Board of Supervisors for a final decision. Any such appeal must comply with the requirements of Section 20.208.010. (Ord. No. 4139 (part), adopted 2005)

Sec. 20.240.050 Sunset of Ordinance.

Chapter 20.240 of this Code shall be in effect only until January 1, 2007, and is repealed as of that date unless one of the following occurs before that date:

A. An ordinance enacted after the effective date of this ordinance extends or repeals this section; or

B. The City of Ukiah has, in compliance with the ROAD IMPROVEMENT AND LAND USE AGREEMENT referred to in Section 20.240.015, constructed the Orrs Creek Bridge and opened it to passage by vehicular traffic. (Ord. No. 4139 (part), adopted 2005)

CHAPTER 20.242

MEDICAL CANNABIS CULTIVATION SITE

Sec. 20.242.010 Intent.

This Chapter 20.242 ("Chapter") is intended to provide land use regulations for the County of Mendocino where medical cannabis may be cultivated, subject to the limitations established in this Chapter and the provisions of Mendocino County Code Chapter 10A.17, the Medical Cannabis Cultivation Ordinance (MCCO). The objective of this Chapter is to allow the cultivation of medical cannabis in locations that are consistent with the 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.

(Ord. No. 4381, § 2, 4-4-2017)

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 or by Chapter 10A.17.

(Ord. No. 4381, § 2, 4-4-2017)

Sec. 20.242.030 Definitions.

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

(Ord. No. 4381, § 2, 4-4-2017)

Sec. 20.242.040 Existing Medical Cannabis Cultivation Sites.

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

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

TABLE 1

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

MCCO Permit Type	C Small Outdoor	C-A Small Indoor, Artificial Light		C-B Small, Mixed Light	1 Medium Outdoor	1-A Medium Indoor, Artificial Light	1-B Medium Mixed Light	2 Large Outdoor	2-A Large Indoor, Artificial Light	2-B Large Mixed Light	4 Nursery
Min Parcel Area (ac)	NA	NA		NA	5	5	5	10	10	10	10
Cultivation Area Limit (sf)	2,500	500	501 — 2,500	2,500	2,501 — 5,000	2,501 — 5,000	2,501 — 5,000	5,001 — 10,000	5,001 — 10,000	5,001 — 10,000	22,000
Zoning District	RR 5*	ZC	AP	UP	ZC	ZC	—	ZC	—	—	—
	RR 10	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	AG	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	UR	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	RL**	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	FL **	ZC	AP	UP	ZC	AP	—	AP	AP	—	AP
	TPZ**	ZC	AP	UP	ZC	AP	—	AP	AP	—	AP
	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

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

** Existing cultivation sites in the FL, TPZ and RL zoning districts are permitted subject to limitations of this section. Expansion of existing cultivation sites in the FL, TPZ and RL zoning districts is permitted, subject to the issuance of an Administrative Permit.

(C) An existing cultivation site located in a zoning district not listed in Table 1 of this section may continue subject to the requirements of Chapter 10A.17 and the following planning permit requirements for a Zoning Clearance, Administrative Permit or Minor Use Permit.

(1) Planning Permit Requirements:

(a) Outdoor Cultivation (pursuant to a MCCO Type C Permit) not exceeding 2,500 square feet requires an approved Zoning Clearance.

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

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

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

(2) Any future lapse or revocation of the MCCO permit will extinguish the permittee's ability to obtain a future permit from the Department to continue or resume an existing cultivation site that is not within a zoning district listed in Table 1 of this section.

(D) An existing cultivation site, which qualifies for a MCCO permit, may continue within the FL (Forest Land), the TPZ (Timber Production Zone), or the RL (Rangeland) zoning districts not to exceed 2,500 square feet of cultivation with a Zoning Clearance, Administrative Permit or Minor Use Permit as listed in Table 1. The existing cultivation site may be expanded to a MCCO Outdoor or Mixed-Light permit type that allows

up to 10,000 square feet of cultivation in conformance with all applicable MCCO requirements and conditions and with an approved Administrative Permit or Use Permit as listed in Table 1.

