



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
860 NORTH BUSH STREET · UKIAH · CALIFORNIA · 95482
120 WEST FIR STREET · FT. BRAGG · CALIFORNIA · 95437

Ignacio Gonzalez, Interim Director
Ukiah Telephone: 707-234-6650
Ukiah Fax: 707-463-5709
Ft. Bragg Phone: 707-964-5379
Ft. Bragg Fax: 707-961-2427
pbs@mendocinocounty.org
www.mendocinocounty.org/pbs

MEMORANDUM

DATE: September 7, 2017

TO: Planning Commission

FROM: Mary Lynn Hunt, Chief Planner
Matthew Kiedrowski, Deputy County Counsel
Elizabeth Burks, LACO Associates

PROJECT: OA_2017-0001 Cannabis Facilities Code (CFC) - The Mendocino County Board of Supervisors proposes to amend the Mendocino County Code to add Chapter 20.243, Medical and Adult Use Cannabis Facilities to the Inland Zoning Ordinance (Mendocino County Code, Title 20, Division I), which will be administered by the Department of Planning and Building Services. This will govern activities related to the processing, manufacturing, testing, dispensing/retail and distributing and establish limitations on the location and intensity of cannabis facilities in the unincorporated area of Mendocino County. The Cannabis Facilities Code is intended to complement a variety of actions by the State of California to establish a legal framework for the processing, manufacturing, testing, dispensing/retail and distribution of medical and adult use cannabis.

INTRODUCTION: The Mendocino County Board of Supervisors (Board) intends to establish the Cannabis Facilities Code (CFC) to govern the commercial processing, manufacturing, testing, dispensing, and distributing, of cannabis for medical and adult use in unincorporated Mendocino County, outside the Coastal Zone. The CFC will be established through proposed Mendocino County Code Amendment to Chapter 20.243 —Medical and Adult Use Cannabis Facilities, of the Mendocino County Zoning Ordinance Inland—will be administered through the Department of Planning and Building Services (PBS) to regulate land use and zoning to ensure that the location and scale of processing, manufacturing, testing, dispensing, and distributing, of cannabis is compatible with the County's land use and environmental setting, establish permit requirements for certain cannabis businesses, and require compliance with environmental and public health regulations.

In addition to Chapter 20.243, the Board will also be adding—Chapter 6.36 —Cannabis Facilities Businesses, of the Mendocino County Business License Code— which will be administered by the Business License Division of the County Treasurer - Tax Collector Department which will require business licenses and annual renewals for businesses engaging in commercial processing, manufacturing, testing, dispensing, and distributing of cannabis.

The CFC was originally presented at a Board of Supervisors Workshop on January 27, 2017. At that workshop, the Board and members of the public provided feedback regarding the initial draft Chapter 20.243 of the Zoning Ordinance and also the draft of Chapter 6.36 Business License Regulations. A second Board Workshop was held on May 23, 2017. At that workshop the Board provided several directives and requested that the item be sent to the Planning Commission for review and recommendation.

BACKGROUND: The current effort to adopt local regulations related to cannabis facilities is responsive to recent statewide legislation and guidelines that have been issued regarding cannabis facilities. In January 2016 the Medical Cannabis Regulation and Safety Act (MCRSA) took effect which developed guidelines for the establishment of regulations for the medical cannabis industry. MCRSA created a dual license system, which required medical cannabis businesses to obtain State and local permits for cultivation, processing, manufacturing, testing, dispensing, distribution and transportation of medical cannabis. MCRSA was followed by the passage of Proposition 64, the Adult Use of Marijuana Act (AUMA)

in November 2016. AUMA developed guidelines for the establishment of regulations governing adult use cannabis industry.

Most recently these two bodies of regulation have essentially been combined into the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) which was passed in June 2017. MAUCRSA generally imposes the same requirements on both commercial medical and commercial-adult use cannabis activity. Under MAUCRSA, the types of licenses available for commercial adult-use cannabis activity and commercial medicinal cannabis activity are the same.

State licensing under MAUCRSA is expected to be available January 1, 2018. Only those with approvals from the local jurisdiction will be eligible to receive a state license.

In an effort to implement MCRSA, prior to the passage of AUMA and ultimately MAUCRSA, the State prepared *Statewide Proposed Provisions Applicable to All Applicants and Licensees and Statewide Proposed Medical Cannabis Manufacturing Regulations*. These regulations were available for public comment from April 18 to June 13, 2017 and contained detailed regulations for applying for State licensing and operational standards for manufacturing. Although MCRSA was repealed, the State has indicated that the robust public comments they have received will be incorporated into MAUCRSA Regulations. MAUCRSA regulations are expected to be released in November 2017.

Local regulations: The Mendocino County CFC would allow the commercial processing, manufacturing, testing, dispensing, and distributing, of cannabis in the unincorporated county, outside the coastal zone. The CFC permits would become available upon adoption of the ordinance.

Given that the State's programs are still in development, the Board gave direction to keep the CFC Chapter relatively simple and put more detailed requirements into a performance or user manual so that the Chapter does not have to be revised when the State finalizes their permitting process.

CURRENT BOARD DIRECTIVES: At the May 23, 2017 Board workshop the Board provided several directives which are addressed individually below.

- a) *Identify policies in the General Plan that Support previous Board direction to allow for greater flexibility in commercial zoning which would allow processing on parcels zoned C1 [Limited Commercial] and C2 [General Commercial]; and non-volatile manufacturing in C1 and C2.*

In considering whether to allow for greater flexibility in the Commercial zoning districts we must consider the compatibility with zoning and the General Plan.

To determine the allowable zones for each facility type, staff assigned each State license type a use type found in the current Zoning Ordinance. The level of review required for each license type is consistent with that required for the assigned use type in a particular zoning district. The permitting requirements identified in proposed Chapter 20.243, Table 1, generally mirror the uses that are permitted and conditionally permitted under existing zoning districts. For example, manufacturing is a use that is a permitted use in the Industrial Zone. As such, it is proposed that cannabis manufacturing would also be a permitted use in the Industrial Zone.

Processing and manufacturing are not currently enumerated uses in the C1 and C2 zoning districts. Allowing these use types in the C1 and C2 zoning districts would be an expansion of the use types currently permitted. In order to permit these uses in C1 and C2 zoning districts a finding would have to be made that it was compatible with the General Plan.

There may be policies in the General Plan that are supportive of small-scale or niche manufacturing such as General Plan Principle 2-2c:

“Support the county’s resource-based economy and take actions that protect and enhance the county’s diverse natural resources.

