

ORDINANCE NO. 4438

**ORDINANCE AMENDING CHAPTER 10A.17 – MENDOCINO CANNABIS CULTIVATION
ORDINANCE AND CHAPTER 20.242 – CANNABIS CULTIVATION SITES**

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

Section 1: Section 10A.17.040 of the Mendocino County Code is hereby amended to read as follows:

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

The following limitations shall apply to all cultivation of cannabis in Mendocino County, including but not limited to cultivation pursuant to a Permit issued under this Chapter or an exemption provided for in Section 10A.17.030. Cultivation of cannabis shall also be subject to all applicable restrictions of Mendocino County Code Chapter 20.242.

- (A) The cultivation of cannabis in Mendocino County, in any amount or quantity by any entity, shall not be allowed in the following areas:
 - (1) Within one thousand (1,000) feet of a youth-oriented facility, a school, or a park as defined herein that is in existence at the time a Permit is initially applied for.
 - (2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate legal parcel; provided, however, that on January 1, 2020, this setback shall be increased to two hundred (200) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.
 - (3) Outdoors or using mixed light in a mobile home park as defined in Health and Safety Code Section 18214.1 within one hundred (100) feet of an occupied mobile home that is under separate ownership.
 - (4) Intentionally omitted.
 - (5) Outdoors or using mixed light within fifty (50) feet from any adjoining legal parcel under separate ownership or access easement (whichever is most restrictive); provided, however, that on January 1, 2020, this setback shall be increased to one hundred (100) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.
 - (6) Any indoor cultivation sites that comply with paragraph (A)(1) shall also be subject to the following:
 - (a) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in

which the cultivation site is located.

- (b) The cultivation of cannabis within an accessory structure shall be allowed subject to the development requirements of the zoning district in which it is located and to requirements of Chapter 20.164 — Accessory Use Regulations except, notwithstanding Section 20.164.010: (a) the cultivation of cannabis in an accessory structure is not permitted prior to the construction of the legal dwelling unit on the parcel, if a legal dwelling unit is required by this Chapter, and (b) cultivation of cannabis shall only be allowed on the same parcel as the dwelling unit, if required.
 - (c) Indoor cultivation sites for individuals desiring to cultivate cannabis for adult use pursuant to section 10A.17.030(C) shall also be subject to the following limitation: cultivation sites located within a private residence that is a rental unit, as that term is defined by County Code section 20.008.050, shall not be located in any indoor space other than a garage or accessory structure.
- (B) The distance between the listed uses in the above paragraph (A)(1) and cannabis that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 10A.17.040(H), or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest point of the exterior wall of the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs or to the nearest point of any fenced, maintained or improved area where the users of the facility are typically present during normal hours of operation, whichever is closest. The distance in paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 10A.17.040(H) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(5) shall be measured from the fence required in section 10A.17.040(H) to the boundary line of a legal parcel or access easement.

Applicants may seek a reduction in the setback described in paragraphs (A)(1) and (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242. See also sections 20.242.060(D) and 20.118.040 (D), (E) and (F) for further exceptions to setback regulations.
- (C) The outdoor, indoor or mixed light cultivation of cannabis shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.
- (D) The indoor or mixed-light cultivation of cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light

cultivation cannabis shall not rely on a generator as a primary source of power.

- (E) All lights used for the indoor or mixed light cultivation of cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.
- (F) All activities associated with the cultivation of cannabis shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.
- (G) All cultivation of cannabis shall not utilize water that has been or is illegally diverted from any spring, wetland, stream, creek, or river. The activities associated with the cultivation of cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.
- (H) All cannabis grown in Mendocino County (excluding indoor growing) must be within a secure fence of at least six (6) feet in height that fully encloses the garden area. The fence must include a lockable gate that is locked at all times when a qualified patient, caregiver or permittee (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.
- (I) All buildings where cannabis is cultivated or stored shall be properly secured to prevent unauthorized entry.
- (J) Persons cultivating cannabis pursuant to either section 10A.17.030, paragraphs (B) or (C) shall also comply with the provisions of section 10A.17.110, paragraphs (N) and (O).
- (K) Prohibition on Tree Removal. Removal of any commercial tree species as defined by Title 14 California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to address safety or disease concerns.

Section 2: Section 10A.17.060 of the Mendocino County Code is hereby amended to read as follows:

Sec. 10A.17.060 - Permit Types.

