

Chapter 20.243 – ~~Medical and Adult~~ Use Cannabis Facilities

20.243.010 Title, Purpose and Intent.

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

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

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

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

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

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

20.243.020 Application.

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

20.243.030 Definitions.

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

~~“A-license” means a state license issued under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician’s recommendations.~~

~~“A-licensee” means any person holding a license under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician’s recommendations.~~

"Bureau" means the Bureau of Cannabis Control.

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

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

~~“Cannabis facility” means a structure and/or location where retailing, distributing, processing, testing, manufacturing or delivering cannabis for either medical or adult use is operating.~~

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

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

"Customer" means a natural person 21 years of age or over, or a natural ~~person~~ **person 18 years** of age or older who possesses a physician’s recommendation.

~~“Department” means the Mendocino County Planning and Building Services.~~

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

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use ~~d~~ by a retailer of any technology platform owned and controlled by the retailer.

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

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

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

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

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

“Licensee” means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes ~~se~~ the holder of a testing laboratory license.

“M-license” means a state license issued ~~under this division~~ for commercial cannabis activity involving medicinal cannabis.

“M-licensee” means any person holding a license ~~under this division~~ for commercial cannabis activity involving medicinal cannabis.

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

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

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

~~“Medical retailer” means the retail sale and delivery of medical cannabis or cannabis products to customers.~~

“Mendocino County Certified Unified Program Agency (CUPA)” means the agency certified to implement the unified hazardous waste and hazardous materials management regulatory program set forth in Section 25404 of the Health and Safety Code.

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

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

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

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

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

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

“State” means the State of California.

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

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

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

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

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

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

20.243.040 Use Classifications

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

- (A) Processing Facilities.
 - (1) Processing facilities, as defined herein, shall be an ~~industrial~~ **agricultural** use type.

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

(B) Manufacturing Facilities.

- (1) Manufacturing facilities, as defined herein, shall be an industrial use type.

- (2) Exception for home manufacturing.

- a. Non-volatile manufacturing as an accessory use to cultivation is be allowed in all zones where cultivation is allowed pursuant to Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and is subject to the provisions of Chapter 20.160 *Cottage Industry* and the following provisions:

- i. The cultivator engaging in home manufacturing must be ~~licensed~~ **permitted** to cultivate pursuant to Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and must reside on the property where the home manufacturing is occurring.
- ii. All cannabis used in home manufacturing must be cultivated on site, under a Type C, Type C-A or Type C-B cultivation permit issued pursuant to Chapter 10A.17.
- iii. No edible cannabis products may be produced.
- iv. Only nonvolatile extraction methods may be used.

(C) Testing Laboratories and Research Institutions.

- (1) Testing laboratories and research institutions, as defined herein, shall be a commercial use type.

- (2) Testing licensees shall not

- a. hold a license in another facility or category established by this Chapter; or
- b. own or have an ownership interest in any other facility or category licensed pursuant to this Chapter.

(D) ~~Medical Cannabis Dispensaries~~ **Retailers (formerly Dispensaries) Retailer/Dispensary.**

- (1) ~~Medical Cannabis Dispensaries~~ **A Retailer/Dispensary**, as defined herein, shall be a commercial use type.

- (2) This section applies to all ~~medical cannabis dispensaries~~ **retailers/dispensaries**, as defined in Section 20.243.030 of this Chapter.

- (a) ~~Medical cannabis dispensaries~~ **M-license retailers/dispensaries** that cultivate nursery stock or seeds must comply with the provisions of Mendocino County Code Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*.

- (b) ~~Dispensaries~~ **Medical M-license retailers/dispensaries** that engage in mobile deliveries are prohibited from having any advertisement of their business or services on their delivery vehicles.

~~(b)~~

~~(E) Retailers.~~

- ~~(1) Retailer, as defined herein, shall be a commercial use type.~~

~~(2) This section applies to all retailers, as defined in Section 20.243.030 of this Chapter.~~

(c) On-site consumption of cannabis is permitted in outdoor areas of A-license retailers/dispensaries, such as patios or decks, ~~is allowed~~ and shall adhere to ~~existing smoking ordinances~~ the provisions of Mendocino County Code Chapter 9.32 *Smoking Pollution Control and Health Protection Ordinance*.

(d) -Promotional items and free product give-a-ways by ~~adult-use cannabis~~ A-license retailers/dispensaries is prohibited.

~~(F)~~(E) Distribution Facility.

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

~~(G)~~(F) Microbusinesses.

(1) ~~Adult Use Cannabis~~ Microbusiness, as defined herein, shall be ~~an industrial~~ the use type which is the predominant use type of that microbusiness.

(2) Microbusinesses with on-site cultivation must comply with and obtain a ~~license-permit~~ pursuant to Chapters 10A.17 and 20.242 of the Mendocino County Code, and microbusinesses intending to cultivate adult use cannabis shall comply with the terms of ~~at such time the County adopts~~ an Adult Use Cultivation Ordinance, when adopted by the County}.

(3) Microbusinesses with on-site processing, distribution, wholesale, and/or retail sales or dispensing of its products shall comply with all applicable sections of this Chapter.

~~(3)~~(4) Microbusinesses proposed in the General Commercial (C2) zoning district must demonstrate ~~that~~ that the -retail component of the Microbusiness is the primary use ~~shall be the primary use~~ and other uses are incidental and subordinate to the retail component.

20.243.050 General Limitations on Medical and Adult Use Cannabis Facilities.

(A) The Applicant must have authorization as a qualified patient or as a primary caregiver to process, manufacture, test, dispense, or distribute, medical cannabis for medical use. This provision shall sunset consistent with the operative date of applicable provisions of MAUCRSA.

(B) All cannabis facilities shall comply with all applicable regulations of in the Mendocino County Code, the California Department of Consumer Affairs, California Department of Public Health, and the MAUCRSA.

(C) The processing, manufacturing, testing, dispensing, retail sales, and distributing of cannabis for medical and adult use in Mendocino County, shall not be allowed within six hundred (600) foot radius of a school providing instructions in kindergarten or any grades 1 through 12, day care center, park, church, residential treatment facility, youth-oriented facility or youth center that is in existence at the time the zoning clearance or permit is issued, unless the state licensing authority specifies a different distance. The distance between the above-listed uses and medical or adult use cannabis that is being processed, manufactured, tested, dispensed, retailed or distributed shall be measured in a straight line from the nearest point of the medical cannabis facility to the nearest boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located.

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

20.243.060 Permit Types and Zoning Districts.

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

Table 1								
Permit Requirements for Processing, Manufacturing, Testing, Delivery, Retailers, Distribution, and Microbusiness								
by Zoning District and Cannabis Facilities Code Permit Type								
			6-A and 6-M	7-A and 7-M	8-A and 8-M	10-M and 10-A	11-A and 11-M	12-A
		Processing	Manufacturing Level 1 (Non-volatile)	Manufacturing Level 2 (Volatile)	Testing	Retail/ Dispensary	Distribution	Microbusiness*
Zoning District	RR 2	—	—	—	—	—	—	—
	RR 5	—	—	—	—	—	—	—
	RR 10	—	—	—	—	—	—	—
	R3	—	—	—	—	—	—	—
	RC	MUP	MUP	UP	UP	UP	UP	UP
	SR	—	—	—	—	—	—	—
	AG	UP	—	—	—	—	—	—
	UR	—	—	—	—	—	—	—
	RL	UP	—	—	—	—	—	—
	FL	UP	—	—	—	—	—	—
	TPZ	—	—	—	—	—	—	—
	C1	—	—	—	—	ZC	—	—
	C2	—	—	—	ZC	ZC	MUP	AP
	I1	ZC	ZC	UP	ZC	UP	ZC	UP
	I2	ZC	ZC	UP	ZC	UP	ZC	UP
	PI	ZC	ZC	UP	ZC	UP	ZC	UP
—=Not Allowed, ZC= Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit, MUP = Major Use Permit								
* Microbusiness engaged in cultivation shall be allowed at such time the County adopts an Adult Use Cultivation Ordinance and State Licenses are available.								

