

22 AUG. '17

1 ORDINANCE NO. _____
ORDINANCE MAKING CERTAIN AMENDMENTS TO CHAPTER 10A.17 –
MEDICAL CANNABIS CULTIVATION ORDINANCE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows: Section 1. Section 10A.17.020 is hereby amended as follows: The definition of "Third party inspector" shall be deleted. The definition of "Youth-oriented facility" shall be amended to read as follows: "Youth oriented facility" means an elementary school, middle school, high school, public park, or any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Youth-oriented facility shall include "day care center," as defined in Section 1596.76 of the California Health and Safety Code, as that section may be modified or superseded, and shall include "youth center" as defined in Section 11353.1 of the Health and Safety Code, as that section may be modified or superseded.

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

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

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

Overlay and Exceptions

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

- (1) Registration with the Agricultural Commissioner on an annual basis and maintaining such registration.
- (2) Compliance with the provisions of Section 10A.17.040.
- (3) Any and all cannabis cultivated by a qualified patient or person with an identification card shall be for the sole and exclusive use by the patient only; such cannabis may not be provided, donated, sold or distributed to any other person. A maximum of 100 square feet of medical cannabis may be cultivated on a legal parcel by a qualified patient or patients.

Or 6 plants whichever is greater.
Or whatever is medically required.

- (4) Any and all cannabis cultivated by a primary caregiver shall be for the sole and exclusive use of up to a maximum of two (2) patients which have provided written designation to the primary caregiver to provide those services; the primary caregiver may not receive remuneration for these activities except for compensation in full compliance

with subdivision (c) of Health and Safety Code section 11362.765. A maximum of 100 square feet of cultivation area of medical cannabis may be cultivated by a primary caregiver for each patient they are cultivating for. A maximum total of 200 square feet may be cultivated on a legal parcel by a primary caregiver or caregivers.

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

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

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

(A) The cultivation of medical cannabis in Mendocino County, in any amount or quantity by any entity, shall not be allowed in the following areas:

(1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein that is in existence at the time a Permit is issued.

A Youth-oriented facility may open within 1000 feet of an existing cultivation site however the Youth-oriented Facility may not cancel the license, prohibit renewal of the cultivation site, nor be a reason for denying future growth of the site.

(2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate legal parcel; provided, however, that on January 1, 2020, this setback shall be increased to two hundred (200) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

EXCEPTIONS AND OVERLAY

(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.

EXCEPTIONS AND OVERLAY

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

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

EXCEPTIONS AND OVERLAY

(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(g), or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest boundary line of the legal parcel on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 10A.17.040(G) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(5) shall be measured from the fence required in section 10A.17.040(G) to the boundary line of a legal parcel or access easement. Applicants may seek a reduction in the setback described in paragraph (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242.

EXCEPTIONS AND OVERLAY

Section 4. Section 10A.17.070 is hereby amended to read as follows:

Sec. 10A.17.070 - Requirements for All Permits.

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements: (A) Zoning Districts. Cultivation of cannabis for medical use shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided in Chapter 20.242. 5

EXCEPTIONS AND OVERLAY

Section 5. Section 10A.17.080 is hereby amended to read as follows:

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

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

EXCEPTIONS AND OVERLAY

Applicants for a Permit shall provide the following information on, or as an attachment to, the application: (A) The name, business and residential address, and phone number(s) of the applicant. (B) If the applicant is not the record title owner of the legal parcel, written consent from the owner allowing the cultivation of medical cannabis on their property by the applicant with original signature of the record title owner. (C) Written evidence that each person applying for the permit and any other person who will be engaged in the cultivation of cannabis for medical use is at least twenty-one (21) years of

age. (D) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of: (1) easements (access and utility and all roadways public and private); (2) streams, springs, ponds and other surface water features, including the location of any flood plain or floodways; (3) the location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis for medical use and showing that all setbacks required by section 10A.17.040 are being met;

EXCEPTIONS AND OVERLAY

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

~~Temporary License~~ TEMPORARY LICENSE?????

(B) As a condition of approval for any cultivation permit, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, ~~for~~ damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation of cannabis for medical use.

Class K permitting

EXCEPTIONS AND OVERLAY

(C) Discovery of any violation(s) of the Mendocino County Code during the Permit 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 Permit application, and/or if it is discovered that the Permit would authorize a particular use for which a separate 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 Permit. Failure by applicant to agree in writing to a required compliance plan shall be grounds for denial of the Permit. (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 Permit 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 Permit.

EXCEPTIONS AND OVERLAY

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

EXCEPTIONS AND OVERLAY