(E) Transferability of Permits. Permits issued pursuant to this Section shall not be transferable to another person, except that the permittee may transfer the permit to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the permittee serves as a trustee, which shall not be deemed a change in ownership for purposes of this Chapter.
(Ord. No. 4381, § 2, 4-4-2017)

Sec. 20.242.050 New Medical Cannabis Cultivation Sites Located in Industrial Zoning Districts.

Establishment of a new medical cannabis cultivation site in the I-1 (Light Industrial), I-2 (General Industrial), and Pinoleville Industrial (P-I) zoning districts, for Type 1A and 2A MCCO per-

mits, issued on or after January 1, 2018, may be permitted subject to the requirements of Section 20.242.060.

(Ord. No. 4381, § 2, 4-4-2017)

Sec. 20.242.060 New Medical Cannabis Cultivation Sites.

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

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

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

TABLE 2

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

MCCO Permit Type	C Small Outdoor	C-A Small Indoor, Artificial Light		C-B Small Mixed Light	1 Medium Outdoor	1-A Medium Indoor, Artificial Light	1-B Medium Mixed Light	2 Large Outdoor	2-A Large Indoor, Artificial Light	2-B Large Mixed Light	4 Nursery
Min Parcel Area (ac)	2	2	2	5	5	5	5	10	10	10	10
Cultivation Area Limit (sf)	2,500	500	501 — 2,500	2,501	2,501 — 5,000	2,501 — 5,000	2,501 — 5,000	5,001 — 10,000	5,001 — 10,000	5,001 — 10,000	22,000
Zoning District	RR 5*	ZC	AP	UP	ZC	ZC	—	ZC	—	—	—
	RR 10	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	AG	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	UR	ZC	AP	UP	ZC	ZC	—	ZC	ZC	—	ZC
	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

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

(D) Setback Reduction. A reduction in the setback from a legal parcel line required by Sec-

tion 10A.17.040 may be allowed with an Administrative Permit, approved according to Section

20.242.070(C), provided that the approved setback reduction is 50 feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive and the location of the medical cannabis cultivation site continues to comply with the required setback from an occupied legal residential structure. (Ord. No. 4381, § 2, 4-4-2017)

Sec. 20.242.070 Planning Approval Required to Cultivate Medical Cannabis.

(A) **Planning Approval Procedure.** Each proposed medical cannabis cultivation site is subject to one of the following planning review processes that correspond to the applicable zoning district and Chapter 10A.17 permit as specified by Table 1 or Table 2 in this Chapter.

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

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

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

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

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

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

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

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

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

on-site sewage disposal systems to be developed, making this finding may require the identification of a primary and reserve leach field to be identified in order to issue the Administrative Permit.

(D) Minor Use Permit. In accordance with the Use Permit review procedure listed in Chapter 20.196, the Zoning Administrator or the Planning Commission shall approve, conditionally approve, or deny a Minor Use Permit for a medical cannabis cultivation site 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 hill-sides 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.

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

(5) The Use Permit granted for the medical cannabis cultivation site shall be limited to a period not to exceed 10 years. The Administrative Permit shall expire at the end of this period unless

it is renewed prior to the end of 10-year period, or at any time the approved MCCO permit for the cultivation site expires or is revoked.

(Ord. No. 4381, § 2, 4-4-2017)

APPENDICES*

APPENDIX A

INDUSTRIAL USES WHICH NORMALLY WILL NOT REQUIRE DEVELOPMENT

Review

The following is a list of typical uses allowed in Industrial Zones which do not require a use permit, and normally will not require development review. If the proposed activity will cause excessive noise, smoke, odors or traffic disruption, or will produce hazardous fumes or chemicals, then the project will be subject to development review. For development review requirements, see Chapter 20.188. For accessory use regulations, see Chapter 20.164.

