

ORDINANCE NO. \_\_\_\_\_

**URGENCY ORDINANCE AMENDING CHAPTER 10A.17 – MENDOCINO CANNABIS CULTIVATION ORDINANCE AND CHAPTER 20.242 – CANNABIS CULTIVATION SITES TO STREAMLINE CANNABIS CULTIVATION PERMITTING PROCESSES**

WHEREAS, Mendocino County has previously established regulations governing commercial cannabis cultivation businesses operating in Mendocino County, which regulations impose important protections for the benefit of the environment, to avoid incompatible activities on neighboring properties, to prevent public and private nuisance, and to promote public peace, health, safety and welfare; and

WHEREAS, prior to the legalization of commercial cannabis in California, Mendocino County had high levels of unregulated cannabis cultivation businesses, a substantial amount of which have since applied for permits and are working to come into compliance with, local regulations; and

WHEREAS, the administrative burden of issuing permits under the current local regulation, including reviews and determinations that are duplicative or substantially identical to those performed by other agencies, has contributed to a substantial backlog of local permit applications; and

WHEREAS, holders of state provisional cannabis cultivation licenses face imminent statutory deadlines to transition to annual licenses, which they cannot obtain while their local permit applications are still under review; and

WHEREAS, without a viable pathway to state and local licensure, a portion of new and existing cultivators are likely to be diverted to the black market, operating in a manner that is inconsistent with the ordinance's protections for the environment, public peace, health and safety; and

WHEREAS, changes to the current local regulatory scheme are urgently needed to preserve the viability of pathways to state and local licensure for operators in Mendocino County, in order to preserve public peace, health and safety.

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

**Section 1:** The above recitals are incorporated herein by this reference.

**Section 2: Urgency Findings.** The Board of Supervisors hereby finds that the adoption of this ordinance is necessary for the immediate preservation of the public peace, health and safety. Changes to the County's current regulatory system for commercial cannabis cultivation are necessary to preserve the viability of pathways to state and local licensure and to encourage cannabis cultivation in a manner consistent with the County's protections for the environment.

**Section 3:** Section 10A.17.010 is hereby amended to read as follows:

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

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

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

Adoption of this Chapter will protect the public health, safety and welfare of the residents of the County of Mendocino by adopting regulations regarding the cultivation of cannabis by individuals consistent with the provisions of State law and a local regulatory structure that will operate in conformance with State licensing requirements for the commercial cultivation of cannabis.

All cultivation of cannabis within the County of Mendocino, except for cultivation allowed pursuant to Chapter 9.31, shall comply with the provisions of the MCCR, as well as all applicable state and local laws, regardless of whether the cultivation site existed or occurred prior to the adoption of the MCCR.

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

- 1) Allow persons to engage in conduct that endangers others or causes a public nuisance, or
- 2) Allow any activity relating to the cultivation, distribution or consumption of cannabis that is otherwise illegal under California State law.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis from compliance with all other applicable Mendocino County zoning and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

Nothing in this Chapter is intended, nor shall it be construed, to confer the right to create or maintain a public nuisance in the course of cultivating cannabis plants.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis, as defined herein, from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

Nothing in this Chapter is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting the cultivation of cannabis.

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

From and after May 23, 2023, all applications previously received by the County for a "permit" pursuant to previous iterations of this Chapter shall be deemed to be applications for a "CCBL," and all permits previously issued pursuant to previous

iterations of this Chapter shall each be considered a "CCBL" and eligible for renewal as a CCBL as provided herein.

**Section 4:** 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 ( $\frac{1}{2}$ ) 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 ( $\frac{3}{8}$ ) 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 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 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 5:** 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 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 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 6:** 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-oriented facility, a school, or a park 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 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.

- (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 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.
  - (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.
    - (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), 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) 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) 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 cannabis grown in Mendocino County (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 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.

**Section 7:** Section 10A.17.050 is hereby amended to read as follows:

**Sec. 10A.17.050 – Reserved.**

**Section 8:** 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 flowering cannabis plants and for nursery and seed production, as defined in section 10A.17.020. A CCBL Holder producing flowering 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 cultivation area dedicated to 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 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 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

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 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.

**Section 9:** 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 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 ( $\frac{1}{2}$ ) of the combined power requirements by the expiration of four (4) years from the date of initial application for a CCBL 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 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 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. 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 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 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. A permittee may assign a CCBL 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) A copy of the existing CCBL showing that it has not expired;
    - (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 10:** Section 10A.17.080 is hereby amended to read as follows:

**Sec. 10A.17.080 – CCBL Phases and Requirements Specific to each Phase.**

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

- (A) CCBL's under the MCCO will be issued in the following three (3) phases:
  - (1) Phase One: Following the effective date of the MCCO, CCBL's will only be issued to applicants who provide to the Department pursuant to paragraph (B)(1) of this section proof of cultivation at a cultivation site prior to January 1, 2016 ("proof of prior cultivation"), and who comply with all other applicable conditions of this Chapter and Chapter 20.242. Applications for CCBL's during Phase One shall only be accepted until December 31, 2018, and from Monday, April 1, 2019, until Friday, October 4, 2019. Applicants able to provide proof of prior cultivation may apply for a CCBL on a relocation site pursuant to paragraph (B)(3) of this section.
  - (2) Phase Two: Starting January 1, 2018, the Department will begin accepting applications for Type C-A, 1A and Type 2A CCBL's for indoor cultivation, and Type C-B, 1B and 2B CCBL's for mixed-light cultivation, which mixed-light cultivation must occur in a greenhouse equipped with filtered ventilation systems as described in paragraph (P) of section 10A.17.070 and may not occur in a hoop house, in the following zoning districts, subject to compliance with all other applicable conditions of this Chapter and Chapter 20.242: Limited Industrial (I-1), General Industrial (I-2), and Pinoleville Industrial (P-1). Proof of cultivation prior to January 1, 2016, is not required. '
  - (3) Phase Three: Starting April 1, 2021, the Department will begin accepting CCBL applications from any applicant in conformance with the conditions of this Chapter and Chapter 20.242. Proof of cultivation prior to January 1, 2016, is not required.
- (B) Requirements specific to Phase One CCBL's.
  - (1) Proof of Prior Cultivation. Persons applying for a CCBL during Phase One shall be required to provide to the Department evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016, which cultivation site shall have been, or could have been, in compliance with the setback requirements of paragraph (A) of section 10A.17.040. Evidence shall include:
    - (a) Photographs of any cultivation activities that existed on the legal parcel prior to January 1, 2016, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.

- (b) Photographs of any cultivation activities that currently exist on the legal parcel, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.
  - (c) At least one (1) additional document demonstrating cultivation on the legal parcel prior to January 1, 2016, which evidence may be used to substitute for evidence pursuant to clause (a). The Department shall prepare a list of the types of documentation that will be accepted to meet this requirement, and may accept other similarly reliable documentary evidence showing that cannabis was cultivated prior to January 1, 2016.
  - (d) Proof of prior cultivation shall be assigned to the applicant relative to their prior cultivation site.
  - (e) Persons who participated in a permit program pursuant to the County's Chapter 9.31 in previous years may present evidence of such participation and payment of all required fees in order to provide proof of prior cultivation.
- (2) Zoning Districts; Exceptions. Existing cultivation sites not located in zoning districts where Chapter 20.242 specifically allows cultivation may be issued a Type C, Type C-A, or Type C-B CCBL, subject to the following requirements, in addition to all other applicable requirements of this Chapter:
- (a) The zoning district is one where a dwelling unit is a principally permitted use and a dwelling unit is present.
  - (b) Sunset Provision for Residential Districts. Cultivation sites on legal parcels located in the Single-Family Residential (R-1), Two-Family Residential (R-2), Multiple-Family Residential (R-3), Suburban Residential (S-R), Rural Community (R-C), and Rural Residential (lot sizes one (1) acre, two (2) acres and five (5) acres [legal non-conforming parcels to minimum zoning size][R-R: L-1, R- R:L-2, and R-R:L-5 {legal non-conforming to minimum zoning size}]), as well as cultivation sites in any other zoning district where a dwelling unit is a principally permitted use and the legal parcel is less than two (2) acres in size, are subject to the following requirements:
    - (i) There is an occupied dwelling unit on the legal parcel with the cultivation site.
    - (ii) A CCBL may be renewed and valid only until three (3) years following the effective date of the ordinance adopting this Chapter and any permits issued shall be void not later than three (3) years following said effective date; provided, however, that indoor cultivation sites (Types C-A, 1A or 2A) within two (2) miles of the Coastal Zone Boundary which, as of May 14, 2019, have been issued a CCBL (and

issued any permit pursuant to Chapter 20.242) or have applied for a CCBL and are under CCBL review (and applied for and are under review for any permit pursuant to Chapter 20.242), may be issued and/or renew a CCBL until June 30, 2022, subject to the modification of the existing administrative or use permit for the indoor cultivation site.

The provisions of this subsection, however, shall not apply in areas designated as "CA" Cannabis Accommodation Combining District, nor shall they apply to parcels zoned Rural Residential (lot size five (5) acres [R-R:L-5]) that are between 3.5 and 4.99 acres and have been issued an administrative permit pursuant to Section 20.242.070(C).

- (c) Cultivation sites on legal parcels located in the Rural Residential zoning district, lot size five (5) acres (conforming parcels of five (5) acres or more only)(R-R:L-5), are subject to the following additional requirement that there is an occupied dwelling unit on the legal parcel with the cultivation site.
  - (d) If a CCBL is granted pursuant to this paragraph (B)(2) in these zoning districts, any future revocation or lapse in renewal of such CCBL shall extinguish the ability of any person to obtain a CCBL for such cultivation site.
- (3) Relocation. Persons able to show proof of prior cultivation pursuant to paragraph (B)(1) above may apply for a CCBL not on the site previously cultivated (the "origin site") but on a different legal parcel (the "destination site"), subject to the following requirements:
  - (a) Persons may apply to relocate their cultivation site pursuant to this paragraph (B)(3) until three (3) years after the effective date of the ordinance adopting this Chapter, or until May 4, 2020.
  - (b) The location and operation of the proposed cultivation site on the destination parcel complies with all requirements and development standards that apply to a new cultivation site as of January 1, 2020, pursuant to this Chapter and Chapter 20.242; provided, however:
    - (i) An existing cultivation site shall not be transferred to a legal parcel located within the Forestland or Timber Production Zone zoning districts.
    - (ii) An origin site may relocate to a destination site in the Rangeland zoning district, so long as the destination site has an existing cultivation site and no new cultivation sites would be established.
  - (c) The origin site shall be restored. The application for a CCBL on a destination site shall be accompanied by a restoration plan that is consistent with the standard conditions and best management

practices listed in the North Coast Regional Water Quality Control Board Order No. 2015-0023, and which shall include the following:

- (i) Remove or repurpose buildings, greenhouses, fences, irrigation equipment, water intakes, pumps, storage tanks and other materials brought to the origin site for the purpose of cannabis cultivation;
  - (ii) Remove illegal dams, ponds or other in-stream water storage to restore natural stream flows, unless such features will continue in use;
  - (iii) Remove or compost agricultural wastes;
  - (iv) Remove trash and other debris; and
  - (v) Revegetate cleared areas with native plants typical of nearby natural areas, including groundcover, shrubs and trees.
- (d) Unless the destination site is within the Agricultural zoning district, the application shall include either a water availability analysis pursuant to paragraph (C)(1)(b) below or a will serve letter pursuant to paragraph (C)(1)(c) below.
- (e) Prior to the issuance of the CCBL to cultivate cannabis at the destination parcel, the applicant shall provide the Department with an agreement, on a form approved by the Department and County Counsel, providing that the applicant releases any right to continue or resume cultivation of cannabis on the origin parcel.
- (f) If a person is granted a CCBL for a destination site, any claims of proof of prior cultivation on the origin site shall be effectively transferred to the destination site, and the ability to claim proof of prior cultivation at the origin site shall be extinguished.
- (g) There shall be a two (2) acre minimum parcel size for all Type C, Type C-A or Type C-B CCBL's.
- (4) Multiple CCBL's may be applied for and granted on a single legal parcel that is owned by multiple persons. Each owner may individually apply for a CCBL to cultivate cannabis, provided that each owner must provide proof of prior cultivation pursuant to paragraph (B)(1) above. Each owner shall be limited to a Type C, Type C-A or Type C-B CCBL, unless that owner was previously enrolled in a permit program pursuant to the County's Chapter 9.31, or unless the cumulative total square footage of plant canopy applied for by all owners does not exceed the maximum square footage permitted on a parcel for the relevant zoning district.
- (5) Persons eligible to apply for a CCBL during Phase One may apply for a different and/or larger CCBL type in subsequent years, subject to all requirements of this Chapter.

- (6) If a CCBL is granted pursuant to this paragraph (B), any future revocation or lapse in renewal of such CCBL shall extinguish the ability of any person to obtain a CCBL for such cultivation site, unless otherwise allowed by this Chapter 10A.17; provided, however, that not more than once in a five-year period, a CCBL Holder may file with the Department, on a form prescribed by the Department, a Notice of Non-Cultivation instead of an application to renew the CCBL, and the CCBL Holder's ability to obtain a CCBL for such cultivation site will not be extinguished.
- (C) Requirements specific to Phase Three CCBL's.
- (1) Watershed Assessment. All CCBL applications, except for legal parcels located in the Agricultural (A-G) zoning district, shall demonstrate there is adequate water to serve the cultivation site.
    - (a) If surface water (or groundwater influenced by surface water) will be used, applicants may demonstrate that there is adequate water by providing (i) a watershed assessment that establishes there is sufficient watershed supply to serve the proposed cultivation site and existing uses within the watershed, and (ii) a water right exists to serve the cultivation site. A watershed assessment shall consist of an established "In Stream Flow Policy" as prepared by the State Water Resources Control Board Division of Water Rights or an equivalent document approved by that agency.
    - (b) If groundwater not influenced by surface water will be used, the applicant may demonstrate that there is adequate water by providing a water availability analysis which will address the adequacy of the proposed water supply, the direct effects on adjacent and surrounding water users, and possible cumulative adverse impacts of the development on the water supply within the watershed and show there is a sustained yield to support the proposed level of use.
    - (c) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that there is adequate water by providing a will serve letter from the proposed provider.

**Section 11:** Section 10A.17.081 is hereby amended to read as follows:

**Sec. 10A.17.081 – Application Deadline for Parcels in "CA" Cannabis Accommodation Combining Districts.**

Notwithstanding the provisions of paragraph (A)(1) of section 10A.17.080, Phase One CCBL's may be issued for cultivation sites within a "CA" Cannabis Accommodation Combining District so long as applications for such sites are submitted to the County within one hundred eighty (180) days of the effective date of the ordinance that establishes the applicable CA district.

**Section 12:** 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. 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.

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 13:** 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 the 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) In no event will more time be given to correct all violations, and/or submit a complete application for each required permit, than one (1) year after the date of issuance of the CCBL.
    - (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.
    - (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 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.
  - (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 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 (1) year from the date of issuance, subject to any enforcement action or other action that may result in earlier suspension or revocation.

**Section 14:** Section 10A.17.110 is hereby amended to read as follows:

**Sec. 10A.17.110 – Intentionally Omitted.**

**Section 15:** 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 (1) year from the date of issuance and shall be renewed annually thereafter following annual inspection(s) of the registered cultivation site and continued compliance with all requirements. An annual fee shall be paid for participation in this certification program, pursuant to the provisions set forth in Section 10A.17.070(X)(1).

**Section 16:** Section 10A.17.126 is hereby amended to read as follows:

**Sec. 10A.17.126 – Procedure to Appeal Denial or Non-Renewal of a CCBL.**

- (A) Within thirty (30) days from the date of a Notice of CCBL Denial or Non-Renewal, any applicant or permittee may appeal the CCBL Denial or Non-Renewal to the Department. The appeal shall:
- (1) Be submitted in writing, on a form as prescribed by the Department;
  - (2) Specify the grounds upon which the appeal is taken;
  - (3) Contain the name, address, and telephone number of the appellant; and
  - (4) Be accompanied by the payment of an appeal fee in an amount established by Resolution by the Board of Supervisors.
- (B) Upon receipt of the appeal, the Department shall schedule an informal meeting with the appellant to review the Department's action and the grounds for the appeal. The informal meeting shall be scheduled within a reasonable amount of time of the receipt of the appeal. Within ten (10) days of the meeting and following consideration of all materials and discussions presented at the meeting, the appointing authority shall, in writing, either:
- (1) Rescind the CCBL Denial or Non-Renewal, dismiss the appeal, and reconsider the application in light of the grounds stated in the appeal and the meeting; or
  - (2) Cause the matter to be set for hearing by notifying the Hearing Officer directly or by requesting County Counsel to coordinate with the Hearing

Officer. Payment by the appellant of a hearing fee in an amount established by Resolution by the Board of Supervisors shall be payable at this time and prior to setting of the hearing date.