The cultivation Permits that may be applied for under this Chapter are for the production of flowering cannabis plants and for nursery and seed production, as defined in section 10A.17.020. A Permittee producing flowering cannabis plants may maintain an area scaled appropriately for their operation where they may propagate their own immature plants (starts) through cloning, seed germination or tissue culture. Starts produced in this manner shall be for the exclusive and personal use of the permittee only and the sale, trade, barter, etc. of such starts is prohibited. The square footage of cultivation area dedicated to propagation of starts shall not be included in measuring the cumulative total square footage allowed under a given Permit and must not constitute any new disturbance, as defined by this chapter.

The following cannabis cultivation Permit types may be applied for and granted provided the applicant and the legal parcel (or legal parcels, subject to section 10A.17.070(D)(3)) that contains the cultivation site are determined to be in compliance with all applicable conditions of this Chapter and Mendocino County Code Chapter 20.242; all Permit types shall be applied for stating whether the applicant will be applying for an A-License or an M-License, or a stated combination thereof.

- (1) "Type C" for small outdoor cultivation using no artificial lighting not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy.
- (2) "Type C-A" for small indoor cultivation using exclusively artificial lighting not to exceed a maximum two thousand five hundred (2,500) square feet of total plant canopy within a structure or structures.
- (3) "Type C-B" for small mixed light cultivation (using a combination of natural and supplemental artificial lighting) not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle.
- (4) "Type 1" for medium outdoor cultivation using no artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy on one legal parcel not less than five (5) acres in size.
- (5) "Type 1A" for medium indoor cultivation using exclusively artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy within a structure or structures.
- (6) "Type 1B" for medium mixed light cultivation (using a combination of natural and supplemental artificial lighting) of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total

plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than five (5) acres in size.

- (7) "Type 2" for large outdoor cultivation using no artificial lighting of five thousand one (5,001) to a maximum of 10,000 square feet of total plant canopy on one legal parcel not less than ten (10) acres in size.
- (8) "Type 2A" for large indoor cultivation using exclusively artificial lighting of five thousand one (5,001) to ten thousand (10,000) square feet of total plant canopy on one legal parcel.
- (9) "Type 2B" for mixed light cultivation (using a combination of natural and supplemental artificial lighting) of five thousand one (5,001) to a maximum of ten thousand (10,000) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than ten (10) acres in size.
- (10) "Type 4" for the cultivation of cannabis nursery stock and/or seed production which shall not exceed a maximum of twenty-two thousand (22,000) square feet of total plant canopy on one (1) legal parcel. Seed production activities, if any, shall be described in the application for a Type 4 Permit. The legal parcel shall not be less than five (5) acres in size, provided, however, that legal parcels in industrial zoning districts are not subject to this parcel size restriction. Any on-site sales of nursery products which were produced on and occur on a parcel within the Timberland Production, Rangeland or Forestland zoning districts shall be limited to permitted cultivators only.

Section 3: Section 10A.17.070 of the Mendocino County Code 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 shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided in Chapter 20.242.
- (B) Indoor Cultivation Permits. The use or conversion of habitable space (i.e., kitchen, bedrooms, bathrooms, living room or hallways) in any structure shall not be allowed for the indoor cultivation of cannabis.
- (C) Cultivation of cannabis is not permitted within any required parking space.
- (D) Permit Density. A Person may apply for and obtain a maximum of two (2) Permits listed in section 10A.17.060 at any given time. Permits shall be

granted at a maximum density of one (1) Permit per legal parcel; provided, however, that