20.243.070 Exceptions

(A) Existing packing and processing facilities. Establishment of new cannabis facilities may be considered with a Major Use Permit in FL, AG, or RL Districts, ~~and in any other zoning district where such facilities exist subject to compliance with the County's existing nonconforming use requirements in Chapter 20.204,~~ consistent with Section 20.243.~~110-090~~ *Planning Approval Required to Process, Manufacture, Test, Dispense, Retail, and Distribute, Cannabis for Medical and Adult Use*, where all of the following can be demonstrated:

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

If all of the above are true, substantial improvements to existing facilities and systems would be acceptable, subject to use permit conditions of approval ~~and subject to the making of findings consistent with those found in Chapter 20.204, as applicable.~~

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

20.243.080 ~~Provisional~~ Continued Operation.

All medical cannabis ~~facilities~~ ~~retailers/dispensaries~~ operating with an approved business license prior to the effective date of these regulations, ~~that are allowed with an approved Zoning Clearance, Administrative Permit, Minor Use Permit, or Major Use Permit as required for the zoning district in which the medical or adult use cannabis facility is located (per Table 1)~~ are eligible to continue operations ~~without obtaining any additional permit which may be required by this Chapter, but shall comply with the requirements listed in sections 20.243.040 and 20.243.050, except for paragraph (C) of section 20.243.050, and any requirements of State law. . on a provisional basis in a manner consistent with the requirements of this Chapter until such time as the permit application has been processed and the hearing body approves or denies the project.~~

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

(A) Planning Approval Procedure. Each medical or adult use cannabis facility site is subject to one of the following planning procedures that correspond to the applicable zoning district, as specified by Table 1 of this Chapter. Planning and Building shall review the application in accordance with the applicable planning approval process.

(1) Zoning Clearance. Planning and Building Services and the Department of Environmental Health shall review projects for compliance with applicable local regulations.

(2) Administrative Permits. In accordance with the Administrative Permit review procedure listed in Chapter 20.192, the Zoning Administrator shall approve, conditionally approve or deny an Administrative Permit for a medical or adult use cannabis facility based on the following special findings:

(1) The medical or adult use cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, as applicable.

(2) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.

(3) Minor Use Permits. In accordance with the Use Permit review procedure listed in Chapter 20.196, the Zoning Administrator or the Planning Commission shall approve, conditionally approve, or deny a Minor Use Permit for a medical cannabis facility based on findings in Sections 20.196.020 and 20.196.030.

1) The medical or adult use cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, as applicable.

2) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.

(4) Major Use Permits. In accordance with the Use Permit review procedure listed in Chapter 20.196, the Zoning Administrator or the Planning Commission shall approve, conditionally approve, or deny a Major Use Permit for a medical cannabis cultivation site based on findings in Sections 20.196.020 and 20.196.030.

(1) The medical or adult use cannabis facility site is allowed in the zoning district and it is in compliance with the provisions of this Chapter and Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, as applicable.

(2) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.

(B) The County shall notify any State licensing authority, as defined by the MAUCRSA, as applicable, whenever the County business license, Administrative Permit or Minor or Major Use Permit has been revoked or terminated.

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

Any person or entity that wishes to engage in the processing, manufacturing, testing, dispensing, retailing, and distributing, of cannabis for medical and adult use shall submit an application to Planning

and Building. Applications for medical or adult use cannabis facilities shall be made upon such forms and accompanied by such plans and documents as may be prescribed by Planning and Building so as to assure the fullest practical presentation of facts for the review of the application. An application fee will be due at the time the application is submitted and is non-refundable.

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

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

20.243.110 Permit Revocation.

An Administrative Permit or Use Permit may be revoked or modified according to the revocation or modification provisions in Mendocino County Code sections 20.192.060 and 20.192.065 or sections 20.196.055 and 20.196.060, respectively. Grounds for seeking -revocation or modification include: non-compliance with one or more of the requirements listed in this Code; failure to comply with the requirements of the Mendocino County Certified Unified Program Agency (CUPA), or any of the grounds listed in code sections identified in this paragraph, as applicable, and any successor provisions.

~~20.244.120 Severability.~~

~~If any provision of this Chapter, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Section are severable.~~