

2 October 2017

TO: Mendocino County Board of Supervisors

Dear Supervisors and CEO,

As it is currently written, the Ordinance will have an extremely negative effect on the economic viability of most areas of Mendocino County.

For your consideration, we have attached a revised (with community input) draft of Chapter 20.243 Cannabis Facilities Ordinance.

The Sept 7 Memorandum to the Planning Commission says that an analysis of the General Plan leaves little room for allowing Processing and Manufacturing in any districts except Industrial and Commercial Zones. However, a closer look at the General Plan and the Zoning Code show differently—there is extensive support in the Zoning Code to allow for various enterprises related to on farm processing of an agricultural product. Packing and Processing, tasting rooms, sales, and Cottage Industries in most of these zones are allowed, either as a permitted use or by obtaining a minor or major use permit. As an agricultural product, there is no reason Cannabis should be excluded from currently permitted uses in various zoning districts.

Confining Cannabis businesses to a limited number of zone types and areas within the county, as currently proposed, will have these negative impacts:

- Suitable buildings in the industrial and commercial zones of the County will be purchased by deep pocket investors from out of the area, pushing out non-cannabis businesses from those relatively small areas.
- Current, skilled, Mendocino County producers will be forced out of business, impacting rural areas of Mendocino County especially hard.
- Options for all kinds of businesses who may want to earn additional income from Cannabis tourists have no option to do so as currently written (example tourist destinations).
- The black market will continue, as most people will be forced to hide their activities as becoming legal is not an option in their zoning district. This will cause a continuation of the unsafe practices that caused the recent explosion in Willits.

General Plan and Zoning Code interpretation:

Both the General Plan and the Zoning Code encourage small, local, environmentally friendly businesses in a variety of locations outside the Industrial and Commercial areas of the larger towns.

See the new table (Table 1.2) that takes allowed uses from the Zoning Code and populates the Table 1.2. The table also includes additional columns. This is to reflect the important differences the Zoning Code, where it specifies whether or not the crop getting processed was grown on the same property or whether it comes from other farms.

The zoning code has extensive references what's allowed in the cultivation, processing and sales of wine grapes in various districts. As an agricultural product that involves sales and tourism, it makes sense to apply the same rules applied used in the wine industry as it does for the cannabis industry. Please refer to the explanation page of Table 1.2 for a summary of allowed agricultural activities in zoning districts, and the zoning table for the requirements (ZC, UP or MUP) for each zone type.

Mendocino County can become a destination spot- bringing buyers and tourism dollars: Farms and lodging destinations need to have the ability to sell their product directly to the customers to consume onsite, without being a dispensary. For this new category you will see the “Retail Tasting Bar” column. This category is modeled on the Tasting Rooms that wineries can have, and is allowed in the Zoning Code as part of “Packing and Processing—Winery”.

The Zoning Code also allows for Minor Use Permits for Cottage Industries, and these permits should be available for Level 1 Manufacturers. Because in some cases they are already operating, or need to start now to be competitive, it makes sense to offer a temporary or provisional permit while they are going through the Minor Use Permit Process.

In summary, cannabis is now considered ‘agriculture’. Mendocino County has a long history in regulating agriculture, as is apparent in the General Plan and the Zoning Code. All that is needed is to follow zoning policy that was approved by extensive community input and years of implementation. Doing anything else would be discrimination, and the resulting increase in unregulated, untaxed proliferation of the black market economy. Through intelligent regulation we can encourage a law abiding, environmentally sound, positive economy that benefits all of the residents of Mendocino County.

Summary of changes made in the submitted draft:

1. Any cultivator permittee can do home (level 1) manufacturing -- changed from only cottage cultivators.
2. Cottage industry permits for manufacturing are an option for anybody who isn't a cultivator, but is located outside of Industrial Zoning
3. Provisional and temporary permits should be available for Level 2 Processors and Level 2 Manufacturers who need Use Permits.

Thank you for your time and consideration and we look forward to creating the type of regulated, tax paying, environmentally sound industry that everyone can be proud of.