- (1) A Person may obtain two (2) separate Permits of different Permit types on a single legal parcel if the total square footage of the two (2) Permits does not exceed the largest maximum square footage permitted on a parcel for the relevant zoning district. A Person who applies for and obtains a Type 4 Permit in combination with any other Permit, shall not exceed a total square footage of twenty-two thousand (22,000) square feet per legal parcel, of which not more than ten thousand (10,000) square feet may be grown to maturity and entered into the Track and Trace system for commercial use. Plants may be grown to maturity by a Type 4 Permit holder for seed production or genetic expression, where the mature flowers are destroyed, and not used for commercial purposes, shall not require a separate cultivation permit.
 - (2) A Person may apply for one (1) Permit of a single size (e.g. Type C, Type 1 or Type 2) that may include any combination of all three (3) cultivation types (e.g. indoor, outdoor, mixed-light), but if any cultivation would require the issuance of a permit pursuant to Chapter 20.242, the entire Permit shall be subject to review under Chapter 20.242.
 - (3) A Person may obtain one (1) Permit for multiple legal parcels, so long as the parcels are contiguous and under the same ownership. Should the Person sell any of the parcels subject to the Permit, subsequent permits shall be required to modify the cultivation site to adhere to required setbacks.
- (E) Dwelling Unit Requirement. Legal parcels with a cultivation site are also required to have a dwelling unit; provided, however, that this requirement shall not apply to legal parcels within the following zoning districts: Upland Residential (U-R), Agricultural (A-G), Rangeland (R-L), Forest Land (F-L), Timberland Production (TPZ), Limited Industrial (I-1), General Industrial (I-2) Pinoleville Industrial (P-I). In addition, legal conforming parcels in Rural Residential, lot size ten (10) acres (R-R:L-10), shall also be exempt from the dwelling unit requirement of this paragraph, upon issuance of an administrative permit pursuant to Chapter 20.242.
- (F) Generators. The indoor or mixed-light cultivation of cannabis shall not rely on a generator as a primary source of power. If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (1) the permittee shall install an alternative power source that will meet at least one-half ($\frac{1}{2}$) of the combined power requirements by the expiration of four (4) years from the date of initial application for a permit pursuant to this Chapter and (2) it will be a condition of the renewal of a permit at the end of such four (4) year period that the cultivator commit, in writing, to expand their alternative power source to fully meet the combined needs

of the cultivation operations and any required legal dwelling unit within two years. See also section 10A.17.090 regarding application requirements related to generators.

- (G) Permittees shall be required to enroll in and comply with all requirements of any Track and Trace system as designated by the County to track the production and distribution of cannabis. Permittees 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. Non-compliance with Track and Trace requirements shall constitute a violation of the terms of the Permit.
- (H) Fees: An application fee shall be paid at the time an application is submitted to the Agricultural Commissioner for initial review. A Permit fee shall be paid prior to issuance of any Permit. Once a Permit is issued, the Permittee may renew the Permit upon submission of a renewal application and payment of a renewal fee. No Permit shall issue without payment of the required fees.
 - (1) Fees prescribed by this Chapter shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the County's Master Fee Policy. Any fee prescribed by this Chapter shall be paid to the County Treasurer/Tax Collector and is non-refundable. A receipt for payment of the required fee shall be provided to the Agricultural Commissioner prior to the initial review and issuance or annual renewal of any application, permit or other program described herein where a fee has been established, including for required inspections.
- (I) Inspections by Agricultural Commissioner. All applicants shall be subject to and shall facilitate an initial on-site pre-permit inspection and all Permittees shall be subject to and facilitate at least one (1) annual on-site compliance inspection (Type 4 Permits shall be subject to two (2) on-site compliance inspections annually), which shall serve as the inspection required to be performed prior to any renewal of the Permit, with additional inspections as required by this Chapter or as deemed necessary by the Agricultural Commissioner. All inspections will be scheduled with at least twenty-four (24) hours advance notice to the applicant or Permittee, and shall be conducted during regular business hours. Cancellation of scheduled inspections without notice to the Agricultural Commissioner shall result in the Permittee being invoiced for the actual travel time and mileage incurred by the Agricultural Commissioner.
 - (1) All site inspections conducted prior to issuance of a Permit for any indoor or mixed-light cultivation Permit may include a representative from the Department of Planning and Building Services.
- (J) Intentionally Omitted.