- *Promote small-scale or niche manufacturing using local resources for local or general use.”*

However, the application of this principle was contemplated during the General Plan process and acceptable land use designations to implement the principal were assigned. Processing and non-volatile manufacturing uses would fall under permitted uses identified in the Industrial and Rural Community land

use designations. Allowing processing and non-volatile manufacturing uses in the C1 and C2 zoning districts would not be consistent with the permitted uses in the Commercial land use designation. To expand the uses a general plan amendment would be required. Therefore, staff does not recommend implementing this directive.

- b) *Further review the appropriateness of volatile manufacturing on parcels zoned C1 and/or C2.* Volatile and non-volatile extraction methods for manufacturing cannabis products have been discussed at Board workshops. The Board has requested that the Planning Commission take a closer look at these varying types of methods and substances and make a recommendation regarding where they would be allowed.

Examples of volatile solvents used for extraction would be butane, hexane, propane, and ethanol. Volatile solvents have the risk of creating explosions if not handled properly. Using water, carbon dioxide or silk screens would be examples of nonvolatile extraction methods.

As defined in MAUCRSA:

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

Industrial zoning districts and the Rural Community (RC) zoning district allow a range of uses including those that involve handling of hazardous chemicals or materials. Handled properly in these districts the use of volatile solvents is not likely to create a threat to health safety or welfare.

Additionally, based on the discussion in item a) above, allowing manufacturing in commercial zoning districts is likely to be inconsistent with the General Plan.

- c) *Define cottage level or home manufacturing as “limited to material produced on site; i.e. Cultivator living on property, manufacturing product at home, that was grown on site, and limited to volume produced within 2,500 square feet or less of cultivation area using non-volatile solvents or volatile solvents used with a non-volatile process; limited to products not intended for human consumption.”*

During the Board workshops there was extensive discussion about the concept of home manufacturing. Home manufacturing was not addressed in the draft Statewide Proposed Medical Cannabis Manufacturing Regulations. It is unclear if there will be further clarification on home manufacturing requirements when MAUCRSA regulations are published.

Many of requirements of the draft Statewide Proposed Medical Cannabis Manufacturing Regulations appeared onerous for a home manufacturing operation, and would have made it challenging for a home manufacturer to receive a State license.

CFC Section 20.243.040 (B) Manufacturing Facilities has been updated to include language regarding non-volatile home manufacturing. The provision would match Board direction and also incorporate Cottage Industry requirements. Cottage industries require a minor use permit in all zones.

- d) *Create an exception to previous Board direction that dispensaries may not offer free samples, in order to allow dispensaries to offer free samples of topical products not intended for human consumption, including inhalation or vaporization.*

The Board requested an exception to allow for samples of topical products to be distributed at dispensaries. Upon further review of the draft CFC, there is no need for this exception because there is no prohibition of distributing samples at dispensaries. There is a prohibition of such samples at adult use retail establishments. In the case of the dispensaries this prohibition was not added due to concerns about dispensaries with compassionate use policies that may offer medical cannabis to patients who cannot afford to purchase the products.

- e) *Include language in a comment letter to the State in support of licensed cannabis dispensaries having the ability to participate in “cannabis farmers markets”.*

The current state regulations are silent on the issue of “cannabis farmers market” style events. It is unclear if farmers market style events will be included in the draft regulations for MAUCRSA expected in November. The Mendocino County Executive Office will be tracking the regulations when they are released and are planning to send a comment letter and include a request for cannabis farmers markets to be addressed.

- f) *Include in the Ordinance the following new license types: Type P and Type N licenses as defined by the State.*

New License Types were identified in Draft State Medical Cannabis Manufacturing Regulations. Type P Licenses are for entities that only package or repackage medical cannabis products or label or re-label the cannabis product container. Type P Licenses are not for those who package product they manufacture with a Type 6 or Type 7 License. Type N Licenses are for manufactures that produce edible products or topical products or other products but do not conduct extractions. Type N Licenses are subject to same restrictions as Type 6 Licenses. The Board provided direction to include these license types and allow them in the same zones that non-volatile manufacturing is allowed. Table 1 has been updated to reflect this; however it is unclear if these license types will be relevant after the publication of the MAUCRSA regulations.

OTHER CHANGES TO CFC: The definitions have been updated to reflect MAUCRSA requirements. Additionally definitions have been limited to terms used in the chapter. Additional definitions can be included in a user manual at a later date.

Setback requirements have been modified to use the MAUCRSA 600-foot setback, but use both the County's and the State's list of sensitive receptors.

Requirements to comply with all applicable county codes and MAUCRSA has been moved to the General Limitations section rather than repeating the requirements with each use type. The severability section has been moved to the end of the CFC and changed to match the Severability language in the Cultivation Ordinance.

Under the provisional operation section item (B) regarding violations was deleted. Because not all facilities require a facilities permit (some are allowed with a Zoning Clearance) the language was not applicable to all facilities and there are other ways to address violations such as not issuing a Business License. This is already standard practice in violation cases and additional language did not seem warranted here.

Section 20.243.200 has been revised from previous drafts of Chapter 20.243 to better refer to existing permit revocation provisions elsewhere in the Zoning Code.

CHAPTER 6.36 – CANNABIS FACILITIES BUSINESSES- BUSINESS LICENSE CODE

This section will be administered by the Business License Division of the County Treasurer - Tax Collector Department and to requires business licenses and annual renewals for businesses engaging in commercial processing, manufacturing, testing, dispensing, and distributing of cannabis. Proposed Chapter 6.36 is being provided to the Planning Commission because in cases where only a zoning clearance is required by Chapter 20.243, the business license issued pursuant to Chapter 6.36 will be the last approval by the County. No action by the Planning Commission is required on this item.

ENVIRONMENTAL DETERMINATION: All of the facility use types are consistent with use types found in the zoning districts in which they are proposed. For example, retail cannabis facilities are enumerated in the Commercial zoning district similar to any other retail facility and in some instances will be more restrictive. Likewise, cannabis manufacturing would be allowed in the Industrial zoning district similar to other types of manufacturing facilities. The allowance of these use types have been vetted through the adoption of the Environmental Impact Reports for the Mendocino County General Plan, and Ukiah Valley Area Plan and are consistent with existing zoning regulations. The Cannabis Facilities Code merely expressly clarifies that cannabis facilities are an allowed use in a particular zoning district, outlines general limitations, and details application requirements for cannabis facilities. This would not cause a significant effect on the environment. Therefore, the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3). If uses that would be considered non-compatible with existing use types were to be added, it may trigger environmental review and potentially an amendment to the County General Plan and/ or Ukiah Valley Area Plan.

Staff would also note in the legal noticing of this document, the Environmental Determination was noted as Statutory Exemption. While the project is exempt from CEQA, the notice should have simply stated that the project is "Exempt" from CEQA pursuant to CEQA Guidelines Section 15061(b) (3).