Julia Dakin, Charles Sargenti, Julia Carrera, Jude Thilman, Amanda Reiman, and Casey O’Neill and others.

ORDINANCE NO. _____

**ORDINANCE ADOPTING CHAPTER 6.36 – CANNABIS FACILITIES BUSINESSES AND
CHAPTER 20.243 –CANNABIS FACILITIES**

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

Section 1. Chapter 6.36 is hereby added to the Mendocino County Code to read as follows:

Chapter 6.36 –Cannabis Facilities Businesses

Section 6.36.010	Definitions.
Section 6.36.020	Requirement for Cannabis Facility Business License.
Section 6.36.030	License Fee and Category Types.
Section 6.36.040	Administration.
Section 6.36.050	Location.
Section 6.36.060	Application Procedure.
Section 6.36.070	Issuance of License.
Section 6.36.080	Business License Renewal.
Section 6.36.090	Display of License.
Section 6.36.100	Licenses Nontransferable.
Section 6.36.110	Track and Trace.
Section 6.36.120	Violations.
Section 6.36.130	Termination or Revocation of License.
Section 6.36.140	Enforcement.

Section 6.36.010 – Definitions.

Unless otherwise defined in this Chapter, the terms and phrases used in this Chapter shall have the same definitions as provided in Chapter 10A.17 *Medical Cannabis Cultivation Ordinance* and Chapter 20.243 *Medical and Adult Use Cannabis Facilities*.

“Cannabis Facilities Business License” means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, retailing/dispensing, distributing, and/ or microbusiness within the County. The business license shall be in the form prescribed by the Tax Collector and must contain, at a minimum, the licensee's name, the business name, type of business, location of business, commencement and expiration dates of the license, and fee remitted. A Cannabis Facilities Business License shall be required for the operation of any cannabis facility, as that term is defined in Section 20.243.050.

“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.

Section 6.36.020 – Requirement for Cannabis Facility Business License.

- (A) It shall be unlawful for any Person to transact any business in the unincorporated area of Mendocino County for which a license is required by this Chapter, without

possessing a valid and current Mendocino County Cannabis Facilities Business License for such business issued by the Mendocino County Treasurer-Tax Collector (Tax Collector).

- (B) Cannabis facilities shall be required to comply with other provisions of the Mendocino County Code, including but not limited to, Chapters 10A.17, 20.242, and 20.243, as applicable.
- (C) All cannabis facilities, regardless of where located, shall comply with the following:
 - (1) A cannabis facility 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.
 - (2) A cannabis facility shall comply with the general limitations set forth in section 20.243.050.
- (D) Persons applying for a Cannabis Facilities Business License shall obtain a valid California State license required under MAUCRSA as soon as such State licenses become available.
- (E) A Person who obtains a Cannabis Facilities Business License under this Chapter 6.36 for a cannabis facility shall not be required to obtain a separate business license under Chapter 6.04 for the same activity.
- (F) The business license requirement set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
- (G) Cannabis facilities in existence prior to January 1, 2017, that had an approved County business license under Chapter 6.04 may continue to operate under that business license until that license is scheduled to be renewed, at which time the cannabis facility shall apply for a license under this Chapter 6.36.

Section 6.36.030 – License Fee and Category Types.

The Board of Supervisors shall set license fees in an amount that covers all administrative costs for license issuance. The license fee shall be based on a flat rate set by Resolution passed by the Board of Supervisors. Cannabis facility business licenses shall be issued for the following facility types, as more particularly defined and described in Chapter 20.243:

- (A) Processing Facilities.
- (B) Manufacturing Facilities.
- (C) Testing Laboratories and Research Institutions.

- (D) Retailers/Dispensaries.
- (E) Distribution Facilities.
- (F) Microbusinesses.

Section 6.36.040 – Administration.