- Bottling plants (beverages)
- Building materials sales yards
- Business and professional services, including:
 - Computer operations
 - Data processing
 - Research labs
- Cabinet/woodworking shops
- Caretaker housing
- Cold storage
- Communication equipment buildings
- Contractors' yards/shop
 - Cabinet shops
 - Electrical
 - Equipment rental
 - Equipment storage
 - Glass
 - Heating and air conditioning
 - Masonry
 - Plumbing
 - Roofing
 - Sheet metal
 - Welding
 - Well drilling
- Hatcheries (poultry)
- Ice houses (mfg. and storage)
- Janitorial services
- Manufacturing (general)
 - Appliances

- Artists supplies
- Athletic goods
- Bedding and pillows
- Boots and shoes
- Brick
- Business machines
- Canvas and burlap products
- Carpets and rugs
- Ceramics
- Clothing
- Communication equipment
- Concrete products (block, stepping stones, pipe, septic tanks)
- Cutlery
- Electrical products
- Feather products
- Fur products
- Furniture
- Glass products
- Hats/caps (millinery)
- Heating fixtures
- Hosiery
- Jewelry
- Leather goods
- Metal doors and frames
- Monuments
- Musical instruments and parts
- Pottery
- Rope/cordage/twine
- Toys
- Packing and crating
- Parcel delivery
- Photography/motion pictures, including:
 - Motion picture studios
 - Processing labs
 - Sound studios
- Precision manufacturing, including:
 - Machine shops
 - Precision instruments
- Printing (graphic arts), including:
 - Bookbinding
 - Designing/editing

*Appendices A and B relate to Ordinance 3639, codified in Chapters 20.04 through 20.220.

- Lithographic shops
- Printers
- Silkscreening
- Public scales
- Railroad lines and spurs
- Repair services (consumer products)
- Sign shops
- Stone cutting
- Upholstering shops
- Vehicle services, including:
 - Heavy equipment service/repair
 - Repair/restoration (auto, boat, plane, RV, trailer, truck)
 - Service stations (garages)
 - Tire recapping
- Well service and supply
- Wholesale, storage and distribution: light (except bulk feed and live animals)
- Warehousing, including:
 - Mini-warehouses
 - Van and storage

APPENDIX B

INDUSTRIAL USES WHICH REQUIRE ENVIRONMENTAL REVIEW

The following is a list of typical uses allowed in Industrial Zones which do not require a use permit, but do require completion of the Environmental Checklist. Upon completion of the checklist, project may need to further comply with Chapter 20.188, Development Review:

- Bottling plants (non-beverage)

- Concrete ready mix

- Dairy products processing and distribution

- Electrical substations

- Hatcheries (fish)

 - Landscaping sales and services

 - Landscape contractors yards

- Landscape materials

- Lumber mills

- Manufacturing:

 - Compost

 - Construction/mining equipment

 - Dry ice

 - Hair products

 - Light machinery

 - Lighting products

 - Metal fabrication

 - Metal stamping

 - Office supplies

 - Paperboard boxes

 - Primary paper products

 - Textile mills

 - Tile

- Wholesaling, storage and distribution: heavy

APPENDIX C

EXTERIOR NOISE LIMIT STANDARDS

Exterior Noise Limit Standards

(Levels not to be exceeded more than thirty (30) minutes in any hour)

Receiving Land Use Category ^{3,4}	Time Period	Noise Level Standards (dBA) ^{1,2}	
		Rural/Suburban	Urban/Highways ⁵
One and Two Family Residential	10:00 p.m.—7:00 a.m.	40	50
	7:00 a.m.—10:00 p.m.	50	60
Multifamily Public Spaces	10:00 p.m.—7:00 a.m.	45	55
	7:00 a.m.—7:00 p.m.	50	60
Limited Commercial Some Multifamily	10:00 p.m.—7:00 a.m.	55	
	7:00 a.m.—10:00 p.m.	60	
Commercial	10:00 p.m.—7:00 a.m.	60	
	7:00 a.m.—10:00 p.m.	65	
Light Industrial	Any time	70	
Heavy Industrial	Any time	75	
Adjustments to Noise Level Standard			
Duration			
L ₅₀	30 minutes per hour	Standard	
L ₂₅	15 minutes per hour	Standard + 5 dB	
L ₀	Maximum permissible level	Standard + 20 dB	
Character	Tone, whine, screech, hum, or impulsive, hammering, riveting, or music or speech	Standard + 5 dB	
Ambient Level¹	Existing ambient L ₅₀ , L ₂₅	Standard + 5 dB	
	Existing ambient L ₀	Existing maximum	

