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CHIEF EXECUTIVE OFFICER
CLERK OF THE BOARD

CHRISTIAN M. CURTIS
COUNTY COUNSEL

MENDOCINO COUNTY GENERAL GOVERNMENT COMMITTEE AGENDA

SPECIAL MEETING

October 10, 2023 - 9:00 AM

Meeting Location(s): 501 Low Gap Road, Room 1070, Ukiah, CA. 95482 (Board Chambers)

Zoom Link: <https://mendocinocounty.zoom.us/j/87887263361>

Zoom Phone Number (if joining via telephone): 1 669 900 9128 ; Zoom Webinar ID: 878 8726 3361

Listed below are some of the Board of Supervisors Public Engagement options. For streaming options and a complete list of ways to interact with agenda items (or more information on any of these listed) please visit: <https://www.mendocinocounty.org/government/board-of-supervisors/public-engagement>

Written Comment

- Submit online via the eComment platform at <https://mendocino.legistar.com/Calendar.aspx>

Verbal Comment

- Speak in person at any physical meeting location when the Chair calls for Public Comment
- Join the Zoom Webinar and use the "raise hand" feature when the Chair calls for Public Comment (if joining via telephone: press *9 to raise your hand, and *6 to unmute yourself when called)
- Leave a voicemail message, up to 3 minutes in length, by calling 707-234-6333

*Note: Voicemail comments will no longer be played back during Open Session, but are immediately available to the full Board of Supervisors upon submittal.

COMMITTEE MEMBERS: Chair Haschak and Supervisor Mulheren**1) CALL TO ORDER****2) COMMITTEE ACTION ITEMS**

- 2a) Discussion and Possible Action Including Providing Recommendations to Staff and a Referral to the Board of Supervisors Regarding the Streamlining of Cannabis Department Programs and Chapter 10A.17 (Sponsors: Cannabis and County Counsel)

Recommended Action:

Provide recommendations to staff and referral to the Board of Supervisors regarding the streamlining of Cannabis Department programs and Chapter 10A.17.

Attachments: [Cannabis Ordinance Amendment \(10.10.23 Draft\)](#)

3) OTHER BUSINESS**3a) PUBLIC EXPRESSION**

Members of the public are welcome to address the Committee on items not listed on the agenda, but within the jurisdiction of the Committee. The Committee is prohibited by law from taking action on matters not on the agenda.

Individuals wishing to address the Committee under Public Expression are welcome to do so via any method listed on the front page of this agenda or on our Public Engagement page, at: <https://rb.gy/d3p0>

For more information on any of these methods, please call the Mendocino County Clerk of the Board at (707) 463-4441

3b) ANNOUNCEMENTS**ADJOURNMENT**

Additional Meeting Information for Interested Parties

For a full list of the latest available options by which to engage with agenda items, please visit <https://www.mendocinocounty.org/government/board-of-supervisors/public-engagement>

All electronically submitted comment is immediately available to Supervisors, staff, and the general public by clicking this meetings eComment link at: <https://mendocino.legistar.com/Calendar.aspx>

LIVE WEB STREAMING OF COMMITTEE MEETINGS is available at <https://mendocino.legistar.com> or visit the Mendocino County YouTube channel. Meetings are also livestreamed from the Mendocino County Facebook page. For technical assistance, please contact the Clerk of the Board at (707) 463-4441. Please reference the departmental website to obtain additional resource information for the Board of Supervisors: www.mendocinocounty.org/bos

Thank you for your interest in the proceedings of the General Government Committee.



Mendocino County Board of Supervisors Agenda Summary

Item #: 2a)

To: General Government Standing Committee

From: Cannabis and County Counsel

Meeting Date: October 10, 2023

Department Contact: Sara McBurney

Phone: 707-234-6680

Department Contact: Jared Schwass

Phone: 707-234-6885

CEO Contact: Steve Dunncliff

Phone: 707-463-4441

Time Allocated: 1 Hour

Agenda Title:

Discussion and Possible Action Including Providing Recommendations to Staff and a Referral to the Board of Supervisors Regarding the Streamlining of Cannabis Department Programs and Chapter 10A.17
(Sponsors: Cannabis and County Counsel)

Recommended Action/Motion:

Provide recommendations to staff and referral to the Board of Supervisors regarding the streamlining of Cannabis Department programs and Chapter 10A.17.

Previous Board/Board Committee Actions:

On May 17, 2022, the Board of Supervisors (Board) directed department staff to return with an answer as to whether the current cannabis ordinance process is as streamlined as possible, and if not, provide recommendations on more streamlined versions with pros and cons.