- (A) ISSUING OFFICER. All business licenses required by this Chapter shall be issued by the Tax Collector upon completion and approval of a Cannabis Facility Business License application, assuming all pertinent requirements are met, and payment of the proper fee in lawful money of the United States.
- (B) TERM OF LICENSE. A license issued pursuant to this Chapter shall be valid for twelve (12) months from the date of issuance, or a longer period of time at the discretion of the Tax Collector. The license shall be renewed annually.
- (C) NUMBER OF LICENSES REQUIRED. A separate license is required for each separate place of business even if the businesses are owned or operated by the same Person. If more than one facility type is being conducted at one location, a separate license is required for each facility type.
- (D) BOARD OF EQUALIZATION PERMIT. A State of California Board of Equalization (Board of Equalization) Seller's Permit is required to collect and remit sales tax to the Board of Equalization if the applicant intends to sell medical or adult use cannabis and/or cannabis products between license types or sell directly to qualified patients, primary caregivers, or adult use customers.
- (E) ACCOUNTING. The Tax Collector shall deposit all Business License Fees to the proper fund in the County Treasury. The original copy of each license issued by the Tax Collector shall bear the County seal.
- (F) No County employee responsible for implementing or enforcing the provisions of this Chapter may have a direct or indirect financial interest in a cannabis facility or be employed by, or volunteer at, a cannabis facility.

Section 6.36.050 – Location.

Cannabis facilities may be located in the unincorporated areas of Mendocino County in conformance with Chapters 10A.17 of the Mendocino County Code, as well as the provisions of the Mendocino County Zoning Code, including but not limited to Chapters 20.242 and 20.243.

Section 6.36.060 – Application Procedure.

- (A) The Office of the Tax Collector shall refer the application to the Department of Planning and Building Services, the Division of Environmental Health, and other departments or divisions as necessary, to verify that the application is in compliance with County Code provisions and that the applicant has valid County license(s), permit(s), and/or other approvals, as required, prior to issuing any County Cannabis Facility Business License. The Office of the Tax Collector shall charge the applicant all fees required under the Master Fee Schedule for these referrals.

- (1) All County Cannabis Facility Business Licenses are provisional until a valid State of California license, as required under MAUCRSA, is verified.
 - (a) A copy of the State license issued pursuant to MAUCRSA must be filed with the Tax Collector within 15 days of issuance.
- (2) If a cannabis facility is denied a state license under MAUCRSA, the provisional local County Cannabis Facility Business License will become invalid.
- (B) Within ten (10) days of filing a complete Cannabis Facility Business License application with the Office of the Tax Collector, each business owner, partner, and operator/manager (if they are not the owner) are required to have a LiveScan criminal history inquiry. Each business owner, partner, operator/manager (if they are not the owner) shall provide the Sheriff with written permission authorizing the Sheriff to complete a LiveScan criminal history inquiry to determine if a criminal history record exists for the person or shall complete a LiveScan criminal history inquiry at a location certified and approved by the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). The reasonable costs of a LiveScan criminal history inquiry and review done by the Sheriff pursuant to this section shall be the responsibility of the business owner, partner, and operator/manager and shall be paid in advance to the Sheriff. LiveScan criminal history inquiries completed at a certified and approved LiveScan location shall have the results sent to the Sheriff.
- (C) The Sheriff's deputy or employee charged with the duty of making the inquiry shall determine whether the business owner, partner, and operator/manager has not been convicted of a violent felony as defined in Penal Code section 667.5(c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

Section 6.36.070 – Issuance of License.

Upon review of an application for a Cannabis Facility Business License and payment of the license fee and any other fee required by the County for review of the application, the Office of the Tax Collector shall perform the application review stated in Section 6.36.060 and issue a license unless substantial record evidence demonstrates one of the following bases for denial:

- (A) The application is incomplete or inaccurate.
- (B) Determination by the County that the application or the facility is not in compliance with the provisions of the Mendocino County Code including but not limited to this Chapter and Chapters 10A.17, 20.242, and 20.243.
- (C) Provision of false or misleading information by the Applicant to the County.
- (D) The failure or refusal of a licensed facility to comply with any of the provisions of this Chapter.
- (E) The failure or refusal to carry out the policies and procedures or comply with the statements provided to the County with the application of the facility.

