

**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.17.070 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 combined square footage of plant canopy for mature plants does not exceed ten-thousand (10,000) square feet. However, parcels zoned Rural Residential (lot size five (5) acres [R-R:L-5]) shall be limited to five-thousand (5,000) total combined square footage of plant canopy for mature plants. A Person who applies for and obtains a Type 4 CCBL in combination with any other CCBL, shall not exceed a total combined 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 utilized for the non-Type 4 CCBL plant canopy. 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 ( $\frac{1}{2}$ ) of the combined power requirements by the expiration of four (4) years from the date of 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 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.
- (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 NCRWQB Order No. 2015-0023 is required, the site shall comply with the standard conditions set forth in that Order, as well as the applicable "Best Management Practices for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects" as presented in Appendix B of the Order, or any superseding or substantially equivalent rule that may be subsequently adopted by the NCRWQCB, the County of Mendocino or other responsible agency.
- (J) If any 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.
- (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 and is non-refundable. Payment of the required fee shall be provided to the Department prior to the initial review and issuance or 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 a 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 may 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 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 CCBL holder or applicant may assign a CCBL or CCBL application to another Person 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 Department;
    - (c) Either one of the following:
      - (i) A copy of the existing CCBL showing that it has not expired for the assignment of a CCBL; or
      - (ii) Valid proof of a completed zoning review for the assignment of an application.
    - (d) Assignment of a Phase One application must also include the assignor's valid proof of prior cultivation approved by the Department prior to the requested assignment
    - (e) 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;
    - (f) Evidence that assignee's legal interest in the real property involved allows for assignee's use of the CCBL; and
    - (g) 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.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this \_\_\_\_ day of \_\_\_\_\_, 2024, 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

\_\_\_\_\_  
 MAUREEN MULHEREN, Chair  
 Mendocino County Board of Supervisors

\_\_\_\_\_  
 Deputy

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

*APPROVED AS TO FORM:*  
 CHARLOTTE E. SCOTT  
 County Counsel

BY: DARCIE ANTLE  
 Clerk of the Board

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 Deputy