GENERAL PLAN CONSISTENCY ANALYSIS: The Development Element of the General Plan contains the following policies related to Commercial and Industrial:

Commercial Development Policies:

- Policy DE-48: Support business creation, expansion, retention and redevelopment serve local and regional needs, consistent with General Plan objectives.
- Policy DE-49: Expand economic opportunities that respect the individual character of each community area.
- Policy DE-51: Encourage home occupations and cottage industries in conjunction with residential uses when limited in scope and compatible with residential or neighborhood character. Cottage industries and home occupations that grow beyond site or building limitations or become incompatible with the neighborhood should be relocated to appropriately zoned properties.

It should be noted that the Board is requiring that dispensaries/retail be allowed within the C-1 and C-2 zoning districts. This is consistent with current retail uses in the commercial zones. However, the Board has directed that a major use permit would be required as is noted on Table 1.

Industrial Development Policies:

- Policy DE-55: Promote the development of existing industrial lands to utilize the natural resources which are under-utilized and/or presently exported to other countries for value added processing.
- Policy DE-59: Promote a diversified industrial sector
- Policy DE-61: Allow the consolidation of agricultural processing operations in areas with existing processing facilities and supporting infrastructure, in addition to location on industrial lands.
- Policy DE-62: Reuse or redevelopment of closed resource-based processing sites in rural areas (i.e. timber, minerals processing) should be compatible with the surrounding area, environmental and supporting infrastructure.

The adoption of this ordinance and creation of Chapter 20.243 is consistent with the applicable goals and policies of the General Plan.

RECOMMENDED MOTION FOR THE PLANNING COMMISSION: The Planning Commission recommends that the Board of Supervisors find that the project is exempt from CEQA and approve Ordinance Amendment #OA 2017-0001 which will modify the inland zoning ordinance of Chapter 20 of the Mendocino County Code respectively, and add Chapter 20.243 making the following findings:

Environmental Findings: No significant adverse environmental impacts will result from the proposed amendment. Further the Board of Supervisors finds that the project is Exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

General Plan Consistency Finding: The proposed amendment is consistent with the applicable goals and policies of the General Plan.

Attachments:

1. Chapter 20.243, *Cannabis Facilities Code* (Inland Zoning Code)
2. Chapter 20.156 Home Occupations
3. Chapter 20.160 Cottage Industries
4. Chapter 20.188 Development Review
5. Planning Commission Resolution
6. Chapter 6.36 *Medical Cannabis Facilities* (Business License Code)

Chapter 20.243 – Medical and Adult Use Cannabis Facilities

20.243.010 Title, Purpose and Intent.

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

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

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

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

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

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

20.243.020 Application.

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

20.243.030 Definitions.

The definitions in this Chapter are intended to apply solely to the regulations in this Section. Applicable definitions in Mendocino County Code Sections 10A.17.020 and Section 20.242.030 shall also apply to this Chapter. As used herein the following definitions shall apply:

"Bureau" means the Bureau of Cannabis Control.

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

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

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

"Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis and cannabis products as provided for in this division.

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

"Department" means the Mendocino County Planning and Building Services.

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

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

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

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

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

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

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

"Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and included the holder of a testing laboratory license.

“Manufacturing Level 1 (Non-Volatile)” means facilities that manufacture medical or adult use cannabis products using nonvolatile solvents, or no solvents.

“Manufacturing Level 2 (Volatile)” means facilities that manufacture medical or adult use cannabis products using volatile solvents.

“MAUCRSA” means the Medical and Adult-Use Cannabis Regulations Safety Act.

“Microbusiness” means the cultivation of adult use cannabis on an area less than 10,000 square feet and acting as a licensed distributor, Level 1 manufacturer, and retailer under this Chapter, provided such licensee complies with all requirements imposed by this Chapter on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

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

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

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

“Processing Facility” means location or facility where medical or adult use cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical or adult use cannabis is grown and harvested.

“Retailer” means for the retail sale and delivery of cannabis or cannabis products to customers.

“State” means the State of California.

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

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

“Treasurer-Tax Collector” means the Treasurer-Tax Collector of the County of Mendocino, his or her deputies.

“Volatile extraction” means an extraction method using volatile solvents to manufacture medical or adult use cannabis products.

“Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include but are not limited to, butane, hexane, propane, and ethanol.

“Youth center” has the same meaning as in Section 11353.1 of the Health and Safety Code.

20.243.040 Use Classifications.

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

(A) Processing Facilities.

- (1) Processing facilities, as defined herein, shall be an industrial use type.
- (2) Processing facilities for cannabis grown on site pursuant to a permitted cultivation operation shall be allowed as an accessory use in all zones where cultivation is permitted pursuant to Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and is subject to the provisions of Chapter 20.156 *Home Occupations*. If Home Occupation standards cannot be met, then a Cottage Industry Use Permit pursuant to Chapter 20.160 shall be required.

(B) Manufacturing Facilities.

- (1) Manufacturing facilities, as defined herein, shall be an industrial use type.
- (2) Exception for home manufacturing.
 - a. Non-volatile manufacturing as an accessory use to cultivation is be allowed in all zones where cultivation is allowed pursuant to Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and is subject to the provisions of Chapter 20.160 Cottage Industry and the following provisions:
 - i. The cultivator engaging in home manufacturing must be licensed to cultivate pursuant to Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and must reside on the property where the home manufacturing is occurring.
 - ii. All cannabis used in home manufacturing must be cultivated on site, under a Type C, Type C-A or Type C-B cultivation permit issued pursuant to Chapter 10A.17.
 - iii. No edible cannabis products may be produced.
 - iv. Only nonvolatile extraction methods may be used.

(C) Testing Laboratories and Research Institutions.

- (1) Testing laboratories and research institutions, as defined herein, shall be a commercial use type.
- (2) Testing licensees shall not
 - a. hold a license in another facility or category established by this Chapter; or
 - b. own or have an ownership interest in any other facility or category licensed pursuant to this Chapter.

(D) Medical Cannabis Dispensaries.

- (1) Medical Cannabis Dispensaries, as defined herein, shall be a commercial use type.
- (2) This section applies to all medical cannabis dispensaries, as defined in Section 20.243.030 of this Chapter.

- (a) Medical cannabis dispensaries that cultivate nursery stock or seeds must comply with the provisions of Mendocino County Code Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*.
- (b) Dispensaries that engage in mobile deliveries are prohibited from having any advertisement of their business or services on their delivery vehicles.

(E) Retailers.

- (1) Retailer, as defined herein, shall be a commercial use type.
- (2) This section applies to all retailers, as defined in Section 20.243.030 of this Chapter.

- (a) On-site consumption of cannabis is permitted in outdoor areas, such as patios or decks, is allowed and shall adhere to existing smoking ordinances.
- (b) Promotional items and free product give-a-ways by adult use cannabis retailers is prohibited.