On October 4, 2022, the Board discussed and directed staff regarding the Cannabis Ad Hoc Recommendations, including direction to bring Ad Hoc Recommendations 8., 11., and 12., to the General Government Committee for discussion and recommendation.

On March 14, 2023, the Board directed County Counsel to prepare a draft ordinance and environmental document removing or streamlining local cannabis permit requirements while maintaining all of the same environmental protection measures.

At an April 14, 2023, special meeting of the General Government Committee, a draft of the ordinance was reviewed, and recommendations were made.

On May 23, 2023, the Board of Supervisors adopted 23-0600, an Addendum to the Previous Adopted Mitigated Negative Declaration for Amendments to Mendocino County Code Chapters 10A.17 and 20.242 Streamline Cannabis Cultivation Permitting Processes and Approving an Amended Mitigation Monitoring and Reporting Program.

During the September 25, 2023 meeting of the General Government Committee (GGC), October 10 at 9:00 was set as the date and time of a special GGC meeting to discuss potential changes to Chapter 10A.17 and make recommendations, potentially to include a referral to the full Board.

Summary of Request/Referral:

Staff from the Cannabis Department and Office of County Counsel have conducted two public meetings to

Item #: 2a)

receive feedback from the community on opportunities to further streamline the cannabis program. Input from the GGC is requested, along with recommendations and a potential referral to the Board of Supervisors from the Standing Committee for further streamlining of Cannabis Department programs and Chapter 10A.17.

Supplemental Information Available Online At: n/a

Fiscal Details:

source of funding: n/a

current f/y cost: n/a

annual recurring cost: n/a

budget clarification: n/a

budgeted in current f/y: N/A

if no, please describe:

revenue agreement: N/A

CEO Liaison: Executive Office

CEO Review: Yes

CEO Comments:

FOR COB USE ONLY

Executed By: Atlas Pearson, Senior Deputy Clerk

Final Status:**No Action Taken**

Date: October 10, 2023



ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 10A.17 – MENDOCINO CANNABIS CULTIVATION ORDINANCE

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

Section 1: Section 10A.17.020 is hereby amended to read as follows:

Sec. 10A.17.020 – Definitions.

As used herein the following definitions shall apply:

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

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

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

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

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

"Cannabis Cultivation Business License" or "CCBL" means a business license issued to persons engaged in the cultivation of cannabis in Mendocino County pursuant to this Chapter

"CCBL Holder" means a person issued a CCBL to engage in the cultivation of cannabis in Mendocino County pursuant to this chapter.

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

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

"Cultivation cycle" means each individual cycle where cannabis plants are grown

to maturity from seeds, clones, or nursery starts.

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

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

"Department" means the Mendocino County Cannabis Department or the authorized representatives thereof, or such other department, division, or representative as designated by the Board of Supervisors.

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

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

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

"Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one-half (½) inch wide at its widest point.

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

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

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

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

"Indoor cultivation" or "indoors" means within a fully enclosed and secure structure that complies with the California Building Code, as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two (2) inches by four (4) inches or thicker studs overlain with three-eighths (3/8) inches or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

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

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

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

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

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

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

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

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

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

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

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

singular number.

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

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

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

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

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

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

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

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

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

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

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

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

Section 2: Section 10A.17.030 is hereby amended to read as follows:

Sec. 10A.17.030 – CCBL Required; Exemptions.

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

and other permit requirements of paragraph (A) of this section, subject to compliance with the following requirements:

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

Section 3: Section 10A.17.040 is hereby amended to read as follows:

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

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

- (A) The cultivation of cannabis in Mendocino County, in any amount or quantity by any entity, shall not be allowed in the following areas:
- (1) Within one thousand (1,000) feet of a ~~youth~~ youth-oriented facility, a ~~s~~chool, or a ~~P~~ark as defined herein that is in existence at the time a CCBL is initially applied for.
 - (2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate legal parcel; provided, however, that ~~for Phase Three applicants on January 1, 2020,~~ this setback shall be increased to two hundred (200) feet for all CCBL applications but shall not apply to renewals of CCBL's originally issued ~~before that date to~~ Phase One or Phase Two applicants.
 - (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) Intentionally omitted.
- (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 ~~for Phase Three applicants on January 1, 2020,~~ this setback shall be increased to one hundred (100) feet for all CCBL applications but shall not apply to renewals of CCBL's originally issued before that ~~date to Phase One or Phase Two applicants.~~
- (6) Any indoor cultivation sites that comply with paragraph (A)(1) shall also be subject to the following:
 - (a) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.
 - (b) The cultivation of cannabis within an accessory structure shall be allowed subject to the development requirements of the zoning district in which it is located and to requirements of Chapter 20.164—Accessory Use Regulations except, notwithstanding Section 20.164.010: (a) the cultivation of cannabis in an accessory structure is not permitted prior to the construction of the legal dwelling unit on the parcel, if a legal dwelling unit is required by this Chapter, and (b) cultivation of cannabis shall only be allowed on the same parcel as the dwelling unit, if required. Nothing in this section 10A.17.040(A)(6)(b) precludes the use of County Code Chapters 20.156 and 20.160 regarding Home Occupation and Cottage Industry uses and limitations, respectively.
 - (c) Indoor cultivation sites for individuals desiring to cultivate cannabis for adult use pursuant to section 10A.17.030(C) shall also be subject to the following limitation: cultivation sites located within a private residence that is a rental unit, as that term is defined by County Code section 20.008.050, shall not be located in any indoor space other than a garage or accessory structure.
- (B) The distance between the listed uses in the above paragraph (A)(1) and cannabis that is being cultivated shall be measured in a straight line from the nearest point of the ~~fence required in section 10A.17.040(H) cultivation site~~, or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest point of the exterior wall of the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs or to the nearest point of any fenced, maintained or improved area where the users of the facility are typically present during normal hours of operation, whichever is closest. The distance in paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the ~~fence required in section 10A.17.040(H) cultivation site~~ to the nearest exterior wall of the residential structure. The distance in paragraph (A)(5) shall be measured from the ~~fence required in section 10A.17.040(H) cultivation site~~ to the boundary line of a legal parcel or access easement.

Applicants may seek a reduction in the setback described in paragraphs (A)(1) and (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242. See also sections

20.242.060(D) and 20.118.040(D), (E), and (F) for further exceptions to setback regulations.

- (C) The outdoor, indoor, or mixed light cultivation of cannabis shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.
- (D) The indoor or mixed-light cultivation of cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light cultivation cannabis shall not rely on a generator as a primary source of power.
- (E) All lights used for the indoor or mixed light cultivation of cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.
- (F) All activities associated with the cultivation of cannabis shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.
- (G) All cultivation of cannabis shall not utilize water that has been or is illegally diverted from any spring, wetland, stream, creek, or river. The activities associated with the cultivation of cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.
- (H) All commercial cannabis grown in Mendocino County shall be secured by the required security measures found in California Code of Regulations Title 4, Division 19, as amended from time to time. ~~(excluding indoor growing) must be within a secure fence of at least six (6) feet in height that fully encloses the garden area. The fence must include a lockable gate that is locked at all times when a qualified patient, caregiver or CCBL Holder (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.~~
- (I) All buildings where cannabis is cultivated or stored shall be properly secured to prevent unauthorized entry.
- (J) Persons cultivating cannabis pursuant to either section 10A.17.030, paragraphs (B) or (C) shall also comply with the provisions of section 10A.17.070, paragraph (Q), and section 10A.17.090, paragraph ~~(E)~~(3).

(K) Prohibition on Tree Removal. Removal of any commercial tree species as defined by Title 14 California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the

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removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to address safety or disease concerns. For purposes of this Section 10A.17.040(K), "for the purpose of developing a cultivation site" shall mean the alteration, grading, removal, or other development of land to create, or expand, a cultivation site, as that term is defined in Section 10A.17.020.

(L) All cannabis grown in Mendocino County pursuant to an exemption provided for in Section 10A.17.030 (excluding indoor cultivation or otherwise cultivated in a secure structure) must be within a secure fence that fully encloses the garden area. The fence must include a lockable gate that is locked at all times when a qualified patient or caregiver is not in the immediate area. Said fence shall not violate any other ordinance, code section, or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

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Section 4: Section 10A.17.060 is hereby amended to read as follows:

Sec. 10A.17.060 – CCBL Types.

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

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

- (1) "Type" C" for small outdoor cultivation of mature cannabis without the use of—
~~using no~~ artificial lighting not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy:—
- (2) "Type C-A" for small indoor cultivation using exclusively artificial lighting not to exceed a maximum two thousand five hundred (2,500) square feet of total plant canopy within a structure or structures:—
- (3) "Type C-B" for small mixed light cultivation ~~(using a combination of natural and supplemental artificial lighting)~~ not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy, ~~all or a portion of which may be within a structure or structures during a cultivation cycle.~~
- (4) "Type 1" for medium outdoor cultivation of mature cannabis without the use
~~of using no~~ artificial lighting of two thousand five hundred one (2,501) to a

maximum of five thousand (5,000) square feet of total plant canopy on one legal parcel not less than five (5) acres in size:—

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

- ~~(6)~~ "Type 1B" for medium mixed light cultivation ~~(using a combination of natural and supplemental artificial lighting)~~ of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy ~~, all or a~~

~~(6) portion of which may be within a structure or structures during a cultivation cycle,~~
on one (1) legal parcel not less than five (5) acres in size.