Interpretive Footnotes

1. When an acoustical study demonstrates that ambient levels exceed the noise standard, then the ambient levels become the standard.
2. Higher noise levels may be permitted for temporary, short-term or intermittent activities when no sensitive or residential uses will be affected.
3. County staff shall recommend which receiving land use category applies to a particular project, based on the mix of uses and community noise levels. Industrial noise limits intended to be applied at the boundary of industrial zones, rather than within industrial areas.
4. The "rural/suburban" standard should be applied adjacent to noise sensitive uses such as hospitals or convalescence homes.
5. "Highways" apply to roads and highways where average daily traffic (ADT) exceeds ten thousand (10,000). (Ord. No. 4017 (part), adopted 1998)

CODE COMPARATIVE TABLE

Ordinance Number	Date	Description	Section	Section this Code
				Added 20.308.110(37)
				Rnbd 20.308.110(37)
				as 20.308.110(38)
				Added 20.308.115(G)
				20.320.060
				Added 20.444.040
4366	10- 4-2016	Emergency organization and functions		Rpld Ch. 7.04, §§ 7.04.010—7.04.180
				Added Ch. 7.04, §§ 7.04.010—7.04.160
4367	6- 7-2016	Public health, safety and welfare		Added Ch. 8.400, §§ 8.400.010—8.400.030
4370	12- 6-2016	Master grid and property numbering systems	1	18.16.010
			2	Rnbd 18.16.100
				as 18.16.020
			3	18.16.030
			4	18.16.040
			5	18.16.050
			6	18.16.060
			7	18.16.070
			8	18.16.080
			9	18.16.090
			10	Rnbd 18.16.120
				as 18.16.100
			11	Rnbd 18.16.130
				as 18.16.110
			12	Rpld 18.16.140
4371	1-10-2017	Administrative citations and penalties	1	Added Ch. 1.08, §§ 1.08.010—1.08.170
4372	1-10-2017	Office of county hearing officer	1	Added Ch. 2.76, §§ 2.76.010—2.76.050
4373	1-10-2017	Uniform nuisance abatement procedure	1	Rpld Ch. 8.75, §§ 8.75.010—8.75.100
				Added Ch. 8.75, §§ 8.75.010—8.75.240
4374	1-10-2017	Procedures specific to cannabis cultivation	1	Added Ch. 8.76, §§ 8.76.010—8.76.120
4375	1-10-2017	Marijuana cultivation violation enforcement mechanisms	1	9.31.140
4376	1-10-2017	Civil service		3.16.140
4377	1-10-2017	Personnel and salary		3.04.150(G)

CODE COMPARATIVE TABLE

Ordinance Number	Date	Description	Section	Section this Code
4378	1-24-2017	Revenue and finance		5.130.010
4380	3- 7-2017	Building regulations	1	18.04.010
			2	18.04.025
			3	18.04.035
			4	18.04.040
			5	18.04.045
			6	18.04.050
			7	18.04.055
			8	18.04.060
			9	Rnbd 18.08.030 as 18.08.040
			10	Rnbd 18.08.020 as 18.08.035
			11	Rnbd 18.08.015 as 18.08.030
			12	Rnbd 18.04.015 as 18.08.015
			13	Added 18.08.020
			14	Added 18.08.025
4381	4- 4-2017	Medical cannabis cultivation	1	Added Ch. 10A.17, §§ 10A.17.010—10A.17.190
		Medical cannabis cultivation site	2	Added Ch. 20.242, §§ 20.242.010—20.242.070

BOAT (Cont'd.)