(F) Distribution Facility.

- (1) Distribution facility, as defined herein, shall be a commercial use type.

(G) Microbusinesses.

- (1) Adult Use Cannabis Microbusiness, as defined herein, shall be an industrial use type.
- (2) Microbusinesses with on-site cultivation must comply with and obtain a license at such time the County adopts an Adult Use Cultivation Ordinance).
- (3) Microbusinesses with on-site processing, distribution, wholesale, and/or retail sales of its products shall comply with all applicable sections of this Chapter.

20.243.050 General Limitations on Medical and Adult Use Cannabis Facilities.

- (A) The Applicant must have authorization as a qualified patient or as a primary caregiver to process, manufacture, test, dispense, or distribute, medical cannabis for medical use. This provision shall sunset consistent with the operative date of applicable provisions of MAUCRSA.
- (B) All cannabis facilities shall comply with all applicable regulations of in the Mendocino County Code, the California Department of Consumer Affairs, California Department of Public Health, and the MAUCRSA.
- (C) The processing, manufacturing, testing, dispensing, retail sales, and distributing of cannabis for medical and adult use in Mendocino County, shall not be allowed within six hundred (600) foot radius of a school providing instructions in kindergarten or any grades 1 through 12, day care center, park, church, residential treatment facility, youth-oriented facility or youth center that is in existence at the time the zoning clearance or permit is issued, unless the state licensing authority specifies a different distance. The distance between the above-listed uses and medical or adult use cannabis that is being processed, manufactured, tested, dispensed, retailed or distributed shall be measured in a straight line from the nearest point of the medical cannabis facility 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.

- (D) All structures associated with permitted medical and adult use cannabis facilities shall comply with the setbacks established by the zoning district in which the medical or adult use cannabis facility site is located.
- (E) All cannabis facilities shall be located in a permanent building in conformance with the Mendocino County Building Code for a commercial or industrial building, as applicable, and shall not be located in a dwelling unit, recreational vehicle, cargo container, motor vehicle or other similar personal property.
- (F) The processing, manufacturing, testing, dispensing, retailing, and distributing of medical and adult use cannabis is not permitted within any habitable space (i.e., kitchen, bedroom, bathroom, living room or hallway) of a dwelling unit nor is it permitted within any required parking space, except as otherwise allowed in this chapter.
- (G) Cannabis facilities proposed in Industrial zoning districts shall be subject to the provisions of Development Review pursuant to Chapter 20.188, as applicable.
- (H) Medical and adult use cannabis facilities shall implement the following security measures:
 - (1) Sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products.
 - (2) Security measures to prevent individuals from remaining on the premises of the facility if they are not engaging in activity expressly related to the operations of the facility.
 - (3) Establishing limited access areas accessible only to authorized personnel.
 - (4) Storing all medical or adult use cannabis and medical or adult use cannabis products in a secured and locked room, safe, or vault and in a manner sufficient to prevent diversion, theft, and loss.
 - (5) Diversion, theft, loss or any criminal activity involving the facility or any other breach of security must be reported to law enforcement.
- (I) Medical and adult use cannabis remnants, infused products, bi-products, and other waste material shall be disposed of in a safe, sanitary, and secure manner. Any portion of the medical and adult use cannabis remnants, products or bi-products being disposed of will be rendered unusable before disposal, will be protected from being possessed or ingested by any person or animal, and shall not be placed within the facility's exterior refuse containers.
- (J) Signage associated with permitted medical and adult use cannabis facilities shall meet the requirements set forth in Mendocino County Zoning Code Chapter 20.184, Sign Regulations, and other applicable State regulations.

20.243.060 Permit Types and Zoning Districts.

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

Table 1									
Permit Requirements for Processing, Manufacturing, Testing, Delivery, Dispensaries, Retailers, Distribution, Transportation and Microbusiness									
by Zoning District and Cannabis Facilities Code Permit Type									
		5	6, 6-NM, N, P	7 and 7-NM	8 and 8-NM	10	10-NM	11 and 11-NM	12-NM
		Processing	Manufacturing Level 1 (Non-volatile)	Manufacturing Level 2 (Volatile)	Testing	Dispensing	Retail	Distribution	Microbusiness*
Zoning District	RR 2	☒	☒	☒	☒	☒	☒	☒	☒
	RR 5	—	—	—	—	—	☒	—	☒
	RR 10	—	—	—	—	—	☒	—	☒
	R3	—	—	—	—	—	☒	—	☒
	RC	MUP	MUP	MUP	UP	UP	UP	UP	UP
	SR	—	—	—	—	—	☒	—	☒
	AG	—	—	—	—	—	☒	—	☒
	UR	—	—	—	—	—	☒	—	☒
	RL	—	—	—	—	—	☒	—	☒
	FL	—	—	—	—	—	☒	—	☒
	TPZ	—	—	—	—	—	☒	—	☒
	C1	—	—	—	—	MUP	MUP	—	☒
	C2	—	—	—	ZC	MUP	MUP	MUP	AP
	I1	ZC	ZC	MUP	ZC	UP	UP	ZC	UP
I2	ZC	ZC	MUP	ZC	UP	UP	ZC	UP	
PI	ZC	ZC	MUP	ZC	UP	UP	ZC	UP	

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

* Microbusiness shall be allowed at such time the County adopts an Adult Use Cultivation Ordinance and State Licenses are available.

20.243.070 Exceptions.

(A) Existing packing and processing facilities. Establishment of new cannabis facilities may be considered with a Major Use Permit in FL, AG, or RL Districts consistent with Section 20.243.110 *Planning Approval Required to Process, Manufacture, Test, Dispense, Retail, and Distribute, Cannabis for Medical and Adult Use*, where all of the following can be demonstrated:

- (1) The site has been previously permitted as a packing and processing facility prior to the effective date of these regulations.
- (2) The site is developed with an existing packing and processing facility, including buildings, roads, power source, water source, and sewage disposal system.
- (3) There will be no expansion of impervious surfaces.
- (4) There will be no new access roads or stream crossings.
- (5) No trees shall be removed.
- (6) The site is not within lands contracted under the Williamson Act.

If all of the above are true, substantial improvements to existing facilities and systems would be acceptable, subject to use permit conditions of approval.

- (B) Business offices for medical or adult use cannabis at which no cultivation, processing, storage, handling, or distribution of cannabis in any form occurs shall be allowed in any zone in which business offices are allowed. Business offices that are clearly incidental and secondary to the use of the premises for residential purposes where cannabis cultivation or manufacturing may occur are subject to the provisions of Mendocino County Code Chapter 20.156 *Home Occupations*. Medical and adult use cannabis business offices shall be subject to all the regulations and standards applicable to business offices in the Mendocino County Code.