(7) "Type 2" for large outdoor cultivation ~~of mature cannabis without the use~~
~~of using no~~ artificial lighting of five thousand one (5,001) to a maximum of
10,000 square feet of total plant canopy on one legal parcel not less than ten
(10) acres in size.

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

(9) "Type -2B" for mixed light cultivation ~~(using a combination of natural and~~
~~supplemental artificial lighting)~~ of five thousand one (5,001) to a maximum of ten
thousand (10,000) square feet of total plant canopy, ~~all or a portion of which may~~
~~be within a structure or structures during a cultivation cycle,~~ on one (1) legal
parcel not less than ten (10) acres in size.

(10) "Type 4" for the cultivation of cannabis nursery stock and/or seed production
which shall not exceed a maximum of twenty-two thousand (22,000) square feet
of total plant canopy on one (1) legal parcel. Seed production activities, if any,
shall be described in the application for a Type 4 CCBL. The legal parcel shall
not be less than five (5) acres in size, provided, however, that legal parcels in
industrial zoning districts are not subject to this parcel size restriction. Any on-site
sales of nursery products which were produced on and occur on a parcel within
the Timberland Production, Rangeland or Forestland zoning districts shall be
limited to CCBL Holders only.

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Section 5: Section 10A.17.070 is hereby amended to read as follows:

Sec. 10A.17.070 – Requirements for All CCBL's.

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all CCBL Holder's shall comply with the requirements of this Section.

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

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

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

(D) CCBL Density. A Person may apply for and obtain a maximum of two (2) CCBL's listed in section 10A.17.060 at any given time, with a maximum density of one (1) CCBL per legal parcel; provided, however, that:

(1) A Person may obtain two (2) separate CCBL's of different CCBL types on a single legal parcel if the total square footage of the two (2) CCBL's does not exceed the largest maximum square footage authorized on a parcel for the relevant zoning district. A Person who applies for and

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obtains a Type 4 CCBL in combination with any other CCBL, shall not exceed a total square footage of twenty-two thousand (22,000) square feet per legal parcel, of which not more than ten thousand (10,000) square feet may be grown to maturity. Plants may be grown to maturity by a Type 4 CCBL Holder for seed production or genetic expression, where the mature flowers are destroyed, and not used for commercial purposes, shall not require a separate CCBL.

- (2) A Person may apply for one (1) CCBL of a single size (e.g. Type C, Type 1 or Type 2) that may include any combination of all three (3) cultivation types (e.g. indoor, outdoor, mixed-light), but if any cultivation would require the issuance of a permit pursuant to Chapter 20.242, the entire CCBL shall be subject to review under Chapter 20.242.
 - (3) A Person may obtain one (1) CCBL for multiple legal parcels, so long as the parcels are contiguous and under the same ownership. Should the Person sell any of the parcels subject to the CCBL, subsequent CCBL's shall be required to modify the cultivation site to adhere to required setbacks.
- (E) Dwelling Unit Requirement. Legal parcels with a cultivation site are also required to have a dwelling unit; provided, however, that this requirement shall not apply to legal parcels within the following zoning districts: Upland Residential (U-R), Agricultural (A-G), Rangeland (R-L), Forest Land (F-L), Timberland Production (TPZ), Limited Industrial (1-1), General Industrial (1-2) Pinoleville Industrial (P-1). In addition, legal conforming parcels in Rural Residential, lot size ten (10) acres (R-R:L-10), shall also be exempt from the dwelling unit requirement of this paragraph, upon issuance of an administrative permit pursuant to Chapter 20.242.
- (F) Generators. The indoor or mixed-light cultivation of cannabis shall not rely on a generator as a primary source of power.
- (1) If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light CCBL operations, a generator may be used only under the following conditions: (1) the CCBL Holder shall install an alternative power source that will meet at least one-half (½) of the combined power requirements by the expiration of four (4) years from the date of ~~initial application for a~~ CCBL issuance pursuant to this Chapter and (2) it will be a condition of the renewal of a CCBL ~~at the end of such four (4) year period~~ 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 within two years. If a generator is being used pursuant to the conditions set forth in this paragraph, CCBL Holder shall have conducted an analysis of the noise levels produced by the generator at full operational speed, showing compliance with Mendocino County General Plan Policies DE100, 101 and 103. This analysis shall be performed by an accredited acoustical engineer or using some other mechanism or device as provided for on a list to be prepared and published by the Department. 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