Excursion
See PARTY BOAT EXCURSION

BOND

County Water Works District No. 2, sewer connection, failure to connect 16.20.028
Encroachment, county highways 15.20.040
Septic tank use, County Water Works District No. 2 16.20.060
Sewage, septage pumper 9.12.040
Subdivision improvements 17-74
Surface mining reclamation plan generally 22.16.120
vested mines 22.16.150
Transient occupancy tax, managing agent 5.20.025

BOUNDARY LINE ADJUSTMENT

See SUBDIVISIONS

BRIDGES

Traffic regulations
See TRAFFIC

BROOKTRAILS AREA

Designated, regulations 2.48.050

BROOKTRAILS AREA PLANNING COMMISSION

Established, designated, powers, duties 2.48.050
Term, additional 2.48.060

BRUSH STREET TRIANGLE, DEVELOPMENTAL REVIEW WITHIN

California Environmental Quality Act 20.240.015
Conditions of approval 20.240.035
Declaration 20.240.003
Designation of area 20.240.010
Effective date 20.240.040
Expiration, revocation and renewal 20.240.045
Intent 20.240.005
Site development permits 20.240.020
findings 20.240.030
processing 20.240.025
Sunset provisions 20.240.050

BUILDING

See also BUILDING CODE
LIMITED DENSITY RURAL DWELLINGS
SUBDIVISIONS

BUILDING (Cont'd.)

ZONING, AGRICULTURAL PRESERVES AND WILLIAMSON ACT CONTRACTS

ZONING, COASTAL
ZONING, COASTAL, UNINCORPORATED AREAS
ZONING, TIMBERLAND PRODUCTION

Adoption

See BUILDING CODE
Purpose, adoption of provisions

Agricultural building

exemption, application procedure, fee 18.12.030
regulations generally
See Structures not otherwise regulated

Appeals

See also BUILDING, HOUSING APPEALS BOARD
procedure generally 18.04.085

relocation assistance to tenants evicted due to unsafe or hazardous conditions 18.14.065

Applicability, construction of provisions 18.04.080

Brick buildings

See Masonry, unreinforced

Building permit

See Permit

Chief building inspector of Mendocino County

See BUILDING INSPECTOR, COUNTY PLANNING, BUILDING SERVICES DIRECTOR

Clean slate certification

See Existing structures, clean slate certification

Codes

See Specific Code
BUILDING CODE

Construction of provisions 18.04.080

Construction permit

See Permit

Definitions 18.04.010

Excavation, grading

bonds 18.70.080
completion of work 18.70.150
cuts 18.70.090
definitions 18.70.050
drainage, terracing 18.70.120
erosion control 18.70.130
fills 18.70.100

BUILDING

BUILDING (Cont'd.)

Excavation, grading (Cont'd.)

grading

coastal zone, as "development" in 18.70.027

fees 18.70.070

inspection 18.70.140

permit requirements 18.70.060

regulations mandated by State of California
18.70.025

hazards 18.70.040

permits

grading, requirements 18.70.060

required 18.70.030

purpose 18.70.010

scope 18.70.020

setbacks 18.70.110

surface mining 18.70.028

Existing structures

See also Specific Subject

Existing structures, clean slate

certification appeals procedure

lawful construction presumption 18.04.020

Existing structures, clean slate certification appeals procedure

time frame extension

expiration 20.206.030

purpose 20.206.010

standards 20.206.020

Intentionally omitted 18.04.015

Masonry, unreinforced

appeals 18.30.070

definitions 18.30.030

mitigation program 18.30.060

potentially hazardous buildings list 18.30.050

purpose of provisions 18.30.010

scope of provisions 18.30.020

state code adopted 18.30.040

violation, penalty 18.30.080

Numbering

See STREET, ROAD ADDRESS
NUMBERING SYSTEM

Permit

environmental impact reports 18.08.015

fees

generally 18.08.010

refunding 18.08.035

valuation policy, use 18.08.030

placement of permit 18.08.025

BUILDING (Cont'd.)