- (F) The failure or refusal to cooperate fully with an investigation or inspection by the County.

A business license issued pursuant to this Chapter does not provide any exception, defense, or immunity from other laws, nor does it create an exception, defense or immunity to any Person in regard to potential criminal liability the Person may have for the production, distribution or possession of medical or adult use cannabis.

Section 6.36.080 – Business License Renewal.

- (A) A Cannabis Facility Business License renewal application and renewal fee must be submitted pursuant to Section 6.36.040(B). Failure to submit a renewal application will result in the automatic expiration of the Cannabis Facility Business License on the expiration date.
- (B) A Cannabis Facility Business License may not be renewed if any of the following occurred during the previous year or currently exist: violations of or non-compliance with the license, these regulations, or any of the provisions of the Mendocino County Code, including, but not limited to, Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*, Chapter 20.243 *Medical and Adult Use Cannabis Facilities Code*.
- (C) Cannabis Facility Business License renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place at the time of the initial or previous application(s) and may require the submittal of additional information to ensure that new standards are met. Renewal applications shall be referred to all relevant departments of the County to determine compliance with the Mendocino County Code.

Section 6.36.090 – Display of License.

It shall be unlawful for any Person who engages in any business for which a Cannabis Facility Business License is required to fail, or refuse, to post the same in a conspicuous place in their place of business.

Section 6.36.100 – Licenses Nontransferable.

No license granted under this Chapter shall be transferable to any other Person or removable to any other location.

Section 6.36.110 – Track and Trace.

Cannabis facilities shall be required to enroll in and comply with all requirements of any Track and Trace system adopted and implemented by the County to track the production and distribution of cannabis. Cannabis facilities shall obtain and use unique identifiers from an approved source, maintain them in a readable state, comply with all data entry requirements and pay all required Track and Trace fees. Noncompliance with Track and Trace requirements shall constitute a violation of the Cannabis Facilities Business License.

Section 6.36.120 –Violations.

- (A) VIOLATION OF CANNABIS FACILTIES LAWS. It shall be a violation of this Chapter for a Person or his or her agent or employee to violate any local, or state, cannabis facilities-related law.
- (B) LICENSE COMPLIANCE MONITORING. Compliance checks of each Cannabis Facility may be conducted by the County. The County shall not enforce any cannabis facilities minimum age law against a person who otherwise would be in violation of such law because of the person's age if the violation occurs when the person is participating in a compliance check, and is supervised by a law enforcement official, a code enforcement official, or any peace officer.
- (C) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation of this Chapter.
- (D) Violations of this Chapter are hereby declared to be public nuisances.

Section 6.36.130 –Termination or Revocation of License.

- (A) TERMINATION OF LICENSE UPON EXPIRATION. A Cannabis Facility Business License expires if not renewed pursuant to Section 6.36.080 of this Chapter. Upon expiration, a Cannabis Facility Business license shall automatically be deemed terminated. Termination based on expiration shall not prevent a Person from submitting a new application for a Cannabis Facilities Business License.
- (B) REVOCATION OF LICENSE AFTER HEARING. The Board of Supervisors of Mendocino County may revoke a Cannabis Facility Business License of any Person after finding that the Person was guilty of some act which would otherwise disqualify such entity from obtaining such license, or after finding that the Person transacted or operated its business in any manner contrary to any law, ordinance, chapter, rule or regulation. The Board of Supervisors may make the finding forming the basis for license revocation after hearing evidence thereon as any interested person may present at a public hearing held at least ten (10) days prior to the meeting at which action on such revocation takes place. Any Person whose Cannabis Facility Business License is revoked in this manner shall be disqualified from obtaining a Cannabis Facility Business License unless the Board of Supervisors waives such disqualification.
- (C) IMMEDIATE REVOCATION OF LICENSE, NO HEARING. After the State begins issuing licenses for Cannabis Facilities, the Cannabis Facility Business License shall be immediately revoked upon one or more of the following events occurring:
 - (1) Notification to the County that the State of California has revoked a State license issued pursuant to California Business & Professions Code Sections 26000, et seq. or other applicable state law for a medical cannabis facility.
 - (2) Failure to obtain and maintain a valid and current state licenses pursuant to California Business & Professions Code Sections 26000, et seq. or other applicable state law.