- (C) A hearing before a Hearing Officer shall be set for a date that is not less than ten (10) and not more than thirty (30) days from the date that the Department provides written notice of the setting of hearing pursuant to paragraph (B) above. The Hearing Officer, or the County Counsel in cooperation with the Hearing Officer, shall notify the parties in writing, at least ten (10) days prior to the hearing date, of the date and location of the hearing. It shall be sufficient to provide notice to the appellant by using the address listed in the request for appeal. The hearing date may be continued by stipulation of the parties or by order of the Hearing Office upon a showing of good cause, including but not limited to the need of the appellant for a reasonable amount of time to prepare.
- (D) In the case of service by mail of any Notice of Denial or Non-Renewal, or any notice required to be served by this section 10A.17.126 or section 10A.17.128, the time periods provided for in such sections shall be extended by five (5) calendar days if the place of address and the place of mailing is within the State of California, and by ten (10) calendar days if either the place of address or place of mailing is outside the State of California.

**Section 17:** Section 10A.17.128 is hereby amended to read as follows:

**Sec. 10A.17.128 – Determination by Hearing Officer.**

- (A) At the conclusion of the hearing, and based on the factual evidence before it, the Hearing Officer shall determine:
  - (1) Whether the facts or conditions specified in the CCBL Denial or Non-Renewal exist; and
  - (2) Whether those facts or conditions support the determination that the CCBL may be denied or non-renewed.
- (B) If the Hearing Officer determines that it is necessary to interpret the meaning of one (1) or more sections or provisions of this Chapter in order to make a determination on the appeal, the Hearing Officer shall request in writing that the Department to provide said interpretation to the Hearing Officer. The Hearing Officer shall rely on that interpretation to make that determination. The Hearing Officer may continue the hearing to a future date to allow the Department to provide said interpretation.
- (C) Withing ten (10) days of the hearing, the Hearing Officer shall personally serve or mail a copy of the written decision to the appellant and the Department. Said decision shall be final. An action or proceeding challenging the Hearing Officer's decision shall be commenced within thirty (30) days from the date the Hearing Officer's decision is served on that party.

**Section 18:** Section 10A.17.140 is hereby amended to read as follows:

**Sec. 10A.17.140 – Violations and penalties respecting cultivation pursuant to CCBL.**

- (A) If at any time the Department determines that a law related to a CCBL is being violated, the Department or other appropriate County agency or division may issue a notice of violation or an administrative citation(s) pursuant to Mendocino County Code Chapter 1.08 and notify other interested public agencies or County departments of such violations. After the violation(s) have been cured, the correction must be confirmed. Failure by the CCBL Holder to schedule a re-inspection with the Department to confirm the correction will result in an unscheduled compliance inspection.
- (B) **Inspection Fees.** After initial substantiation of a violation related to any law related to a CCBL, inspection fees shall be charged to the CCBL Holder for any additional compliance inspection undertaken by the Department, beyond those regularly scheduled and enumerated in section 10A.17.070, for the purpose of determining if the cited violations have been cured. All additional inspection fees shall be in accordance with the current published fee schedule. The fees shall be paid pursuant to the provisions set forth in section 10A.17.070(X)(1).
- (C) **Notice to Terminate CCBL.** The Department may issue a Notice to Terminate CCBL by personal service or by first class mail, postage prepaid and return receipt requested. If by mail, service will be deemed complete five (5) days after mailing. A Notice of Terminate CCBL may be issued after:
  - (1) The Department discovers that the CCBL Holder would not have otherwise qualified to obtain a CCBL but for false or misleading information contained in either the CCBL Holder's application or subsequent submittals to the County pertaining to the CCBL Holder's application; or
  - (2) The CCBL Holder has engaged in activity related to the CCBL that creates an immediate threat to health or safety, or has allowed such activity to be carried out by one (1) or more of its employees or agents; or
  - (3) The CCBL Holder has engaged in activity that is specified in a separate provision of the Mendocino County Code as grounds for CCBL termination, including but not limited to section 10A.17.100; or
  - (4) The Department determines that the CCBL Holder is in violation of one (1) or more laws related to the CCBL, and that the CCBL Holder is unlikely or unable to correct such violation(s). The Department may make a determination that a CCBL Holder is unlikely to correct a violation if:
    - (a) The CCBL Holder has failed to correct any single code violation within ten (10) days of the initial notice, or such other time period otherwise specified in the pertinent notice of violation, administrative citation, or related writing; or
    - (b) The CCBL Holder has received three (3) or more notices of violation or administrative citations, on separate occasions, within a twelve (12) month period, which may or may not pertain to the same violation, recurring violation, or different violation; or
    - (c) The extent of, severity of, or conditions surrounding one (1) or more violations make it clear that the CCBL Holder was not acting in good faith to abide by the laws related to the CCBL.