Permit (Cont'd.)

prior to the issuance of a building permit

18.08.020

required when, fees 18.08.010

violation, penalty 18.08.040

Purpose, adoption of provisions 18.04.005

Relocation assistance to tenants evicted due to
unsafe or hazardous conditions

appeals 18.14.065

definitions 18.14.020

enforcement by tenant 18.14.080

exceptions 18.14.040

intent and purpose 18.14.010

no requirement for county to pay relocation

benefits 18.14.070

relocation assistance requirements 18.14.030

rent increases during repairs 18.14.050

severability clause 18.14.090

violation, penalty 18.14.060

Rural dwellings

See LIMITED DENSITY RURAL
DWELLINGS

Small residential rooftop solar energy system

review process

applicability 18.40.015

application standards 18.40.030

definitions 18.40.020

permit review and inspection requirements
18.40.035

purpose 18.40.010

solar energy system requirements 18.40.025

title and authority 18.40.005

Structures not otherwise regulated

See also Agricultural building

purpose, scope of provisions 18.12.010

regulations generally, adoption 18.12.020

Uniform codes

See BUILDING CODE

Unreinforced masonry

See Masonry, unreinforced

Violation, penalty 18.04.075

BUILDING CODE

See also BUILDING

ELECTRICAL CODE

ENERGY CODE

FIRE CODE

BUILDING CODE (Cont'd.)

GREEN BUILDING STANDARDS

CODE

MECHANICAL CODE

PLUMBING CODE

REFERENCED STANDARDS CODE

RESIDENTIAL CODE

ZONING

LOST, UNCLAIMED PROPERTY (Cont'd.)

Title of provisions 8.24.010

LUMBER MILL

See SAWMILLS, MILLS, MANUFACTURING PLANTS

— M —

MANUFACTURING PLANT

See SAWMILLS, MILLS, MANUFACTURING PLANTS

MARIJUANA, MEDICAL

See also MEDICAL MARIJUANA CULTIVATION REGULATION

Findings 9.37.020

Limits for possession of marijuana for medical purposes 9.37.040

Purpose 9.37.010

Repeal of Mendocino county code chapter 9.36 9.37.030

Severability 9.37.050

MASTER GRID NUMBERING SYSTEM

See STREET, ROAD ADDRESS NUMBERING SYSTEM

MASTER PLAN

Preparation, adoption, scope 2.48.030

MECHANICAL CODE

See also BUILDING CODE

Adoption 18.04.025

Amendments 18.04.050

MEDICAL CANNABIS CULTIVATION ORDINANCE

Administrative order to show cause 10A.17.150

Attorneys' fees 10A.17.170

Certifications 10A.17.120

Confidential nature of medical cannabis information — legislative intent 10A.17.180

Cultivation permit

application and zoning review 10A.17.090
required; exemptions 10A.17.030

Cultivation site inspections: violations and penalties 10A.17.140

Definitions 10A.17.020

Enforcement and declaration of public nuisance 10A.17.160

MEDICAL CANNABIS CULTIVATION

ORDINANCE (Cont'd.)

General limitations on cultivation of medical cannabis 10A.17.040

Medical marijuana collectives 10A.17.050

Performance standards 10A.17.110

Permit

phases and requirements specific to each phase 10A.17.080

review and issuance 10A.17.100

types 10A.17.060

Requirements for all permits 10A.17.070

Severability 10A.17.190

Third party inspectors 10A.17.130

Title, purpose and intent 10A.17.010

MEDICAL CANNABIS CULTIVATION SITE

Application 20.242.020

Definitions 20.242.030

Existing medical cannabis cultivation sites 20.242.040

Intent 20.242.010

New medical cannabis cultivation sites generally 20.242.060

located in industrial zoning districts 20.242.050

Planning approval required to cultivate medical cannabis 20.242.070

MEDICAL CARE, COUNTY COMMISSION

Designation and duration 8.69.030

Effective date 8.69.080

Findings 8.69.000

Membership 8.69.040

Obligations 8.69.070

Powers and duties 8.69.060

Purpose 8.69.020

Terms of office; vacancy in office 8.69.050

Title 8.69.010

MEDICAL MARIJUANA CULTIVATION REGULATION

See also MARIJUANA, MEDICAL

Appeal from denial of permit or renewal 9.31.120

Attorneys' fees 9.31.150

Compliance with CEQA 9.31.170

Confidential nature of medical marijuana information legislative intent 9.31.020

Cultivation of marijuana 9.31.080

Definitions 9.31.040

Effectiveness 9.31.190

MEDICAL MARIJUANA CULTIVATION REGULATION

**MEDICAL MARIJUANA CULTIVATION
REGULATION (Cont'd.)**
Enforcement 9.31.140
Findings 9.31.030
Limitation on
 location to cultivate marijuana 9.31.070
 number of plants 9.31.060
Medical marijuana collectives 9.31.100
Public nuisance 9.31.130
Purpose and intent 9.31.010
Registration requirement 9.31.050
Requirements for exemption from the twenty-five
 (25) plants per parcel limitation 9.31.110
Severability 9.31.180
Use of money collected under this chapter
 9.31.160
"Zip-tie" provision 9.31.090