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

- (2) If a generator is used to support any aspect of a cultivation operation with a CCBL, (excluding the conditions set forth in paragraph (1) above), it shall be as a secondary or back-up power source. The use of the generator shall only be 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.
 - (3) 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.
 - (4) See also section 10A.17.090 regarding application requirements related to generators.
- (G) CCBL Holders shall enroll in and comply with all requirements of any Track and Trace system established by the State of California. Non-compliance with Track and Trace requirements shall constitute a violation of the terms of this Chapter. CCBL Holders must maintain all Track and Trace records and data and shall make all records and data related to commercial cannabis activity available to the Department upon request.
- (H) CCBL Holders shall comply 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, and the annual filing of a statement of diversion and use of surface water from a stream, river, underground stream, or other watercourse pursuant to Water Code Section 5101.
- (I) North Coast Regional Water Quality Control Board (NCRWQCB).
- (1) CCBL Holders shall establish and maintain enrollment in Tier 1, 2, or 3 with NCRWQCB Order No. 2015-0023, if applicable, or any superseding or substantially equivalent rule that may be subsequently adopted by the NCRWQCB, the County of Mendocino or other responsible agency, or shall obtain proof of exemption from said Order.
 - (2) For cultivation areas for which no enrollment pursuant to NCRWQCB 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 Order, or any superseding or substantially equivalent rule that may be subsequently adopted by the NCRWQCB, the County of Mendocino or other responsible agency.

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- (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, the CCBL Holder shall have notified the California Department of Fish and Wildlife (CDFW) pursuant to section 1602 of the Fish and Game Code and shall obtain all relevant approvals or authorizations as may be required by CDFW prior to commencing cultivation.
- (K) For cultivation sites that involve construction or other work in waters of the United States that are not otherwise exempt or excluded, including streams and wetlands, CCBL Holders shall obtain a Clean Water Act (CWA) Section 404 permit from the Army Corps of Engineers and a CWA Section 401 water quality certification from the NCRWQCB prior to commencing such construction, unless otherwise allowed by the relevant agencies.
- (L) For projects that disturb one (1) or more acres of soil or projects that disturb less than one (1) acre but that are part of a larger common plan of development that in total disturbs one or more acres, CCBL Holders shall obtain coverage as required under the State Water Resources Control Board (SWRCB) General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ, or any superseding, substantially equivalent or additional rule applicable to such activities that may be subsequently adopted by the SWRCB or other responsible agency. 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.
- (M) CCBL Holders shall obtain as required a license, or licenses, issued by the Department of Cannabis Control pursuant to Division 10 of the California Business and Professions Code and its implementing regulations. CCBL Holders shall comply with all requirements of State law and regulations pertaining to the cultivation of cannabis.
- (N) 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.
- (O) All weighing and measuring devices shall be a type approved by the California Department of Food and Agriculture, Division of Measurement Standards and issued either a California Type Evaluation Program (CTEP) Certificate of Approval (COA) or a National Type Evaluation Program (NTEP) Certificate of Conformance (CC) before commercial use. All weighing and measuring devices shall be registered and inspected by the Agricultural Commissioner in accordance with Mendocino County Code Chapter 10A.16.
- (P) All buildings, including greenhouses, used for the cultivation of cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.

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- (Q) 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.
- (R) 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.
- (S) Cultivation shall be located as shown on the site plan submitted to the Department.
- (T) Cultivation shall comply with all provisions of this Chapter and any conditions that may apply as a result of an administrative or conditional use permit approved pursuant to Chapter 20.242, and any written remediation plan required by Section 10A.17.080(B)(3).
- (U) CCBL Holders shall obtain as may be required all approvals and permits required by the Mendocino County Air Quality Management District (MCAQMD) pursuant to state and federal laws, MCAQMD regulations, adopted air quality plans, MCAQMD policies and other applicable statutes.
- (V) CCBL Holders shall obtain as may be required clearance from the California Department of Forestry and Fire Protection (CalFire) related to compliance with the requirements of Public Resources Code Section 4290 and any implementing regulations.
- (W) CCBL Holders are prohibited from engaging in the cultivation of cannabis on portions of property where tree species listed in paragraph (K) of Section 10A.17.040 have been unlawfully removed; provided, however, for cultivation sites created prior to May 4, 2017, where such trees were unlawfully removed, a CCBL Holder may cultivate cannabis on such portions of property when the CCBL Holder has evidence that the environmental impacts of the tree removal have been mitigated to the extent feasible or otherwise resolved, as required by the resource protection agencies including CalFire, the NCRWQCB and CDFW.
- (X) Fees: An application fee shall be paid at the time an application is submitted to the Department for initial review. A CCBL fee shall be paid prior to issuance of any CCBL. Once a CCBL is issued, the CCBL Holder may renew the CCBL upon submission of a renewal application and payment of a renewal fee pursuant to section 10A.17.100(F). No CCBL shall issue without payment of the required fees.
 - (1) Fees prescribed by this Chapter shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the County's fee policies. 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 Department prior to the initial review and issuance or ~~annual~~ renewal of any application, CCBL or other program described herein where a fee has been established, including for required inspections.