- (D) Termination of CCBL. After issuance of a Notice to Terminate CCBL, the CCBL shall be terminated upon a final determination after the hearing on the order to show cause affirming the determination to terminate the CCBL in question pursuant to section 10A.17.150. The County shall notify any license authority, as defined by the MAUCRSA, whenever a CCBL has been terminated.
- (E) Nothing in this section is intended to limit the applicability of any other code enforcement provision or the ability of any other agency or department from enforcing the Mendocino County Code.

**Section 19:** Section 10A.17.150 is hereby amended to read as follows:

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

- (A) Issuance of Order to Show Cause. At the same time as issuance of a Notice to Terminate CCL, or as soon as practicable thereafter, the Department shall also issue a notice and order to show cause why the CCBL in question should not be terminated. Issuance may be completed by personal delivery, or by first class mail, postage prepaid, sent to the mailing address associated with the CCBL and return receipt requested. The notice and order to show cause shall:
  - (1) Identify the CCBL Holder and the CCBL in question;
  - (2) Contain a statement describing the violations that caused the issuance of a Notice to Terminate CCBL;
  - (3) Contain a description of the actions required to abate the violations;
  - (4) Notify the CCBL Holder that unless the owner or occupant abates the conditions, a hearing will be held to determine whether there is any good cause why the CCBL in question should not be terminated, which will be heard before a Hearing Officer, the director of the Department, or the director's authorized designee within the Department who did not also issue the Notice to Terminate CCBL;
  - (5) Specify the date, time and location of the hearing to be held, or state that the date, time and location of the hearing will be specified in a subsequent notice, which will not be set for a date earlier than five (5) days after personal delivery, or ten (10) days after mailing, of the notice specifying the date, time and location of the hearing;
  - (6) State that the CCBL Holder will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether there is any good cause why the permit in question should not be terminated;
  - (7) Contain a statement that, unless the CCBL Holder abates the conditions causing the violations, or shows good cause why the conditions should not be abated, the CCBL in question shall be terminated.
- (B) Use of Hearing Officers. Whenever the Department issues an order to show cause why a CCBL issued pursuant to this Chapter should not be terminated, the Department is authorized to use the services of a Hearing Officer pursuant to Mendocino County Code Chapter 2.76. Such use of a Hearing Officer shall be

made whenever a Hearing Officer is available, and the Department shall coordinate with County Counsel to appoint and maintain at least one (1) Hearing Officer to the extent possible. In the event that a Hearing Officer is unavailable, the duty to hear the appeal shall remain with the director of the Department.

(C) Hearing Procedure.

- (1) The Hearing Officer shall hold an administrative hearing to determine whether the violations identified in the Notice to Terminate CCBL created a sufficient basis on which to terminate the permit in question. The hearing shall be held at the date, time and location indicated on the notice to the CCBL Holder, which shall be no less than five (5) calendar days after personal service, or no less than ten (10) calendar days after mailing of all the notices required by this section.
- (2) Parties may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- (3) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Mendocino.
- (4) The person who issued the Notice to Terminate CCBL shall first describe the acts or conditions constituting the violations identifying in the Notice to Terminate CCBL and present evidence to demonstrate how the identified violations form a basis for terminating the CCBL in question. Thereafter, the CCBL Holder shall be given an opportunity at the hearing to present and elicit testimony and other evidence to show good cause why the CCBL should not be terminated.
- (5) In the event that the CCBL Holder does not appear and present evidence at the hearing, the Hearing Officer may base his or her decision solely upon the evidence submitted by the person issuing the Notice to Terminate CCBL.

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

**Section 20:** Section 10A.17.160 is hereby amended to read as follows:

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

- (A) All of the remedies provided for in this Chapter, or elsewhere in the law, shall be cumulative and not exclusive for violations of this Chapter. Violations of this Chapter include, but are not limited to failure to obtain and maintain in good standing any CCBL required by this Chapter, compliance with any required element on which a CCBL was issued pursuant to this Chapter, or any violation of the provisions of this Chapter where a CCBL is not required, such as a violation of section 10A.17.040 when a person is otherwise exempt pursuant to section 10A.17.030. The County may enforce this Chapter by using any applicable state or county law, including, but not limited to Mendocino County Code Chapters 1.08, 8.75 or 8.76, and may use either the administrative process to achieve code compliance or available civil remedies, such as injunctive relief.
- (B) The cultivation of cannabis with a valid CCBL pursuant to this Chapter shall not be declared a public nuisance under County Code Chapter 8.75 or 8.76. Any cultivation of cannabis in the absence of a CCBL issued pursuant to this Chapter is a public nuisance and may be abated by the County as a public nuisance in accordance with the provisions of either County Code Chapter 8.75 or 8.76 unless such cultivation either: (1) is exempt pursuant to County Code section 10A.17.030 and in compliance with the laws to which the exemption is subject; or (2) is being cultivated by an entity whose application for a Phase One CCBL pursuant to this Chapter has been submitted, accepted and is currently pending, and who has also submitted a sworn affidavit to the Department on a form prepared by the Department that includes, but is not limited to, an affirmation that they have met the requirements to obtain a CCBL or are actively in the process of fulfilling the requirements, and who also possesses a State temporary or provisional license for the cultivation site applied for at the County level.

**Section 21:** Section 20.242.040 is hereby amended to read as follows:

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

- (A) Referrals of applications to the Department for review related to existing cultivation sites shall include the determination of the Mendocino Cannabis Department that the cultivation site existed prior to January 1, 2016, unless the Mendocino Cannabis Department requests the assistance of the Department in making this determination as part of the referral to the Department.
- (B) Cultivation sites, in conformance with the MCCO, may be allowed on a legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit as required for the zoning district in which the cultivation site is located and as listed in Table 1.