20.243.080 Provisional Operation.

All medical cannabis facilities operating with an approved business license prior to the effective date of these regulations, that are allowed with an approved Zoning Clearance, Administrative Permit, Minor Use Permit, or Major Use Permit as required for the zoning district in which the medical or adult use cannabis facility is located (per Table 1) are eligible to continue operations on a provisional basis in a manner consistent with the requirements of this Chapter until such time as the permit application has been processed and the hearing body approves or denies the project.

20.243.090 Planning Approval Required for Processing, Manufacturing, Testing, Dispensary, Retail sales, and Distribution Facilities for Medical and Adult Use Cannabis.

- (A) Planning Approval Procedure. Each medical or adult use cannabis facility site is subject to one of the following planning procedures that correspond to the applicable zoning district, as specified by Table 1 of this Chapter. Planning and Building shall review the application in accordance with the applicable planning approval process.
- (1) Zoning Clearance. Planning and Building Services and the Department of Environmental Health shall review projects for compliance with applicable local regulations.
 - (2) Administrative Permits. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve, conditionally approve or deny an Administrative Permit for a medical or adult use cannabis facility based on the following special findings:
 - (1) The medical or adult use cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, as applicable.
 - (2) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.
 - (3) Minor Use Permits. 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 facility based on findings in Sections 20.196.020 and 20.196.030.
 - 1) The medical or adult use cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, as applicable.

- 2) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.
- (4) Major Use Permits. 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 Major Use Permit for a medical cannabis cultivation site based on findings in Sections 20.196.020 and 20.196.030.
 - (1) The medical or adult use cannabis facility site is allowed in the zoning district and it is in compliance with the provisions of this Chapter and Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, as applicable.
 - (2) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.
- (B) The County shall notify any State licensing authority, as defined by the MAUCRSA, as applicable, whenever the County business license, Administrative Permit or Minor or Major Use Permit has been revoked or terminated.

20.243.100 Permit Application Submittal Requirements for Administrative Permits, Use Permits and Major Use Permits for Medical and Adult Use Cannabis Facilities.

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

Applicants for a permit for a medical or adult use cannabis facility shall provide the standard application materials for Administrative Permits, Use Permits, and Major Use Permits, as applicable, and all of following information on, or as an attachment to, the application:

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

20.243.110 Permit Revocation.

An Administrative Permit or Use Permit may be revoked or modified according to the revocation or modification provisions in Mendocino County Code sections 20.192.060 and 20.192.065 or sections 20.196.055 and 20.196.060, respectively. Grounds for seeking revocation or modification include: non-

compliance with one or more of the requirements listed in this Code; failure to comply with the requirements of the Mendocino County Certified Unified Program Agency (CUPA), or any of the grounds listed in code sections identified in this paragraph, as applicable, and any successor provisions.

20.244.120 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.

CHAPTER 20.156 - HOME OCCUPATIONS

Sec. 20.156.005 - Declaration.

It is the intent of this Chapter to provide for the accessory use of a dwelling or accessory building(s) on the same parcel as the dwelling for gainful employment involving the manufacture, provision, or sale of goods and/or services. The use must be clearly incidental and secondary to the use of the premises for residential purposes and must not change or adversely affect the residential or rural character of the property or its surroundings. A use permit is not required to conduct a home occupation; however, such use shall be subject to all conditions of this Division generally, such as off-street parking, and all other permits required under County Code, such as building permits and business licenses.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4017 (part), adopted 1998)

Sec. 20.156.010 - General Standards.

The particular uses conducted as the home occupation, and their operation and appearance, shall not change or disturb the residential or rural character of the premises or its surrounding.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.156.015 - Specific Standards.

Home occupations shall conform to the following requirements:

- (A) No person other than members of the family residing on the premises shall be engaged in the home occupation; provided, however, that one (1) employee shall be permitted when the property on which the home occupation is located is a minimum of forty thousand (40,000) square feet.
- (B) The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. All aspects of the home occupation, including storage, shall be conducted entirely within the dwelling unit or enclosed accessory building(s) on the premises. The total area used for the home occupation shall not exceed six hundred forty (640) square feet.
- (C) The home occupation shall not result in any change in the outside appearance of the building or premises, or other visible evidence of the conduct of such occupation, other than one (1) nonilluminated sign not exceeding two (2) square feet.
- (D) The sale of merchandise not produced on the premises (except mail order businesses) shall be incidental and accessory to the merchandise or service produced by the home occupation, and shall not be advertised in any manner.
- (E) Not more than ten (10) customers or clients shall come to the premises during any one (1) day, restricted to the hours 8:00 a.m. to 8:00 p.m. Not more than three (3) delivery vehicles shall access the premises each day.
- (F) Heavy commercial vehicles shall not be used in the home occupation for delivery of materials to or from the premises.
- (G) No mechanical or electrical equipment shall be employed other than machinery or equipment typical of the type or specifications used in a hobby or a vocation customarily conducted within the confines of the dwelling unit.

- (H) No equipment or process used shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4017 (part), adopted 1998)

Sec. 20.156.020 - Examples of Uses That Frequently Qualify as Home Occupations.

The following are typical examples of uses which often can be conducted within the limits of the restrictions established in this Division and thereby qualify as home occupations. Uses which qualify as home occupations are not limited to those named in this Section (nor does the listing of a use in this Section automatically qualify it as a home occupation):

- (A) Artists and sculptors;
- (B) Authors and composers;
- (C) Babysitters;
- (D) Beauticians and barbers, limited to one chair;
- (E) Dressmaking, seamstress and tailors;
- (F) Day care center, family care home, or school for six (6) or less persons;
- (G) Home crafts, such as model making, rug weaving, lapidary work, photography, or ceramics;
- (H) Repair or fix-it shop for items normally found in or around the home;
- (I) Office facility of an architect, attorney, broker, consultant, dance instructor, doctor, dentist, engineer, instructor in arts and crafts, insurance agent, land surveyor, music instructor, real estate agent, tutor or off-site service providers;
- (J) Off-site service providers;
- (K) Food and beverage preparation—without consumption;
- (L) Mail order businesses.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4017 (part), adopted 1998)

CHAPTER 20.160 - COTTAGE INDUSTRIES

Sec. 20.160.005 - Declaration.

It is the intent of this Chapter to provide for limited commercial and industrial uses in conjunction with a dwelling which are more extensive than home occupations, but which, like home occupations, do not alter or disturb the residential or rural nature of the premises or its surroundings. Such limited commercial and industrial uses are known as cottage industries and are defined within this Chapter.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.160.010 - Permit.