- (Y) Inspections by Department. All applicants shall be subject to and shall facilitate ~~an on-site~~ pre-CCBL inspection and additional inspections as required by this Chapter or as deemed necessary by the Department. All onsite inspections will be scheduled with at least twenty-four (24) hours advance notice to the applicant or CCBL Holder, and shall be conducted during regular business hours. Cancellation of scheduled inspections without notice to the Department shall result in the CCBL Holder being invoiced in accordance with the published current fee schedule.
- (1) Site inspections may include a representative from the Department of Planning and Building Services.
 - (2) Any documents or approvals required to have been obtained by this Chapter for issuance of a CCBL shall be available for review during any inspection.
 - (3) 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~~ onsite inspections performed by any entity performing an inspection 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.
- (Z) Assignment of CCBL and CCBL Application. A ~~permittee-CCBL holder or applicant~~ may assign a CCBL or CCBL application to another ~~P~~erson subject to the following provisions:
- (1) Submission of the following to the Department:
 - (a) An application fee as set by resolution of the Board of Supervisors;
 - (b) A completed application form as provided by the ~~D~~epartment;
 - (c) A copy of the existing CCBL showing that it has not expired to assign CCBLs, or valid proof of prior cultivation and/or completed zoning review, as was required to complete the application based upon the applicable Phase the application was submitted, to assign completed applications;
 - (d) Either:
 - (i) The existing CCBL Holder's request to assign all rights and responsibilities of the CCBL to the assignee; or
 - (ii) In the event of the death or incapacitation of the existing CCBL Holder, evidence of such death or incapacitation;
 - (e) Evidence that assignee's legal interest in the real property involved allows for assignee's use of the CCBL; and
 - (f) An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the CCBL and all applicable laws and regulations.

- (2) The assignment shall be effective upon the department's written approval of the documentation submitted, and the assigned CCBL shall be granted subject to the terms and conditions of the original CCBL.
- (3) CCBL's issued on parcels subject to the Sunset Provision of Section 10A.17.080(B)(2) shall not be assignable pursuant to this Section 10A.17.070(Z); provided, however, that CCBL's issued on parcels located within a "CA" Cannabis Accommodation Combining District are assignable.

Section 6: Section 10A.17.090 is hereby amended to read as follows:

Sec. 10A.17.090 – CCBL Application and Zoning Review.

Any person or entity that wishes to engage in the cultivation of cannabis shall submit an application for a CCBL to the Department. Applications for CCBL's shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department. The application shall be reviewed by the Department and other agencies as described herein and renewed ~~annually~~ every five (5) years. 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. If a response is not provided within the thirty (30) days, the Department may continue to process the application if it determines that the requirements under this Chapter 10A.17 are satisfied.

Following the submission of an application for a Phase One CCBL, an applicant may file with the Department, on a form prescribed by the Department, a Notice of Application Stay for the purpose of preventing the denial of an application for a Phase One CCBL based on inactivity by the applicant for up to a one (1) year period. An applicant may only file a Notice of Application Stay one (1) time. Nothing in this paragraph is intended to prevent the County or the applicant the ability to continue processing or perfecting the application. During the time period of this Application Stay, the applicant shall be prohibited from cultivating cannabis in excess of the limitations of paragraph (B) or (C) of section 10A.17.030 and shall allow the County to make and shall pay the reasonable costs for an inspection of the applicant's cultivation site (and origin site if the application involves a relocation) to confirm compliance with this paragraph; violation of this prohibition shall be a violation of County Code, subject to administrative penalties, and shall be cause for immediate denial of the permit application. Any denial of an application may be followed by nuisance abatement procedures. During the time period of the Application Stay, the applicant shall remain subject to all code enforcement provisions as identified in section 10A.17.100.

The Department 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 CCBL shall be approved without clearance or final permit approval as required by Chapter 20.242.

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

- (A) The name, business and residential address, and phone number(s) of the applicant.
- (B) If the applicant is not the record title owner of the legal parcel, written consent

from the owner allowing the cultivation of cannabis on their property by the applicant with original signature of the record title owner.