- (K) Assignment of Permits. A permittee may assign a Permit to another person subject to the following provisions:
- (1) Submission of the following to the Agricultural Commissioner:
 - (a) An application fee as set by resolution of the Board of Supervisors;
 - (b) A completed application form as provided by the department, and the submission of information or documents pursuant to Section 10A.17.090 relating to the assignee, including, but not limited to, the Live Scan criminal history inquiry process outlined in Section 10A.17.090(M);
 - (c) A copy of the existing Permit showing that it has not expired;
 - (d) Either:
 - (i) The existing Permittee's request to assign all rights and responsibilities of the Permit to the assignee; or
 - (ii) In the event of the death or incapacitation of the existing Permittee, evidence of such death or incapacitation;
 - (e) Evidence that assignee's legal interest in the real property involved allows for assignee's use of the Permit; and
 - (f) An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the Permit and all applicable laws and regulations.
 - (2) The assignment shall be effective upon the department's written approval of the documentation submitted, notice that the assignee does not have a criminal history that includes any of the conditions listed in Section 10A.17.090(M), and the assigned Permit shall be granted subject to the terms and conditions of the original Permit.
 - (3) Permits issued on parcels subject to the Sunset Provision of Section 10A.17.080(B)(2) shall not be assignable pursuant to this Section 10A.17.070(K); provided, however, that permits issued on parcels located within a "CA" Cannabis Accommodation Combining District are assignable.

Section 4: Section 10A.17.080 of the Mendocino County Code 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:

- (A) Permits under the MCCO will be issued in the following three phases:
 - (1) Phase One: Following the effective date of the MCCO, Permits will only be issued to applicants who provide to the Agricultural Commissioner pursuant to paragraph (B)(1) of this section proof of cultivation at a cultivation site prior to January 1, 2016 ("proof of prior cultivation"), and who comply with all other applicable conditions of this Chapter and Chapter 20.242. Applications for Permits during Phase One shall only be accepted until December 31, 2018, and from Monday, April 1, 2019, until Friday, October 4, 2019. Applicants able to provide proof of prior cultivation may apply for a Permit on a relocation site pursuant to paragraph (B)(3) of this section.
 - (2) Phase Two: Starting January 1, 2018, the Agricultural Commissioner will begin accepting applications for Type C-A, 1A and Type 2A Permits for indoor cultivation, and Type C-B, 1B and 2B Permits for mixed-light cultivation, which mixed-light cultivation must occur in a greenhouse equipped with filtered ventilation systems as described in paragraph (M) of section 10A.17.110 and may not occur in a hoop house, in the following zoning districts, subject to compliance with all other applicable conditions of this Chapter and Chapter 20.242: Limited Industrial (I-1), General Industrial (I-2), and Pinoleville Industrial (P-I). Proof of cultivation prior to January 1, 2016, is not required.
 - (3) Phase Three: Starting July 1, 2020, the Agricultural Commissioner will begin accepting Permit applications from any applicant in conformance with the conditions of this Chapter and Chapter 20.242. Proof of cultivation prior to January 1, 2016, is not required.
- (B) Requirements specific to Phase One Permits.
 - (1) Proof of Prior Cultivation. Persons applying for a Permit during Phase One shall be required to provide to the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016, which cultivation site shall have been, or could have been, in compliance with the setback requirements of paragraph (A) of section 10A.17.040. Evidence shall include:

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

zoning district where a dwelling unit is a principally permitted use and the legal parcel is less than two (2) acres in size, are subject to the following requirements:

- (i) There is an occupied dwelling unit on the legal parcel with the cultivation site.
- (ii) A Permit may be renewed and valid only until three (3) years following the effective date of the ordinance adopting this Chapter and any permits issued shall be void not later than three (3) years following said effective date; provided, however, that indoor cultivation sites (Types C-A, 1A or 2A) within two (2) miles of the Coastal Zone Boundary which, as of May 14, 2019, have been issued a Permit (and issued any permit pursuant to Chapter 20.242) or have applied for a Permit and are under Permit review (and applied for and are under review for any permit pursuant to Chapter 20.242), may be issued and/or renew a Permit until June 30, 2022, subject to the modification of the existing administrative or use permit for the indoor cultivation site.

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

- (c) Cultivation sites on legal parcels located in the Rural Residential zoning district, lot size five (5) acres (conforming parcels of five acres or more only)(R-R:L-5), are subject to the following additional requirement that there is an occupied dwelling unit on the legal parcel with the cultivation site.
 - (d) If a Permit is granted pursuant to this paragraph (B)(2) in these zoning districts, any future revocation or lapse in renewal of such Permit shall extinguish the ability of any person to obtain a Permit for such cultivation site.
- (3) Relocation. Persons able to show proof of prior cultivation pursuant to paragraph (B)(1) above may apply for a Permit not on the site previously cultivated (the "origin site") but on a different legal parcel (the "destination site"), subject to the following requirements:
- (a) Persons may apply to relocate their cultivation site pursuant to this paragraph (B)(3) until three (3) years

after the effective date of the ordinance adopting this Chapter, or until May 4, 2020.