TABLE 1  
Zoning Permit Requirement for Existing Cannabis Cultivation by Zoning District and Cannabis Cultivation Ordinance CCBL Type

| MCCO<br>CCBL<br>Type                    |           | C<br>Sm<br>Outdoor | C-A<br>Sm Indoor, Artificial<br>Light |               | C-B<br>Sm,<br>Mixed<br>Light | 1<br>Med<br>Outdoor | 1-A<br>Med<br>Indoor,<br>Artificial<br>Light | 1-B<br>Med<br>Mixed<br>Light | 2<br>Lg<br>Outdoor | 2-A<br>Lg<br>Indoor,<br>Artificial<br>Light | 2-B<br>Lg<br>Mixed<br>Light | 4<br>Nursery |
|-----------------------------------------|-----------|--------------------|---------------------------------------|---------------|------------------------------|---------------------|----------------------------------------------|------------------------------|--------------------|---------------------------------------------|-----------------------------|--------------|
| Min Parcel<br>Area (ac)<br>*1 , *2 , *3 |           | NA                 | NA                                    |               | NA                           | 5                   | 5                                            | 5                            | 10                 | 10                                          | 10                          | 5            |
| Cultivation<br>Area Limit<br>(sf)       |           | 2,500              | 500                                   | 501—<br>2,500 | 2,500                        | 2,501—<br>5,000     | 2,501—<br>5,000                              | 2,501—<br>5,000              | 5,001—<br>10,000   | 5,001—<br>10,000                            | 5,001—<br>10,000            | 22,000       |
| Zoning District                         | RR<br>5*1 | ZC                 | AP                                    | UP            | ZC                           | ZC                  | —                                            | ZC                           | —                  | —                                           | —                           | —            |
|                                         | RR<br>10  | ZC                 | AP                                    | UP            | ZC                           | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                                         | AG        | ZC                 | AP                                    | UP            | ZC                           | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                                         | UR        | ZC                 | AP                                    | UP            | ZC                           | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                                         | RL        | ZC                 | AP                                    | UP            | ZC                           | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                                         | FL *4     | ZC                 | AP                                    | UP            | ZC                           | AP                  | —                                            | AP                           | AP                 | —                                           | AP                          | AP           |
|                                         | TPZ*4     | ZC                 | AP                                    | UP            | ZC                           | AP                  | —                                            | AP                           | AP                 | —                                           | AP                          | AP           |
|                                         | I1*5      | ZC                 | ZC                                    | ZC            | ZC                           | ZC                  | ZC                                           | ZC                           | —                  | ZC                                          | ZC                          | ZC           |
|                                         | I2*5      | ZC                 | ZC                                    | ZC            | ZC                           | ZC                  | ZC                                           | ZC                           | —                  | ZC                                          | ZC                          | ZC           |
|                                         | PI*5      | ZC                 | ZC                                    | ZC            | ZC                           | —                   | ZC                                           | ZC                           | —                  | ZC                                          | ZC                          | ZC           |

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

\*1 Parcels in the RR-5 zoning district must have a minimum parcel size of five (5) acres.

\*2 A parcel that is located in a zoning district that allows commercial cultivation and has a lot area between three and one-half (3.5) and five (5) acres, and that shares at least fifty percent (50%) of its boundaries with parcels five (5) acres in size or larger, may apply for and be granted CCBL types 1, 1-B and 4 following the issuance of an Administrative Permit pursuant to section 20.242.070(C).

\*3 A parcel that is located in a zoning district that allows commercial cultivation and has a lot area between seven (7) and ten (10) acres, and that shares at least fifty percent (50%) of its boundaries with parcels ten (10) acres in size or larger, may apply for and be granted CCBL types 2 and 2-B following the issuance of an Administrative Permit pursuant to section 20.242.070(C).

\*4 Existing cultivation sites in the FL and TPZ zoning districts that were previously enrolled in a permit program pursuant to the County's Chapter 9.31 shall be required to obtain a zoning clearance unless the applicant seeks to expand beyond the size previously cultivated under such permit program.

\*5 Parcels in Industrial zoning districts are not subject to a minimum parcel area.

- (C) A reduction in the setback from a legal parcel line required by section 10A.17.040(A)(5) may be allowed following the issuance of an Administrative Permit, approved pursuant to section 20.242.070(C), subject to the following limitations: (1) the approved reduced setback for cultivation not within a structure shall be no less than twenty (20) feet from an adjoining property under separate ownership or an access easement, or (2) for cultivation within a structure, the setback shall be no less than the front, rear, or side yard setback (as applicable) setback for the zoning district in which the property is located. Any reduction of the setback pursuant to this section must comply with the required setback from an occupied legal structure and the reduced setback may not encroach into any corridor preservation setback, pursuant to sections 20.152.015 and 20.152.020.
- (D) An existing cultivation site located in a zoning district not listed in Table 1 of this section may continue, but shall not be expanded or enlarged, subject to the following planning permit and approval requirements.
- (1) Planning Permit Requirements:
- (a) Outdoor Cultivation (pursuant to a MCCO Type C CCBL) not exceeding two thousand five hundred (2,500) requires an approved Zoning Clearance.
  - (b) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A CCBL) not exceeding five hundred (500) square feet requires an approved Administrative Permit.
  - (c) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A CCBL) between five hundred one (501) and two thousand five hundred (2,500) square feet requires an approved Minor Use Permit.
  - (d) Mixed Light Cultivation (pursuant to a MCCO C-B CCBL) not exceeding two thousand five hundred (2,500) square feet requires an approved Zoning Clearance.
  - (i) Any future lapse or revocation of the MCCO CCBL will extinguish the permittee's ability to obtain a future permit from the Department to continue or resume an existing cultivation site that is not within a zoning district listed in Table 1 of this section.
- (E) Transferability of Permits. A permittee may assign a permit 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) A copy of the existing permit showing that it has not expired;
  - (d) Either:

- (i) The existing permittee's request to assign all rights and responsibilities of the permit to the assignee; or
  - (ii) In the event of the death or incapacitation of the existing permittee, 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 permit; and
- (f) An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit 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 permit shall be granted subject to the terms and conditions of the original permit.
- (3) Permits issued on parcels subject to the Sunset Provision of Section 10A.17.080(B)(2) shall not be assignable pursuant to this Section 20.242.040(E); provided, however, that such permits issued on parcels located within a "CA" Cannabis Accommodation Combining District are assignable.

**Section 22:** Section 20.242.050 is hereby amended to read as follows:

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

Establishment of a new cannabis cultivation site in the I1 (Light Industrial), I2 (General Industrial), and Pinoleville (PI) zoning districts, for the following MCCO CCBL types, may be permitted on or after January 1, 2018, subject to the requirements of Section 20.242.060: Type C-A, 1A and 2A, and Type C-B, 1B and 2B CCBL's for mixed-light cultivation, which mixed-light cultivation must occur in a greenhouse equipped with filtered ventilation systems as described in paragraph (P) of Section 10A.17.070 and may not occur in a hoop house.

**Section 23:** Section 20.242.060 is hereby amended to read as follows:

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

- (A) Except as provided in Section 20.242.050, on or after January 1, 2020, new cannabis cultivation sites may be permitted in accordance with this section.
- (B) All new cannabis cultivation sites shall be consistent with the General Limitations on Cultivation of Cannabis, Section 10A.17.040; provided, however, that an applicant may seek a reduction in the setback requirements as stated in paragraph (D) of this section.
- (C) Cultivation sites, operated in conformance with the MCCO, may be allowed on a legal parcel with an approved Zoning Clearance, Administrative Permit or Minor Use Permit, as required for the zoning district in which the cultivation site is located and listed in Table 2.

TABLE 2  
Zoning Permit Requirement for New Cannabis Cultivation by Zoning District  
and Cannabis Cultivation Ordinance CCBL Type

| MCCO<br>CCBL Type           |        | C<br>Sm<br>Outdoor | C-A<br>Sm Indoor, Artificial Light |            | C-B<br>Sm,<br>Mixed Light | 1<br>Med<br>Outdoor | 1-A<br>Med<br>Indoor,<br>Artificial<br>Light | 1-B<br>Med<br>Mixed<br>Light | 2<br>Lg<br>Outdoor | 2-A<br>Lg<br>Indoor,<br>Artificial<br>Light | 2-B<br>Lg<br>Mixed<br>Light | 4<br>Nursery |
|-----------------------------|--------|--------------------|------------------------------------|------------|---------------------------|---------------------|----------------------------------------------|------------------------------|--------------------|---------------------------------------------|-----------------------------|--------------|
| Min Parcel Area (ac)        |        | 2                  | 2                                  |            | 2                         | 5                   | 5                                            | 5                            | 10                 | 10                                          | 10                          | 10           |
| Cultivation Area Limit (sf) |        | 2,500              | 500                                | 501— 2,500 | 2,500                     | 2,501— 5,000        | 2,501— 5,000                                 | 2,501— 5,000                 | 5,001— 10,000      | 5,001— 10,000                               | 5,001— 10,000               | 22,000       |
| Zoning District             | RR 5*1 | ZC                 | AP                                 | UP         | ZC                        | ZC                  | —                                            | ZC                           | —                  | —                                           | —                           | —            |
|                             | RR 10  | ZC                 | AP                                 | UP         | ZC                        | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                             | AG     | ZC                 | AP                                 | UP         | ZC                        | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                             | UR     | ZC                 | AP                                 | UP         | ZC                        | ZC                  | —                                            | ZC                           | ZC                 | —                                           | ZC                          | ZC           |
|                             | I1*2   | ZC                 | ZC                                 | ZC         | ZC                        | —                   | ZC                                           | ZC                           | —                  | ZC                                          | ZC                          | ZC           |
|                             | I2*2   | ZC                 | ZC                                 | ZC         | ZC                        | —                   | ZC                                           | ZC                           | —                  | ZC                                          | ZC                          | ZC           |
|                             | PI*2   | ZC                 | ZC                                 | ZC         | ZC                        | —                   | ZC                                           | ZC                           | —                  | ZC                                          | ZC                          | ZC           |

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

\*1 Parcels in the RR-5 zoning district must have a minimum parcel size of five (5) acres.

\*2 Parcels in Industrial zoning districts are not subject to a minimum parcel area.

- (D) Setback Reduction. A reduction in the setback from a legal parcel line required by Section 10A.17.040 may be allowed with an Administrative Permit, approved according to Section 20.242.070(C), provided that the approved setback reduction is fifty (50) feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive and the location of the cannabis cultivation site continues to comply with the required setback from an occupied legal residential structure.