- (C) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:
- (1) Easements (access and utility and all roadways public and private);
 - (2) Streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;
 - (3) The location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis and showing that all setbacks required by section 10A.17.040 are being met;
 - (4) All areas of ground disturbance or surface water disturbance associated with cultivation of cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;
 - (5) All structures, which shall be clearly labeled; and
 - (6) All septic systems, leach fields and water wells.
- (D) Applications submitted for any CCBL during Phase One shall include proof of prior cultivation pursuant to section 10A.17.080
- (E) A cultivation and operations plan which includes elements that meet or exceed the minimum legal standards for the following: water storage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation 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. The cultivation and operations plan shall also include the following:
- (1) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes.
 - (2) 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.
 - (3) Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device.
 - (4) A description of the legal water source for the cultivation site and an irrigation plan and projected water usage for the proposed cultivation activities.

- (5) 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.
 - (6) 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.
 - (7) A statement describing 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.
 - (8) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the parcel of the cultivation site is listed on the "Cortese List", the cultivation and operations plan shall demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.
- (F) Written consent for onsite inspections of the legal parcel pursuant to section 10A.17.070 by County officials or other appropriate agency representatives.

The Department is authorized to require from an applicant any additional information necessary to discover the truth of the matters set forth in the application.

Section 7: Section 10A.17.100 is hereby amended to read as follows:

Sec. 10A.17.100 – CCBL Review and Issuance.

- (A) The Department shall issue a CCBL pursuant to this Chapter only:
 - (1) Following the referral to and clearance or permit approval pursuant to Chapter 20.242; and
 - (2) Following review by qualified County staff to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species on the parcel with a proposed CCBL 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 CCBL. 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

- (3) After the Department, and other County and State agency staff, as appropriate, have reviewed the application and performed a pre-CCBL site inspection to confirm adherence to the requirements established in this Chapter 10A.17e-MCCO; and
 - (4) Following receipt of evidence of payment of the required permit fee, pursuant to Section 10A.17.070.
- (B) As requirement of the issuance of a CCBL, the CCBL Holder shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation of cannabis.
- (C) Discovery of any violation(s) of the Mendocino County Code during the CCBL application process will be treated in a similar manner to violation(s) that are self-reported during an active amnesty program. That is, the discovered violation(s) will still need to be corrected, but any investigative and/or penalty fees associated with an after-the-fact County permit will be waived.
- (1) If the discovered violation(s) are directly related to a Phase One CCBL application, and/or if it is discovered that the CCBL would authorize a particular use for which a separate County permit is required but has not yet been obtained, the applicant shall be required to agree in writing to a compliance plan prior to issuance of the CCBL. Failure by applicant to agree in writing to a required compliance plan shall be grounds for denial of the CCBL.
 - ~~(a)~~ — The compliance plan will identify the violation(s) and may suggest corresponding remedial action(s) that may be taken to correct the violation(s), will identify the required permit(s) based on the uses identified in the CCBL application, and will include timelines for achieving code compliance for all violations and/or for submitting completed applications for each required permit.
 - ~~(b)(a)~~ —
 - ~~(2)~~ —

~~In no event will more time be given to correct all violations, and/or submit a complete application for each required permit, than one~~

~~(a)(b) year after the date of issuance of the CCBL. Compliance plans shall be for a term of one (1) year from the date of issuance of the CCBL. The Department may approve additional one (1) year extensions to the term of the compliance plan upon a showing of good faith efforts to correct all violations by the CCBL Holder/applicant. The Department shall have sole authority and discretion in determining good faith efforts and whether to extend a compliance plan.~~

 - ~~(b)(c)~~ After the applicant has signed the compliance plan, as presented by the Department in coordination with the appropriate County department(s), the Department may issue a CCBL restricted as indicated in the compliance plan, so long as no other barrier(s) to

such issuance exists. Failure to abide by the compliance plan shall be grounds for CCBL termination, or non-renewal, pursuant to section 10A.17.140.

~~(e)~~(d) The compliance plan will be the primary mechanism to obtain code compliance from CCBL applicants with respect to violations directly related to Phase One ~~Permits-CCBL~~ applications. However, nothing in this section is intended to limit the use of any other applicable code enforcement provision or the ability of any County department with the appropriate authority from enforcing the Mendocino County Code.

~~(3)~~(2) If the discovered violation(s) are not directly related to a Phase One CCBL application, such violation(s) will not affect the processing of the Phase One CCBL application. However, any County department with appropriate enforcement authority with respect to such violation(s) may make use of any applicable code enforcement mechanism as if the violation(s) were discovered as a result of self-reporting during an active amnesty program.

(D) CCBL Application Denial.