**MENDOCINO, TOWN OF, HISTORICAL
PRESERVATION DISTRICT**
See ZONING, COASTAL

MENTAL HEALTH EMPLOYEES, STATE
Transfer to county
 See PERSONNEL

MERCHANT
Business license
 See also BUSINESS LICENSE
 fee 6.04.050

MILL
See SAWMILLS, MILLS, MANUFACTURING
 PLANTS

MINING
See SURFACE MINING, RECLAMATION
 ZONING
 ZONING, COASTAL,
 UNINCORPORATED AREAS

MINORS
See ALCOHOLIC BEVERAGES
 BINGO GAMES
 CURFEW
 GRAFFITI SUPPRESSION
 JUVENILE DETENTION HOME
 JUVENILE JUSTICE, DELINQUENCY
 PREVENTION COMMISSION

MOBILE HOME
See also ZONING

MOBILE HOME (Cont'd.)
Flood hazard reduction
 See ZONING
 ZONING, COASTAL,
 UNINCORPORATED AREAS

MOBILE HOME PARK
See also ZONING
Flood hazard reduction
 See ZONING
 ZONING, COASTAL,
 UNINCORPORATED AREAS

MOTEL
Business license
 See also BUSINESS LICENSE
 fee 6.04.050
Zoning regulations
 See ZONING
 ZONING, COASTAL
 ZONING, COASTAL,
 UNINCORPORATED AREAS

MOTORBOATS
See BOAT
 WATERCRAFT

MOVIE PRODUCTION COMPANY
See FILM PERMIT

MULTIPLE-SELLERS LICENSE
Business license
 See also BUSINESS LICENSE
 fee 6.04.050

MUSEUM DIRECTOR
Archeological commission membership 22.12.040

MUSICAL PERFORMANCE, OUTDOOR
See OUTDOOR FESTIVALS

— N —

NUISANCE
See NUISANCES CAUSED BY CANNABIS
 CULTIVATION, ABATEMENT PROCEDURE
 FOR
Abandoned vehicle 15.28.020
Animals, when 10.08.030
Declare intentionally killed and left standing trees
a public nuisance
 Findings 8.400.010
 Prohibition 8.400.020

NUISANCE (Cont'd.)

- Declare intentionally killed and left standing trees
a public nuisance (Cont'd.)
 - Severability 8.400.030
- Fruit tree, shrub when 10A.08.050
- Outdoor festival provisions violation 6.16.120
- Plant pests 10A.08.020
- Rural dwelling, limited density, substandard
18.23.050
- Sewage disposal, improper
 - County Water Works District No. 2 16.20.030
 - Ukiah Valley sanitation district 16.12.030
- Water well, when 16.04.190

NUISANCES CAUSED BY CANNABIS
CULTIVATION, ABATEMENT PROCEDURE
FOR

- Administrative order to show cause 8.76.060
- Administrative penalties 8.76.110
- Automatic hearing procedures 8.76.080
- Definitions 8.76.020
- Enforcement 8.76.090
- Findings, purpose and authority 8.76.010
- Liability for costs 8.76.100
- Scope of chapter 8.76.030
- Service of notice and order to show cause 8.76.070
- Severance 8.76.120
- Standard abatement 8.76.050
- Summary abatement 8.76.040

NURSE

- See PUBLIC HEALTH NURSE

— O —

OCCUPANCY TAX

- See TRANSIENT OCCUPANCY TAX

OFFICERS, COUNTY

- See also Specific Officer

PERSONNEL

- Emergency organization
duties as

- See EMERGENCY ORGANIZATION

OFFICES, COUNTY

- Hours, days open 2.04.020