- (b) The location and operation of the proposed cultivation site on the destination parcel complies with all requirements and development standards that apply to a new cultivation site as of January 1, 2020, pursuant to this Chapter and Chapter 20.242; provided, however:
 - (i) An existing cultivation site shall not be transferred to a legal parcel located within the Forestland or Timber Production Zone zoning districts.
 - (ii) An origin site may relocate to a destination site in the Rangeland zoning district, so long as the destination site has an existing cultivation site and no new cultivation sites would be established.
- (c) The origin site shall be restored. The application for a Permit on a destination site shall be accompanied by a restoration plan that is consistent with the standard conditions and best management practices listed in the North Coast Regional Water Quality Control Board Order No. 2015-0023, and which shall include the following:
 - (i) Remove or repurpose buildings, greenhouses, fences, irrigation equipment, water intakes, pumps, storage tanks and other materials brought to the origin site for the purpose of cannabis cultivation;
 - (ii) Remove illegal dams, ponds or other in-stream water storage to restore natural stream flows, unless such features will continue in use;
 - (iii) Remove or compost agricultural wastes;
 - (iv) Remove trash and other debris; and
 - (v) Revegetate cleared areas with native plants typical of nearby natural areas, including groundcover, shrubs and trees.
- (d) Unless the destination site is within the Agricultural zoning district, the application shall include either a water availability analysis pursuant to paragraph (C)(1)(b) below or a will serve letter pursuant to paragraph (C)(1)(c) below.
- (e) Prior to the issuance of the Permit to cultivate cannabis at the destination parcel, the applicant shall provide the

Agricultural Commissioner with an agreement, on a form approved by the Agricultural Commissioner and County Counsel, providing that the applicant releases any right to continue or resume cultivation of cannabis on the origin parcel.

- (f) If a person is granted a Permit for a destination site, any claims of proof of prior cultivation on the origin site shall be effectively transferred to the destination site, and the ability to claim proof of prior cultivation at the origin site shall be extinguished.
 - (g) There shall be a two (2) acre minimum parcel size for all Type C, Type C-A or Type C-B Permits.
- (4) Multiple Permits may be applied for and granted on a single legal parcel that is owned by multiple persons. Each owner may individually apply for a Permit to cultivate cannabis, provided that each owner must provide proof of prior cultivation pursuant to paragraph (B)(1) above. Each owner shall be limited to a Type C, Type C-A or Type C-B Permit, unless that owner was previously enrolled in a permit program pursuant to the County's Chapter 9.31, or unless the cumulative total square footage of plant canopy applied for by all owners does not exceed the maximum square footage permitted on a parcel for the relevant zoning district.
- (5) Persons eligible to apply for a Permit during Phase One may apply for a different and/or larger Permit type in subsequent years, subject to all requirements of this Chapter.
- (6) If a Permit is granted pursuant to this paragraph (B), any future revocation or lapse in renewal of such Permit shall extinguish the ability of any person to obtain a Permit for such cultivation site, unless otherwise allowed by this Chapter 10A.17; provided, however, that not more than once in a five-year period, a Permittee may file with the Department of Agriculture, on a form prescribed by the Department, a Notice of Non-Cultivation instead of an application to renew the Permit, and the Permittee's ability to obtain a Permit for such cultivation site will not be extinguished.
- (C) Requirements specific to Phase Three Permits.
- (1) Watershed Assessment. All Permit applications, except for legal parcels located in the Agricultural (A-G) zoning district, shall demonstrate there is adequate water to serve the cultivation site.
 - (a) If surface water (or groundwater influenced by surface water) will be used, applicants may demonstrate that there is adequate water by providing (i) a watershed

assessment that establishes there is sufficient watershed supply to serve the proposed cultivation site and existing uses within the watershed, and (ii) a water right exists to serve the cultivation site. A watershed assessment shall consist of an established "In Stream Flow Policy" as prepared by the State Water Resources Control Board Division of Water Rights or an equivalent document approved by that agency.

- (b) If groundwater not influenced by surface water will be used, the applicant may demonstrate that there is adequate water by providing a water availability analysis which will address the adequacy of the proposed water supply, the direct effects on adjacent and surrounding water users, and possible cumulative adverse impacts of the development on the water supply within the watershed and show there is a sustained yield to support the proposed level of use.
- (c) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that there is adequate water by providing a will serve letter from the proposed provider.