(1) The Department may, at any time during the application process, deny an application based on the failure to meet the requirements of this Chapter 10A.17, including, but not limited to, the following:

- (a) Incomplete application.
- (b) Failure to provide additional information or documentation within the timeframe prescribed by the Department.
- (c) Cultivation of cannabis on a legal parcel (beyond what is exempt from a permit requirement pursuant to County Code section 10A.17.030) during an application stay pursuant to County Code section 10A.17.090.
- (d) Cultivation of cannabis in illegal and/or non-compliant structures.
- (e) Cultivation of cannabis, or activities related to preparing a cultivation site, that are non-compliant with the requirements of this Chapter 10A.17 or not consistent with the application as submitted, whether such issues are discovered during a pre-~~permit-CCBL~~ site inspection or other inspection of the property.

(2) If the applicant does not meet the requirements to obtain a CCBL and a CCBL with a compliance plan is not viable, the Department shall deny the CCBL application unless:

- (a) the applicant immediately files for a Notice of Application Stay pursuant to County Code section 10A.17.090 and corrects the conditions of the property in a manner that would allow for permit issuance no later than the expiration of the Application Stay; or
- (b) the applicant immediately amends the application in a manner that

allows for CCBL issuance.

- (3) An application may be denied based on confirmation that the applicant provided false or misleading information to the County, or any other agency if such communication was made as part of the process in securing a CCBL under this Chapter 10A.17.
- (4) An application may be denied if the applicant or any agent or employee of the applicant has engaged in or is engaging in activities related to the cultivation of cannabis that endangers the health or safety of people or property.
- (5) This paragraph (D) in no way limits the authority of the Department to deny an application as inherently or explicitly provided by this Chapter 10A.17.
- (6) Following the denial of an application for a CCBL or a renewal application, the applicant is prohibited from cultivating cannabis on their parcel in excess of the limitations of paragraph (B) or (C) of County Code section 10A.17.030.

(E) CCBL's shall remain valid for ~~one-five~~ (54) years from the date of issuance, subject to any enforcement action or other action that may result in earlier suspension or revocation.

(F) CCBL Renewal.

(1) To timely renew a CCBL, a completed renewal application in such a form as prescribed by the Department and renewal license fee set forth in Section 10A.17.070(X)(1) shall be submitted to the Department no earlier than sixty (60) days before the expiration of the CCBL and no later than 5:00 p.m. Pacific Time on the last business day before the expiration of the CCBL.

(2) The CCBL renewal application shall contain the following:

(a) The name of the CCBL Holder;

(b) The CCBL Number and expiration date;

(c) CCBL Holder's mailing address and cultivation site address;

(d) Documentation of any proposed change to any item listed or provided in the original application under Section 10A.17.090 that has not been reported to the Department through the modification process provided by the Department;

(e) An attestation that all information provided to the Department in the CCBL renewal application and the original application or subsequent modification is accurate and current; and

(f) Any additional information or documentation as required by the Department.

(G) Modifications

(1) Any proposed changes to any item listed or provided in the original application under Section 10A.17.090 prior to the expiration of a CCBL.

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must be approved by the Department before the change occurs. CCBL Holders must submit a modification to the original application in a form as prescribed by the Department.

~~(E)(2)~~ A requested modification may be approved after the Department, and other County and State agency staff, as appropriate, have reviewed the requested modification and confirm adherence to the requirements established in this Chapter 10A.17.

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Section 8: Section 10A.17.120 is hereby amended to read as follows:

Sec. 10A.17.120 – Certifications.

CCBL Holders who demonstrate compliance with all of the requirements set forth in this Chapter and the additional guidelines to be established by the Department in a Mendocino Sustainably Farmed Operations Manual will be issued a "Certified Mendocino County Grown" certificate through the Department. 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-five~~ ⁽⁺⁵⁾ years from the date of issuance and shall be renewed ~~annually every fifth (5th) year~~ thereafter following an ~~annual~~ inspection~~(s)~~ of the registered cultivation site and continued compliance with all requirements. An ~~annual renewal~~ fee shall be paid for participation in this certification program, pursuant to the provisions set forth in Section 10A.17.070(X)(1).

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Section 9: Severability. If any section, subsection, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 10. Effective Date. This ordinance is an urgency ordinance adopted pursuant to Government Code Section 25123 and shall become effective immediately upon its adoption if adopted by at least four-fifths of the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2023, by the following roll call vote:

AYES:
NOES:
ABSENT:

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

ATTEST: DARCIE ANTLE
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

GLENN MCGOURTY, Chair
Mendocino County Board of Supervisors

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

BY: DARCIE ANTLE
Clerk of the Board

Deputy