- (A) Cottage industries are permitted upon issuance of a Minor Use Permit.
- (B) A use permit for a Cottage Industry may be granted for an unlimited period of years, unless the Zoning Administrator determines that a shorter period is more appropriate to ensure conformance with the intent and standards of this Section or other applicable requirements.
- (C) Findings of compatibility must be made before the use permit is granted.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.160.015 - General Standard.

- (A) The particular uses conducted by the cottage industry, and their operation and appearance, shall not change or disturb the residential or rural character of the premises or its surroundings.
- (B) The use is environmentally sound regarding the project site and region.
- (C) No additional service demands will be created by the use.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.160.020 - Specific Standards for Cottage Industries—Limited.

Cottage Industries—Limited shall conform to the following requirements:

- (A) Not more than two (2) employees working on the premises in addition to the members of the family residing on the premises;
- (B) The cottage industry shall be clearly incidental and subordinate to the use of the premises for residential purposes;
- (C) Multiple uses may be permitted within the cottage industry. The total area occupied by all uses within the cottage industry, including storage, shall not exceed one thousand (1,000) square feet;
- (D) All aspects of the cottage industry shall be located and conducted within a dwelling unit or enclosed accessory building(s), with the exception of outdoor storage of materials, products or vehicles as specifically provided by the use permit when completely screened from the street and adjoining properties. There shall be no other change in the outside appearance of the building or premises, except one (1) nonilluminated sign not exceeding four (4) square feet;

- (E) The sale of merchandise not produced on the premises (except mail order only businesses) shall be incidental and accessory to the merchandise or service produced by the cottage industry and shall not be advertised in any manner;
- (F) Not more than ten (10) customers or clients shall come to the premises during any one (1) day. Not more than three (3) delivery vehicles shall access the premises each day;
- (G) Large vehicles or construction equipment (such as trucks of over one (1) ton rating) shall not be operated, maintained, or parked in public view in connection with a cottage industry, except to the extent customarily used by residents in the surrounding neighborhood on their own property. Not more than one (1) vehicle for servicing may be parked in public view;
- (H) No equipment or process used in the cottage industry shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood, nor shall noise exceed the one (1) or two (2) family residential standards in Appendix C at the property line.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4017 (part), adopted 1998)

Sec. 20.160.025 - Specific Standards for Cottage Industries—General.

Cottage Industries—General shall conform to the following requirements:

- (A) Not more than three (3) employees working on the premises in addition to the members of the family residing on the premises;
- (B) The cottage industry shall be incidental and subordinate to the use of the premises for residential purposes;
- (C) Multiple uses are permitted within a cottage industry. The area occupied by all uses within the cottage industry, including storage, shall not exceed two thousand (2,000) square feet. All aspects of the cottage industry shall be located and conducted within a dwelling unit or enclosed accessory building(s), except as specifically provided by the use permit;
- (D) One (1) nonilluminated sign not to exceed four (4) square feet shall be permitted;
- (E) The sale of merchandise not produced on the premises (except mail order only businesses) shall be incidental to the merchandise or service produced by the cottage industry and shall not be advertised in any manner;
- (F) Not more than ten (10) customers or clients shall come to premises during any one (1) day, restricted to the hours 8:00 a.m. to 8:00 p.m. The use and parking of large vehicles or construction equipment (such as trucks of over one (1) ton rating, or vehicles being repaired) shall be regulated by the use permit;
- (G) No equipment or process used shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood, nor shall noise exceed the one (1) or two (2) family residential standards in Appendix C at the nearest off-site dwelling unit.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4017 (part), adopted 1998)

Sec. 20.160.030 - Examples of Uses Permitted Upon Securing a Minor Use Permit.

- (A) The following uses may be conducted as Cottage Industries—Limited in the S-R, RR-1, RR-2, R-C, and C-1 Districts, subject to securing a minor use permit and compliance with the criteria in Section 20.160.020:

Administrative and business offices;

- Animal sales and services—household pets;
- Automotive and equipment—repairs, light;
- Building maintenance services;
- Business equipment sales and services;
- Custom manufacturing;
- Food and beverage preparation—without consumption;
- Mail order businesses;
- Medical services;
- Personal services;
- Repair services, consumer.

(B) The following uses may be conducted as Cottage Industries—General in the RR-5, RR-10, U-R, A-G, R-L, F-L and T-P zoning districts, subject to securing a minor use permit and compliance with the criteria in Section 20.160.025:

- Administrative and business offices;
- Agricultural sales and services;
- Animal sales and services—household pets;
- Automotive and equipment—repairs, light;
- Automotive and equipment—repairs, heavy;
- Building maintenance services;
- Business equipment sales and services;
- Construction sales and services;
- Custom manufacturing;
- Food and beverage preparation—without consumption;
- Forest production and processing—commercial woodlots;
- Mail order businesses;
- Packing and processing—all types;
- Personal services;
- Repair services, consumer.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4017 (part), adopted 1998)

Sec. 20.160.035 - Conflict Resolution.

Where a use permitted in this chapter is permitted in a zoning district without the necessity of obtaining a use permit the regulations of the zoning district shall apply.

(Ord. No. 4017 (part), adopted 1998)

CHAPTER 20.188 - DEVELOPMENT REVIEW

Sec. 20.188.005 - Intent.

It is the purpose of this Chapter to develop a formal development review process for certain properties industrially zoned.

The objective of this Chapter is to provide for a review process of certain projects proposed for industrial lands.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.010 - Improvements Subject to Development Review.

- (A) Projects subject to development review shall be those projects, located in an industrial zone and:
 - (1) Identified in Appendix A which are found to require further review due to the specific nature of the proposed activity; or
 - (2) Identified in Appendix B which require mitigation of negative environmental impacts identified in the Environmental Checklist.
- (B) Projects subject to obtaining a use permit are not subject to this Chapter.
- (C) Structures and/or improvements mandated by agencies such as Environmental Health, Air Pollution Control District, Regional Water Quality Control Board or Environmental Protection Agency shall not be subject to development review where such mandates are imposed to mitigate adverse environmental impacts in a timely manner.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.015 - Development Review Package and Application Form.

The formal application for development review shall be in the form required by the Department of Planning and Building Services and shall include the following package of information for staff review:

- (A) The Environmental Review Checklist; and
- (B) New Development: site plans and building elevation plans.
- (C) Existing Project: site plan.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.020 - Development Projects Subject to Further Review.

- (A) If, after review of the Environmental Review Checklist, it is determined that there are no significant adverse environmental impacts, no further requirements under this Chapter shall be imposed.
- (B) If, after review of the Environmental Review Checklist, it is determined that the development project may have a significant adverse environmental impact then the applicant shall be subject to Section 20.188.025.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.025 - Development Review Process.

It is the intent of this Chapter that those industrial projects subject to development review shall be expedited and that processing of building and health permits and a business license shall occur simultaneously with development review processing. Upon the completion of development review and environmental clearance, the developer shall be entitled to receive building and health permits and a business license.

- (A) The Department of Planning and Building Services shall follow the "State CEQA Guidelines" as set forth in Chapter 3 of Title 14 of the California Administrative Code in processing the development project.
- (B) If applied for by the developer, building and health permits and a business license shall be processed simultaneously with the development review so that they may be issued immediately upon environmental clearance.

- (C) A new or changed industrial use shall require further review pursuant to this Chapter. The developer, tenant, lessee, or occupant shall report a new or changed industrial use to the Department of Planning and Building Services and shall not commence construction or operation of that use until he or she has received approval from the Department of Planning and Building Services and obtained a business license.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.030 - Final Plans and Certification.

The Department of Planning and Building Services shall review, correct and certify, by stamp, that the plans are in conformance with any specified requirements. Once approval is given, a stamped set of final plans shall be sent to the developer, Public Works Department, Public Health Department Division of Environmental Health, and Building Inspection Division and be filed with the Department of Planning and Building Services.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.035 - Appeals.

The conditions of approval may be appealed as provided in Chapter 20.208 (Appeals), Section 20.208.015.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.040 - Prohibitions.

No work shall be commenced nor any building occupied, until the industrial development project has received approval pursuant to this Chapter, except as specified in Section 20.188.060.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.045 - Nuisances.

Any improvement constructed, located, repaired, altered, or maintained contrary to the provisions of this Division is hereby declared to be unlawful and a public nuisance.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.050 - Effect on Other Laws.

Nothing in this Division shall be construed to exempt any applicant from compliance with any requirement of any other law of the County or the Mendocino County General Plan or amend any such other law or plan.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.188.060 - Exceptions.

At the discretion of the Zoning Administrator, permits may be authorized for:

- (A) Preliminary grading and excavating; or
- (B) Foundation work.

(Ord. No. 3639 (part), adopted 1987)

Resolution Number _____

County of Mendocino
Ukiah, California
September 7, 2017

OA_2017-0001

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS REGARDING PROPOSED AMENDMENT TO THE MENDOCINO COUNTY CODE TO ADD CHAPTER 20.243 MEDICAL AND ADULT USE CANNABIS FACILITIES OF THE MENDOCINO COUNTY INLAND ZONING ORDINANCE.

WHEREAS, the County of Mendocino desires to regulate cannabis facilities within the inland areas of the unincorporated areas of Mendocino County in a manner consistent with State law.

WHEREAS, County staff has, under the direction of the Board of Supervisors of Mendocino County, prepared a draft regulation in the form of a proposed new chapter of the Mendocino County Code: Chapter 20.243 – Medical and Adult Use Cannabis Facilities of the Mendocino County Inland Zoning Ordinance,

WHEREAS, it has been determined that the project is exempt from CEQA pursuant to CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.) Section 15061(b)(3) in accordance with the California Environmental Quality Act (Public Resources Code section 21000 et seq.; “CEQA”) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on September 7, 2017, to solicit public comments on the proposed Chapter, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the proposed Chapter. All interested persons were given an opportunity to hear and be heard; and

WHEREAS, pursuant to Government Code section 65850 et seq., the Planning Commission is to provide its report and recommendation to the Board of Supervisors on ordinances related to land use regulation; and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, based on the evidence in the record before it and the findings and determinations provided in the staff report, recommends that the Board of Supervisors find that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), that the project is consistent with the General Plan, and adopt Ordinance Amendment OA-2017-0001 to add 20.243 to the Mendocino County Code, in the form of the Chapter-attached to this resolution as Exhibit A,

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

ATTEST: VICTORIA DAVIS
Secretary to the Planning Commission

By: _____

BY: IGNACIO GONZALES
Interim Director

MADELIN HOLTkamp, Chair
Mendocino County Planning Commission

Title 6 – Business License and Regulations

Chapter 6.36 – Cannabis Facilities

6.36.010 – Definitions.

Unless otherwise defined in this Chapter, the terms and phrases used in this Chapter shall have the same definitions as provided in Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and Chapter 20.243 *Medical and Adult Use Cannabis Facilities*.

“Cannabis Facilities Business License” means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, dispensing, retail sales, distributing, and/ or microbusiness within the County. The business license shall be in the form prescribed by the Tax Collector and must contain, at a minimum, the licensee's name, the business name, type of business, location of business, commencement and expiration dates of the license, and fee remitted. A Cannabis Facilities Business License shall be required for both an Adult Use Cannabis Facility or a Medical Cannabis Facility, as those terms are defined in Section 20.243.050.

“Cannabis facility” means either an Adult Use Cannabis Facility or a Medical Cannabis Facility, as those terms are defined in Section 20.243.050.

6.36.020 – Requirement for Cannabis Facility Business License.

- (A) It shall be unlawful for any Person to transact any business in the unincorporated area of Mendocino County for which a license is required by this Chapter, without possessing a valid and current Mendocino County Cannabis Facilities Business License for such business issued by the Mendocino County Tax Collector (Tax Collector).
- (B) Cannabis facilities shall be required to comply with other provisions of the Mendocino County Code, including but not limited to, Chapters 10A.17, 20.242, and 20.243, as applicable.
- (C) Persons applying for a Cannabis Facilities Business License shall obtain a valid California State license required under MCRSA and AUMA as soon as such State licenses become available.
- (D) A Person who obtains a Cannabis Facilities Business License under this Chapter 6.36 for a cannabis facility shall not be required to obtain a separate business license under Chapter 6.04 for the same activity.
- (E) The business license requirement set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
- (F) Cannabis facilities in existence prior to January 1, 2017, that had an approved County business license under Chapter 6.04 may continue to operate under that business license until that license is scheduled to be renewed, at which time the cannabis facility shall apply for a license under this Chapter 6.36.

6.36.030 – License Fee and Category Types.

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

- (A) Processing Facilities.

- (B) Manufacturing Facilities.
- (C) Testing Laboratories and Research Institutions.
- (D) Medical Cannabis Dispensaries.
- (E) Adult Use Cannabis Retailers.
- (F) Distribution Facilities.
- (G) Adult Use Cannabis Microbusinesses.

6.36.040 – Administration.