Section 6.36.140 – Enforcement.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity. The use of one or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

Section 2. Chapter 20.243 is hereby added to the Mendocino County Code to read as follows:

Chapter 20.243 –Cannabis Facilities

- Section 20.243.010 Title, Purpose and Intent.
- Section 20.243.020 Application.
- Section 20.243.030 Definitions.
- Section 20.243.040 Use Classifications.
- Section 20.243.050 General Limitations on Medical and Adult Use Cannabis Facilities.
- Section 20.243.060 Permit Types and Zoning Districts.
- Section 20.243.070 Exceptions.
- Section 20.243.080 Continued Operation.
- Section 20.243.090 Planning Approval Required for Processing, Manufacturing, Testing, Retail/Dispensary, and Distribution Facilities for Medical and Adult Use Cannabis.
- Section 20.243.100 Permit Revocation.

Section 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.

Section 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.

Section 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 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 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 18 years of age or older who possesses a physician's recommendation.

"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 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 the holder of a testing laboratory license.

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

“M-licensee” means any person holding a license 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.

“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 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.

“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.

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

Section 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 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*.
- (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 permitted to cultivate pursuant to Chapter 10A.17 *Medical Cannabis Cultivation Ordinance*.

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) Retailer/Dispensary.

- (1) A Retailer/Dispensary, as defined herein, shall be a commercial use type.
- (2) This section applies to all retailers/dispensaries, as defined in Section 20.243.030 of this Chapter.
 - (a) 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) M-license retailers/dispensaries that engage in mobile deliveries are prohibited from having any advertisement of their business or services on their delivery vehicles.
 - (c) On-site consumption of cannabis is permitted in outdoor areas of A-license retailers/dispensaries, such as patios or decks, and shall adhere to 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 A-license retailers/dispensaries is prohibited.

(E) Distribution Facility.

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

(F) Microbusinesses.

- (1) Microbusiness, as defined herein, shall be the use type which is the predominant use type of that microbusiness.
- (2) Microbusinesses with on-site cultivation must comply with and obtain a 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 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.
- (4) Microbusinesses proposed in the General Commercial (C2) zoning district must demonstrate that the retail component of the Microbusiness is the primary use and other uses are incidental and subordinate to the retail component.

Section 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 cannabis or cannabis products and theft of cannabis or 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 cannabis and 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 for signage and other applicable State regulations.

Section 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.								

Section 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 20.243.090 *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) No trees shall be unlawfully removed.
- (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.

Section 20.243.080 - Continued Operation.

All medical cannabis retailers/dispensaries operating with an approved business license prior to the effective date of these regulations, 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.

Section 20.243.090 - Planning Approval Required for Processing, Manufacturing, Testing, Retail/Dispensary, 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:
 - (a) 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.
 - (b) 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.
 - (a) 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.
 - (b) 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.
 - (a) 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.
 - (b) 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.

Section 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 the 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.

Section 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.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The Board of Supervisors of the County of Mendocino hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof independently, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 4. CEQA. This ordinance is categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the State CEQA Guidelines, the General Rule exemption, as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment. This finding is based on and supported by the staff memorandum accompanying this ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2017, by the following roll call vote:

AYES:

NOES:

ABSENT:

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

ATTEST: CARMEL J. ANGELO
Clerk of the Board

JOHN MCCOWEN, Chair
Mendocino County Board of Supervisors

Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT,
County Counsel

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

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

2 October 2017

TO: Mendocino County Board of Supervisors

Dear Supervisors and CEO,

As it is currently written, the Ordinance will have an extremely negative effect on the economic viability of most areas of Mendocino County.