**Section 24:** Section 20.242.070 is hereby amended to read as follows:

**Sec. 20.242.070 – Planning approval required to cultivate cannabis.**

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

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

- (B) Zoning Clearance. The Department shall review the MCCO CCBL application to confirm the cannabis cultivation site is allowed in zoning district, subject to the applicable requirements of this chapter, and confirm the legal parcel on which the cultivation site is located. The Department shall additionally provide any information as requested by the Mendocino Cannabis Department to confirm compliance with any of the provisions of Chapter 10A.17.
- (C) Administrative Permit. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve, conditionally approve or deny an Administrative Permit for cannabis cultivation sites based on the following special findings.
  - (1) The cannabis cultivation site is allowed in the zoning district and it is in compliance with the provisions of Chapter 10A.17.
  - (2) There is no other environmentally superior cultivation site located on the same parcel; the location and operation of the cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceeding fifteen (15) percent, prime soil, oak woodland, and timber resources.
  - (3) The cannabis cultivation will avoid or minimize odor and light impact on residential uses.
  - (4) For any new cannabis cultivation site established after January 1, 2020 and that is not located in the AG (Agriculture) Zoning District, the submitted MCCO CCBL application contains evidence that demonstrates:
    - (1) there is adequate water supply in the watershed and water rights to

serve the cultivation site; (2) the cultivation site has received a Clean Water Act Section 404 permit from the Army Corps of Engineers or a Clean Water Act Section 401 permit from the North Coast Regional Water Quality Control Board, as applicable, and a General Permit for Discharges of Storm Water from the State Water Resources Control Board.

- (5) The Administrative Permit granted for the cannabis cultivation site shall be limited to a period not to exceed ten (10) years. The Administrative Permit shall expire at the end of this period unless it is renewed prior to the end of the 10-year period, or at any time the approved MCCO CCBL for the cultivation site expires or is revoked.
- (6) An Administrative Permit may be applied for and granted for an exception to the dwelling unit requirement of Chapter 10A.17 for parcels in the Rural Residential, lot size ten (10) acres (R-R:L-10) zoning district with the additional finding that the applicant shall demonstrate that the cultivation site and any associated infrastructure (roads, buildings, water storage, etc.) does not preclude the development of the parcel with a residence in the future. For parcels that will need on-site sewage disposal systems to be developed, making this finding may require the identification of a primary and reserve leach field to be identified in order to issue the Administrative Permit.
- (7) An Administrative Permit may be applied for and granted for an exception to the one thousand (1,000) foot setback requirement of a cannabis cultivation site as outlined in section 10A.17.040(B). Administrative permits may be approved, conditionally approved or denied for the reduction of the setback provided for in section 10A.17.040(A)(1) based on the findings of 20.242.070(C)(1), (C)(2) and (C)(3) and on the following special findings:
  - (i) That there be special circumstances applicable to the property involved, including size, shape, topography, location or surrounding;
  - (ii) That the granting of such reduction will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; and
  - (iii) That the granting of such reduction will not adversely affect the General Plan.
- (8) Applicants eligible for a Phase One CCBL pursuant to Chapter 10A.17 may apply for and be granted an Administrative Permit for an exception to the setback requirement of section 10A.17.040(A)(5) of an outdoor, greenhouse, or mixed light cultivation site to an adjacent legal parcel under separate ownership or access easement. Administrative Permits may be approved, conditionally approved, or denied for the reduction of required setbacks established in section 10A.17.040(A)(5) to no less than twenty (20) feet for cultivation not in a structure or no less than applicable front, side and rear yard setbacks for cultivation in a structure, based on

the findings of section 20.242.070(C)(1), (C)(2), and (C)(3) and on the following special findings:

- (i) That the granting of such reduction will not adversely affect the character, livability, or right to appropriate development of the adjacent property from which the setback reduction is requested; and will not interfere with rights of access or usage for any legal recorded easement; and
  - (ii) That the reduced setback maintains setbacks consistent with provisions of sections 10A.17.040(A)(1), (A)(2), (A)(3), and (A)(4), as applicable, unless the applicant obtains a reduction of such setbacks through an Administrative Permit as permitted by this Chapter.
- (D) Minor Use Permit. In accordance with the Use Permit review procedure listed in Chapter 20.196, the Zoning Administrator or the Planning Commission shall approve, conditionally approve, or deny a Minor Use Permit for a cannabis cultivation site based on findings in Section 20.196.020 and the following special findings:
  - (1) The proposed cannabis cultivation site is in compliance with the provisions of Chapter 10A.17.
  - (2) In cases where there is no other environmentally superior cultivation site located on the same parcel, the location and operation of the cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceed fifteen (15) percent, prime soil, oak woodland, and timber resources.
  - (3) The proposed cannabis cultivation site will avoid or minimize odor and light impact on residential uses.
  - (4) For any new cannabis cultivation site established after January 1, 2020 and that is not located in the AG (Agriculture) Zoning District, the submitted MCCO CCBL application contains evidence that demonstrates: (1) there is adequate water supply in the watershed and water rights to serve the cultivation site; (2) the cultivation site has received a Clean Water Act Section 404 permit from the Army Corps of Engineers or a Clean Water Act Section 401 permit from the North Coast Regional Water Quality Control Board, as applicable, and a General Permit for Discharges of Storm Water from the State Water Resources Control Board.
  - (5) The Use Permit granted for the cannabis cultivation site shall be limited to a period not to exceed ten (10) years. The Use Permit shall expire at the end of this period unless it is renewed prior to the end of the 10-year period, or at any time the approved MCCO CCBL for the cultivation site expires or is revoked.

**Section 25: 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 26. 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

\_\_\_\_\_  
GLENN MCGOURTY, 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:*  
CHRISTIAN M. CURTIS  
County Counsel

BY: DARCIE ANTLE  
Clerk of the Board

\_\_\_\_\_  
Deputy