- (A) ISSUING OFFICER. All business licenses required by this Chapter shall be issued by the Tax Collector upon completion and approval of a Cannabis Facility Business License application, assuming all pertinent requirements are met, and payment of the proper fee in lawful money of the United States.
- (B) TERM OF LICENSE. A license issued pursuant to this Chapter shall be valid for twelve (12) months from the date of issuance. The license shall be renewed annually.
- (C) NUMBER OF LICENSES REQUIRED. A separate license is required for each separate place of business even if the businesses are owned or operated by the same Person. If more than one facility type is being conducted at one location, a separate license is required for each facility type.
- (D) BOARD OF EQUALIZATION PERMIT. A State of California Board of Equalization (Board of Equalization) Seller's Permit is required to collect and remit sales tax to the Board of Equalization if the applicant intends to sell medical or adult use cannabis and/or cannabis products between license types or sell directly to qualified patients, primary caregivers, or adult use customers.
- (E) ACCOUNTING. The Tax Collector shall deposit all Business License Fees to the proper fund in the County Treasury. The original copy of each license issued by the Tax Collector shall bear the County seal.
- (F) No County employee responsible for implementing or enforcing the provisions of this Chapter may have a direct or indirect financial interest in a cannabis facility or be employed by, or volunteer at, a cannabis facility.

6.36.050 – Location.

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

6.36.060 – Application Procedure.

- (A) The Office of the Tax Collector shall refer the application to the Department of Planning and Building Services, the Division of Environmental Health, and other departments or divisions as necessary, to verify that the application is in compliance with County Code provisions and that the applicant has valid County license(s), permit(s), and/or other approvals, as required, prior to issuing any County Cannabis Facility Business License. The Office of the Tax Collector shall charge the applicant all fees required under the Master Fee Schedule for these referrals.
 - (1) All County cannabis facility business licenses are provisional until a valid State of California license, as required under MCRSA or AUMA, is verified.
 - a. A copy of the State license issued pursuant to MCRSA or AUMA must be filed with the Tax Collector within 15 days of issuance.
 - (2) If a cannabis facility is denied a state license under MCRSA or AUMA, the provisional local County Cannabis Facility Business License will become invalid.

- (B) Within ten (10) days of filing a complete cannabis business license application with the Office of the Tax Collector, each business owner, partner, and operator/manager (if they are not the owner) are required to have a LiveScan criminal history inquiry. Each business owner, partner, operator/manager (if they are not the owner) shall provide the Sheriff with written permission authorizing the Sheriff to complete a LiveScan criminal history inquiry to determine if a criminal history record exists for the person or shall complete a LiveScan criminal history inquiry at a location certified and approved by the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). The reasonable costs of a LiveScan criminal history inquiry and review done by the Sheriff pursuant to this section shall be the responsibility of the business owner, partner, and operator/manager and shall be paid in advance to the Sheriff. LiveScan criminal history inquiries completed at a certified and approved LiveScan location shall have the results sent to the Sheriff.
- (C) The Sheriff's deputy or employee charged with the duty of making the inquiry shall determine whether the business owner, partner, and operator/manager has any criminal convictions that would disqualify the applicant pursuant to California Business and Professions Code Section 19323. A LiveScan report will be considered "failed" if the report includes any felony conviction within the past ten (10) years and/or reflects that the applicant or owner is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses committed prior to January 1, 2016, will not result in a failed LiveScan, unless the offense involved sales to a minor.

6.36.070 – Issuance of License.

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

- (A) The application is incomplete or inaccurate.
- (B) Determination by the County that the application or the facility is not in compliance with the provisions of the Mendocino County Code including but not limited to this Chapter and Chapters 10A.17, 20.242, and 20.243.
- (C) Provision of false or misleading information by the Applicant to the County.
- (D) The failure or refusal of a licensed facility to comply with any of the provisions of this Chapter.
- (E) The failure or refusal to carry out the policies and procedures or comply with the statements provided to the County with the application of the facility.
- (F) The failure or refusal to cooperate fully with an investigation or inspection by the County.

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

6.36.080 – Business License Renewal.

- (A) A Cannabis Facility Business License renewal application and renewal fee must be submitted pursuant to Section 6.36.040(B). Failure to submit a renewal application will result in the automatic expiration of the Cannabis Facility Business License on the expiration date.
- (B) A Cannabis Facility Business License may not be renewed if any of the following occurred during the previous year or currently exist: violations of or non-compliance with the license, these regulations, or any of the provisions of the Mendocino County Code, including, but not limited to,

Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, Chapter 20.243 *Medical and Adult Use Cannabis Facilities Code*.

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

6.36.090 – Display of License.

It shall be unlawful for any Person who engages in any business for which a Mendocino County Business License is required to fail, or refuse, to post the same in a conspicuous place in their place of business.

6.36.100 – Licenses Nontransferable.

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

6.36.110 – Track and Trace.

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

6.36.120 –Violations.

- (A) VIOLATION OF CANNABIS FACILTIES LAWS. It shall be a violation of this Chapter for a Person or his or her agent or employee to violate any local, or state, cannabis facilities-related law.
- (B) LICENSE COMPLIANCE MONITORING. Compliance checks of each Cannabis Facility may be conducted by the County. The County shall not enforce any cannabis facilities minimum age law against a person who otherwise would be in violation of such law because of the person's age if the violation occurs when the person is participating in a compliance check, and is supervised by a law enforcement official, a code enforcement official, or any peace officer.
- (C) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation of this Chapter.
- (D) Violations of this Chapter are hereby declared to be public nuisances.

6.36.130 –Termination or Revocation of License.

- (A) TERMINATION OF LICENSE UPON EXPIRATION. A Cannabis Facility Business License expires if not renewed pursuant to Section 6.36.080 of this Chapter. Upon expiration, a Cannabis Facility Business license shall automatically be deemed terminated. Termination based on expiration shall not prevent a Person from submitting a new application for a Cannabis Facilities Business License.
- (B) REVOCATION OF LICENSE AFTER HEARING. The Board of Supervisors of Mendocino County may revoke a Cannabis Facility Business License of any Person after finding that the Person was guilty of some act which would otherwise disqualify such entity from obtaining such license, or after finding that the Person transacted or operated its business in any manner contrary to any law, ordinance, chapter, rule or regulation. The Board of Supervisors

may make the finding forming the basis for license revocation after hearing evidence thereon as any interested person may present at a public hearing held at least ten (10) days prior to the meeting at which action on such revocation takes place. Any Person whose Cannabis Facility Business License is revoked in this manner shall be disqualified from obtaining a Cannabis Facility Business License unless the Board of Supervisors waives such disqualification.

(C) IMMEDIATE REVOCATION OF LICENSE, NO HEARING. After the State begins issuing licenses for Cannabis Facilities, the Cannabis Facility Business License shall be immediately revoked upon one or more of the following events occurring:

- (1) Notification to the County that the State of California has revoked a State license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law for a medical cannabis facility.
- (2) Failure to obtain and maintain a valid and current state licenses pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.

6.36.140 – Enforcement.

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

6.36.150 – Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The Board of Supervisors of the County of Mendocino hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof independently, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.