For your consideration, we have attached a revised (with community input) draft of Chapter 20.243 Cannabis Facilities Ordinance.

The Sept 7 Memorandum to the Planning Commission says that an analysis of the General Plan leaves little room for allowing Processing and Manufacturing in any districts except Industrial and Commercial Zones. However, a closer look at the General Plan and the Zoning Code show differently—there is extensive support in the Zoning Code to allow for various enterprises related to on farm processing of an agricultural product. Packing and Processing, tasting rooms, sales, and Cottage Industries in most of these zones are allowed, either as a permitted use or by obtaining a minor or major use permit. As an agricultural product, there is no reason Cannabis should be excluded from currently permitted uses in various zoning districts.

Confining Cannabis businesses to a limited number of zone types and areas within the county, as currently proposed, will have these negative impacts:

- Suitable buildings in the industrial and commercial zones of the County will be purchased by deep pocket investors from out of the area, pushing out non-cannabis businesses from those relatively small areas.
- Current, skilled, Mendocino County producers will be forced out of business, impacting rural areas of Mendocino County especially hard.
- Options for all kinds of businesses who may want to earn additional income from Cannabis tourists have no option to do so as currently written (example tourist destinations).
- The black market will continue, as most people will be forced to hide their activities as becoming legal is not an option in their zoning district. This will cause a continuation of the unsafe practices that caused the recent explosion in Willits.

General Plan and Zoning Code interpretation:

Both the General Plan and the Zoning Code encourage small, local, environmentally friendly businesses in a variety of locations outside the Industrial and Commercial areas of the larger towns.

See the new table (Table 1.2) that takes allowed uses from the Zoning Code and populates the Table 1.2. The table also includes additional columns. This is to reflect the important differences the Zoning Code, where it specifies whether or not the crop getting processed was grown on the same property or whether it comes from other farms.

The zoning code has extensive references what's allowed in the cultivation, processing and sales of wine grapes in various districts. As an agricultural product that involves sales and tourism, it makes sense to apply the same rules applied used in the wine industry as it does for the cannabis industry. Please refer to the explanation page of Table 1.2 for a summary of allowed agricultural activities in zoning districts, and the zoning table for the requirements (ZC, UP or MUP) for each zone type.

Mendocino County can become a destination spot- bringing buyers and tourism dollars: Farms and lodging destinations need to have the ability to sell their product directly to the customers to consume onsite, without being a dispensary. For this new category you will see the “Retail Tasting Bar” column. This category is modeled on the Tasting Rooms that wineries can have, and is allowed in the Zoning Code as part of “Packing and Processing—Winery”.

The Zoning Code also allows for Minor Use Permits for Cottage Industries, and these permits should be available for Level 1 Manufacturers. Because in some cases they are already operating, or need to start now to be competitive, it makes sense to offer a temporary or provisional permit while they are going through the Minor Use Permit Process.

In summary, cannabis is now considered ‘agriculture’. Mendocino County has a long history in regulating agriculture, as is apparent in the General Plan and the Zoning Code. All that is needed is to follow zoning policy that was approved by extensive community input and years of implementation. Doing anything else would be discrimination, and the resulting increase in unregulated, untaxed proliferation of the black market economy. Through intelligent regulation we can encourage a law abiding, environmentally sound, positive economy that benefits all of the residents of Mendocino County.

Summary of changes made in the submitted draft:

1. Any cultivator permittee can do home (level 1) manufacturing -- changed from only cottage cultivators.
2. Cottage industry permits for manufacturing are an option for anybody who isn't a cultivator, but is located outside of Industrial Zoning
3. Provisional and temporary permits should be available for Level 2 Processors and Level 2 Manufacturers who need Use Permits.

Thank you for your time and consideration and we look forward to creating the type of regulated, tax paying, environmentally sound industry that everyone can be proud of.

Julia Dakin, Charles Sargenti, Julia Carrera, Jude Thilman, Amanda Reiman, and Casey O’Neill and others.