Section 5: Section 20.242.040 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.242.040 - Existing Cannabis Cultivation Sites.

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

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

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

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

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

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

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

*4 Existing cultivation sites in the FL and TPZ zoning districts that were previously enrolled in a permit program pursuant to the County's Chapter 9.31 shall be required to

obtain a zoning clearance unless the applicant seeks to expand beyond the size previously cultivated under such permit program.

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

(C) A reduction in the setback from a legal parcel line required by section 10A.17.040(A)(5) may be allowed following the issuance of an Administrative Permit, approved pursuant to section 20.242.070(C), subject to the following limitations: (1) the approved reduced setback for cultivation not within a structure shall be no less than twenty (20) feet from an adjoining property under separate ownership or an access easement, or (2) for cultivation within a structure, the setback shall be no less than the front, rear, or side yard setback (as applicable) setback for the zoning district in which the property is located. Any reduction of the setback pursuant to this section must comply with the required setback from an occupied legal structure and the reduced setback may not encroach into any corridor preservation setback, pursuant to sections 20.152.015 and 20.152.020.

(D) An existing cultivation site located in a zoning district not listed in Table 1 of this section may continue, but shall not be expanded or enlarged, subject to the following planning permit and approval requirements.

(1) Planning Permit Requirements:

(a) Outdoor Cultivation (pursuant to a MCCO Type C Permit) not exceeding two thousand five hundred (2,500) requires an approved Zoning Clearance.

(b) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A Permit) not exceeding five hundred (500) square feet requires an approved Administrative Permit.

(c) Indoor Artificial Light Cultivation (pursuant to a MCCO Type C-A Permit) between five hundred one (501) and two thousand five hundred (2,500) square feet requires an approved Minor Use Permit.

(d) Mixed Light Cultivation (pursuant to a MCCO C-B Permit) not exceeding two thousand five hundred (2,500) square feet requires an approved Zoning Clearance.

(i) Any future lapse or revocation of the MCCO permit will extinguish the permittee's ability to obtain a future permit from the Department to continue or resume an existing cultivation site that is not within a zoning district listed in Table 1 of this section.

(E) Transferability of Permits. A permittee may assign a permit to another person subject to the following provisions:

- (1) Submission of the following to the Agricultural Commissioner:
 - (a) An application fee as set by resolution of the Board of Supervisors;
 - (b) A completed application form as provided by the department;
 - (c) A copy of the existing permit showing that it has not expired;
 - (d) Either:
 - (i) The existing permittee's request to assign all rights and responsibilities of the permit to the assignee; or
 - (ii) In the event of the death or incapacitation of the existing permittee, evidence of such death or incapacitation;
 - (e) Evidence that assignee's legal interest in the real property involved allows for assignee's use of the permit; and
 - (f) An affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit and all applicable laws and regulations.
- (2) The assignment shall be effective upon the department's written approval of the documentation submitted, and the assigned permit shall be granted subject to the terms and conditions of the original permit.
- (3) Permits issued on parcels subject to the Sunset Provision of Section 10A.17.080(B)(2) shall not be assignable pursuant to this Section 20.242.040(E); provided, however, that such permits issued on parcels located within a "CA" Cannabis Accommodation Combining District are assignable.

Section 6: Section 20.242.050 of the Mendocino County Code is hereby amended to read as follows:

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

Establishment of a new cannabis cultivation site in the I1 (Light Industrial), I2 (General Industrial), and Pinoleville (PI) zoning districts, for the following MCCO permit types, may be permitted on or after January 1, 2018, subject to the requirements of Section 20.242.060: Type C-A, 1A and 2A, and Type C-B, 1B and 2B Permits for mixed-light cultivation, which mixed-light cultivation must occur in a greenhouse equipped with filtered ventilation systems as described in paragraph (M) of section 10A.17.110 and may not occur in a hoop house.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 1st day of October, 2019, by the following roll call vote:

AYES: Supervisors Brown, McCowen, Haschak, Gjerde and Williams
NOES: None
ABSENT: None

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

ATTEST: CARMEL J. ANGELO
Clerk of the Board

CARRE BROWN, Chair
Mendocino County Board of Supervisors

Deputy

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

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

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy