

**RESOLUTION NO. 19-**

**RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION, CONSISTING OF AN AMENDMENT OF THE MENDOCINO COUNTY COASTAL ZONING CODE (TITLE 20-DIVISION II OF THE MENDOCINO COUNTY CODE)(OA\_2019-0001) TO ESTABLISH REGULATIONS FOR CANNABIS CULTIVATION AND CANNABIS FACILITIES IN THE COASTAL ZONE OF MENDOCINO COUNTY**

**WHEREAS**, the County of Mendocino desires to amend its certified Local Coastal Program (LCP) to address the regulation of cannabis cultivation and cannabis facilities within the coastal zone of Mendocino County; and

**WHEREAS**, the LCP amendment requests addition of Chapter 20.537 regulating cannabis cultivation and 20.538 regulating cannabis facilities in the Coastal Zoning Code (Mendocino County Code, Title 20, Division II) (the "Project"); and

**WHEREAS**, the Project consists of an Ordinance amendment to the Mendocino County Code, Title 20, Division II, which is attached to this resolution as Exhibit A (Section 1 – Proposed Chapter 20.537, Section 2 – Proposed Chapter 20.538) and incorporated herein by reference; and

**WHEREAS**, amendments to the Mendocino County Code Chapters 6.36 and 10A.17 to reference the new chapters in Title 20, Division II of Mendocino County Code will be adopted by Ordinance at a future meeting date once the LCP amendment is certified by the California Coastal Commission. Chapters 6.36 and 10A.17 are not part of the Mendocino County LCP and are not proposed to be added to the LCP; and

**WHEREAS**, pursuant to Government Code Sections 65354 and 65855, the Mendocino County Planning Commission held a public hearing on July 18, 2019, heard and received all relevant testimony and evidence, and, at the conclusion of the public hearing, voted to recommend that the Board of Supervisors authorize submittal of the LCP amendment to establish regulations for cannabis cultivation and cannabis facilities, with modifications made at the meeting and as specified in their resolution; and

**WHEREAS**, pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; CEQA) does not apply to activities and approvals by a local government as necessary for the preparation and adoption of a local coastal program pursuant to the California Coastal Act (Public Resources Code Section 30000 et seq.), and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal programs is shifted from the County to the California Coastal Commission; and

**WHEREAS**, in accordance with applicable provisions of law, the Board of Supervisors held a public hearing on November 5, 2019 on the Project, at which time the Board heard and received all relevant testimony and evidence presented orally or in writing regarding the Project; and

**WHEREAS**, the County of Mendocino provided public notice in a newspaper of general circulation for the public meetings regarding the amendment to the Local Coastal Program; and

**WHEREAS**, the Board of Supervisors has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Board regarding the Project; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors approves, for Coastal Act purposes, the draft Ordinance amendments to Title 20, Division II of Mendocino County Code, attached to this resolution as Exhibit A and incorporated herein by this reference.

**BE IT FURTHER RESOLVED**, based upon the evidence in the record, the Board of Supervisors makes the following General Plan consistency findings:

1. The proposed Project is consistent with the 2009 Mendocino County General Plan, including the Coastal Element.
2. The proposed Project aligns with the County's intention of regulating cannabis cultivation and cannabis facilities within the Mendocino County Coastal Zone.

**BE IT FURTHER RESOLVED**, that the Board of Supervisors finds that the LCP is intended to be carried out in a manner fully in conformity with the Coastal Act; and

**BE IT FURTHER RESOLVED**, that the Board of Supervisors finds that the Project is not subject to CEQA pursuant to Public Resources Code Section 21080.9, and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal programs is shifted from the County to the California Coastal Commission; and

**BE IT FURTHER RESOLVED**, that the Board of Supervisors hereby authorizes the Department of Planning and Building Services to submit the LCP amendment included as Exhibit A of this resolution to the California Coastal Commission for certification; and

**BE IT FURTHER RESOLVED**, that the LCP amendment shall not become effective until approval by the California Coastal Commission, and subsequent formal local adoption, including any modifications suggested by the California Coastal Commission, by resolution(s) and/or ordinances(s) of the Mendocino County Board of Supervisors.

**BE IT FURTHER RESOLVED**, the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other materials which constitutes the record of proceedings upon which the Board of Supervisors' decision herein is based. These documents may be found at the Office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Room 1010, Ukiah, CA 95482.

The foregoing Resolution introduced by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and carried this 5th day of November, 2019, by the following vote:

AYES:  
NOES:  
ABSENT:

WHEREUPON, the Chair declared said Resolution 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:*  
CHRISTIAN M. CURTIS  
Acting County Counsel

BY: CARMEL J. ANGELO  
Clerk of the Board

\_\_\_\_\_  
Deputy

EXHIBIT A

ORDINANCE NO.

**DRAFT ORDINANCE AMENDING TITLE 20 of DIVISION II OF THE MENDOCINO COUNTY CODE TO ADD CHAPTERS 20.537 – COASTAL CANNABIS CULTIVATION SITES AND 20.538 – COASTAL CANNABIS FACILITIES CODE**

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

**Section 1:** Chapter 20.537 is hereby added to the Mendocino County Code to read as follows:

**CHAPTER 20.537 – COASTAL CANNABIS CULTIVATION SITES**

Sec. 20.537.005	Title, Purpose and Intent
Sec. 20.537.010	Application
Sec. 20.537.015	Definitions
Sec. 20.537.020	Coastal Development Permit for Cannabis Cultivation Required; Exemptions
Sec. 20.537.025	General Limitations and Requirements for All Cultivation
Sec. 20.537.030	Requirements for all Coastal Development Permits Issued Pursuant to this Chapter
Sec. 20.537.035	Coastal Development Permit Application
Sec. 20.537.040	Exceptions
Sec. 20.537.045	Permit Review Procedure

**Sec. 20.537.005 – Title, Purpose and Intent**

This chapter 20.537 ("Chapter") is intended to provide land use regulations for the Coastal Zone of the County of Mendocino for the cultivation of cannabis, subject to the limitations established by this chapter and the provisions of Mendocino County Code Chapter 10A.17, the Mendocino Cannabis Cultivation Ordinance ("MCCO").

The purpose and intent of this Chapter, together with the MCCO, is to allow for the cultivation of cannabis in locations that are consistent with the intent of the zoning district and to help ensure that its cultivation and related activities will not create adverse impacts to the public health, safety, and welfare of the residents and businesses of the County of Mendocino.

**Sec. 20.537.010 - Application**

The cultivation of cannabis is prohibited in all zoning districts in the Coastal Zone of Mendocino County except as allowed by this Chapter and by Chapter 10A.17.

**Sec. 20.537.015 – Definitions**

Unless otherwise defined in this Chapter, the terms and phrases used herein shall have the same definitions as provided in Chapter 10A.17, or as provided in this Title 20.

As used herein the following definitions shall apply:

“Coastal Access Point” means Designated Coastal Access Points and Trail Systems as provided in Table 3.6-1 of Appendix 13 of the Mendocino County Coastal Element of the General Plan plus any additional Public Access Trails for which an Accessway Management

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Plan in conformance with Section 20.528.045 has been prepared and accepted by the Planning and Building Services Director.

"Cultivation site" means one (1) or more locations or facilities on one (1) legal parcel (or one (1) or more legal parcels if specifically allowed for by this Chapter 20.537) subject to a single permit approved pursuant to this Chapter, where cannabis is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport, or that does all or any combination of those activities. One (1) or more areas of cannabis cultivation may exist on the legal parcel used for that purpose.

"Legal parcel" or "Parcel" means a lot of real property created pursuant to the Subdivision Map Act or for which an application for subdivision was on file with the Department of Planning and Building Services prior to January 1, 2016, or for which a certificate of compliance was recognized and recorded prior to January 1, 2016; provided, however, for real property within Industrial zoning districts, subdivisions or certificates of compliance may be recognized and recorded after January 1, 2016.

"Publicly traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.308.110(32).

"Rental unit" means a housing unit that is occupied by a party or household that is not its owner, and who pays a fee for the use of the unit.

### **Sec. 20.537.020 – Coastal Development Permit for Cannabis Cultivation Required; Exemptions**

- (A) Cultivation of cannabis pursuant to the exemptions provided in section 10A.17.030 shall not be required to obtain a coastal development permit or coastal development use permit pursuant to this chapter, but may be required to obtain a coastal development permit or coastal development use permit pursuant to Chapter 20.532 if the cultivation constitutes "development" as defined in Section 20.308.035(D).
- (B) Cultivation of cannabis in excess of the exemptions provided for in section 10A.17.030 shall only be allowed following the issuance of a coastal development permit or coastal development use permit pursuant to the provisions of this Chapter and Chapter 20.532 and the issuance of a cultivation permit pursuant to the provisions of Chapter 10A.17 of the Mendocino County Code. The coastal development permit or coastal development use permit shall be issued prior to the issuance of a cultivation permit under Chapter 10A.17.
- (C) Coastal development permits or coastal development use permits pursuant to this Chapter shall be issued consistent with Table 1 below, which specifies which zoning districts allow which cannabis cultivation types and the type of permit required. If multiple cultivation types are sought for a single cultivation site, a single coastal development permit or coastal development use permit may be applied for and granted, upon approval or conditional approval by the Department, at the more restrictive permit level.

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

<b>MCCO Permit Type</b>	<b>C Sm Outdoor</b>	<b>C-A Sm Indoor, Artificial Light</b>		<b>C-B Sm, Mixed Light</b>	<b>1 Med Outdoor</b>	<b>1-A Med Indoor, Artificial Light</b>	<b>1-B Med Mixed Light</b>	<b>2 Lg Outdoor</b>	<b>2-A Lg Indoor, Artificial Light</b>	<b>2-B Lg Mixed Light</b>	<b>4 Nursery</b>	
<b>Min Parcel Area (ac)</b>	5	5		5	5	5	5	10	10	10	10	
<b>Cultivation Area Limit (sf)</b>	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	
<b>Zoning District</b>	<b>AG</b>	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDP
	<b>FL</b>	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU
	<b>TPZ</b>	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU	CDU
	<b>RL</b>	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDU
	<b>RR</b>	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDU
	<b>RMR</b>	CDP	CDP	CDP	CDP	CDP	CDU	CDP	CDP	CDU	CDP	CDU
CDP = Coastal Development Permit CDU = Coastal Development Use Permit												

(D) Notwithstanding the above Table 1, 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, 2-B and 4 pursuant to the findings listed in Section 20.537.040

**Sec. 20.537.025 – General Limitations and Requirements for All Cultivation**

The cultivation of all cannabis within the Coastal Zone shall be subject to the limitations and requirements of this section.

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

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- (1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or a Coastal Access Point, that is in existence at the time a permit is initially applied for.
  - (2) Outdoors or using mixed light within two hundred (200) feet of any occupied legal residential structure located on a separate legal parcel.
  - (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) Outdoors or using mixed light within one hundred (100) feet from any adjoining legal parcel under separate ownership.
  - (5) 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 20.456 — Accessory Use Regulations except, notwithstanding Section 20.456.010: (i) 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 (ii) 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 in this chapter, 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 20.537.025(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 20.537.025(H) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(4) shall be measured from the fence required in section 20.537.025(H) to the boundary line of a legal parcel or access easement.

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Applicants may seek a reduction in the setbacks described in paragraphs (A)(1), (A)(2), and (A)(4) pursuant to Section 20.537.040.

- (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 of 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 Appendix B of the Coastal Zoning Code.
- (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 20.537.030, paragraphs (H) and (I).
- (K) Major Vegetation Removal. The removal of major vegetation, as defined in Section 20.308.080, is prohibited in the Coastal Zone of Mendocino County unless performed in accordance with a coastal development permit approved pursuant to Chapter 20.532. A coastal development permit for cannabis cultivation that includes the removal of major vegetation shall not be approved if it includes the removal of any commercial tree species as defined by Title 14 California Code of Regulations section 895.1, Commercial Species for the Coast



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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. 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.

### **Sec. 20.537.030 - Requirements for all Coastal Development Permits Issued Pursuant to this Chapter**

All cannabis cultivation pursuant to a coastal development permit issued under this Chapter shall comply with the following requirements, unless specifically exempted:

- (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 Table 1 of section 20.537.020.
- (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 one (1) coastal development permit for cannabis cultivation per legal parcel or for multiple legal parcels, so long as the parcels are contiguous and under the same ownership. A single coastal development permit for cannabis cultivation may include multiple cultivation types. Should the Person sell any of the parcels subject to the Permit, subsequent permit modifications shall be required to modify the cultivation site to adhere to required setbacks.
- (E) Dwelling Unit Requirement. Legal parcels with a cultivation site in the Rural Residential (R-R) zoning district shall be required to have a dwelling unit.
- (F) Generators. The indoor or mixed-light cultivation of cannabis pursuant to a coastal development permit issued under this Chapter shall not rely on a generator as a primary source of power. If a generator is used to support any aspect of the permitted cultivation operations, it shall be as a secondary or back-up power source. The use of the generator is only allowed when the primary alternative power source is unable to provide its normal output and generate sufficient power to meet the needs of the cultivation operation and the legal dwelling unit. The Owner's Manual and/or Operation Manual (or operational fact sheet) providing the operational characteristics and maintenance schedule for the generator shall be on-site and available for review.
  - (1) If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (a) 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 twelve (12) months from the date of initial application for a permit pursuant to this Chapter and (b) it will be a

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condition of the permit that the cultivator shall expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit within two (2) years after issuance of the coastal development permit. If a generator is being used pursuant to the conditions set forth in this paragraph (F)(1), the coastal development permit shall be conditioned on conducting an analysis of the noise levels produced by the generator at full operational speed, performed by an accredited acoustical engineer, and such analysis shall show compliance with Appendix B of the Coastal Zoning Code. All generators shall be, at a minimum, equipped with the manufacturer's specified muffler; if compliance with Appendix B requires additional measures, the generator shall be equipped with such measures, which may include a hospital-grade muffler and/or a structure to enclose the generator designed for sound suppression.

- (2) Any electrical wiring associated with the generator shall be of sufficient capacity and installed in such a way as to provide for the minimum installation and safety standards for the electrical service provided by that generator.
- (G) All buildings, including greenhouses, used for the cultivation of cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.
- (H) Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner's Office. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans, to exclude large animals that may be attracted by odors, and to ensure that they will not enter or be released into surface or ground waters.
- (I) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

### **Sec. 20.537.035 – Coastal Development Permit Application**

Any person or entity that wishes to engage in the cultivation of cannabis shall submit an application for a coastal development permit or coastal development use permit as required by Section 20.537.020 to the Department of Planning and Building Services. Applications for coastal development permits or coastal development use permits shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department of Planning and Building Services.

In addition to the coastal development permit and coastal development use permit application requirements detailed in Section 20.532.025, applications for a coastal development

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permit or coastal development use permit for cannabis cultivation shall provide the following supplemental information on, or as an attachment to, the application:

- (A) A written description of the proposed water source. All Permit applications shall demonstrate there is adequate water to serve the cultivation site pursuant to Section 20.516.015 (B), unless water will be provided by a mutual water company and the following is provided:
  - (1) 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.
- (B) An irrigation plan and projected water usage for the proposed cultivation activities.
- (C) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:
  - (1) Easements (access and utility and all roadways public and private);
  - (2) Streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;
  - (3) The location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis showing that all setbacks required by Section 20.537.025 are being met;
  - (4) All areas of ground disturbance or surface water disturbance associated with cultivation of cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;
  - (5) All structures, which shall be clearly labeled;
  - (6) All septic systems, leach fields and water wells; and
  - (7) All features identified in Section 20.532.060 if an Environmentally Sensitive Habitat Area (ESHA), as defined in Section 20.308.040, has been identified within five hundred (500) feet of the proposed development.
- (D) A cultivation and operations plan which includes elements that describe: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, and schedule of activities during each month of the growing and harvesting season. Also, provide documentation that

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addresses the handling of waste discharge from the grow location of items including, but not limited to nutrients, spent growing media, un-used containers and other associated hardware, supplies, and garbage.

- (1) If a generator is proposed to support any aspect of the cultivation site or related operations, the cultivation and operations plan shall identify any containment structure and dimensions necessary to contain any leak or spill that may develop or occur as a result of relying on any generator for backup power generation. The plan shall also include a maintenance plan for the generator, detailing how spent oil, used oil filters, expired batteries and other hazardous wastes generated from the operation of the generator will be handled, including fuel storage and delivery systems.
- (E) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes.
- (F) If applicable, clearance from CalFire related to compliance with the requirements of Public Resources Code Section 4290 (defensible space) and any implementing regulations.
- (G) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the site is listed on the "Cortese List", the application shall include sufficient information to demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.

The Department of Planning and Building Services is 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.

### **Sec. 20.537.040 – Exceptions**

All cannabis cultivation sites shall be consistent with the requirements of this Chapter and all applicable conditions of Chapter 10A.17; provided, however, that an applicant may seek an exception to specific requirements as stated below.

- (A) **Setback Requirements.** A reduction to the setback requirements of a cannabis cultivation site described in Sections 20.537.025(A)(1), (A)(2) and (A)(4) may be requested upon submittal of the coastal development permit required in Section 20.537.020, above. The request for a setback reduction may be approved, conditionally approved, or denied, in accordance with Section 20.537.045 and the following special findings:
  - (1) A reduction in the one thousand (1,000) foot setback described in Section 20.537.025(A)(1):
    - (a) That there be special circumstances applicable to the property involved, including size, shape, topography, location or surrounding;

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- (b) That the granting of such reduction will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; and
  - (c) That the granting of such reduction will not adversely affect and is in conformance with the Local Coastal Program.
- (2) A reduction in the setback from any occupied legal residential structure located on a separate legal parcel required by Section 20.537.025(A)(2):
  - (a) The approved reduced setback shall be no less than one hundred (100) feet from an occupied legal residential structure located on a separate legal parcel;
  - (b) The granting of such reduction will not adversely affect the character, livability, or right to appropriate development of the adjacent property from which the setback reduction is requested; and will not interfere with rights of access or usage for any legal recorded easement; and
  - (c) The reduced setback maintains setbacks consistent with provisions of sections 20.537.025(A)(1), (A)(3), and (A)(4), as applicable, unless the applicant obtains a reduction of such setbacks as permitted by this Chapter.
- (3) A reduction in the setback from a legal parcel line required by Section 20.537.025(A)(4):
  - (a) 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;
  - (b) 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;
  - (c) Any reduction of the setback must comply with the required setback from an occupied legal structure;
  - (d) The reduced setback may not encroach into any corridor preservation setback, pursuant to Sections 20.444.015 and 20.444.020;
  - (e) The granting of such reduction will not adversely affect the character, livability, or right to appropriate development of the adjacent property from which the setback reduction is requested; and will not interfere with rights of access or usage for any legal recorded easement; and

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- (f) The reduced setback maintains setbacks consistent with provisions of sections 20.537.025(A)(1), (A)(2), and (A)(3), as applicable, unless the applicant obtains a reduction of such setbacks as permitted by this Chapter.
- (B) Minimum Parcel Size Requirement. As specified in paragraph (D) of Section 20.537.020, exceptions to the minimum parcel size requirement for permit types 1, 1B, 2, 2B, and 4 may be granted as part of the required coastal development permit in the following situations and with the following requirements:
  - (1) 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 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 and 1-B.
  - (2) 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, 2-B and 4.

### **Sec. 20.537.045 –Permit Review Procedure**

In accordance with the Coastal Development Permit and Coastal Development Use Permit application check procedures listed in Section 20.532.035 and the review procedures listed in Chapter 20.536 and this Section, the Director or his designee in the case of Coastal Development Permits, or the Planning Commission in the case of Coastal Development Use Permits, may approve, conditionally approve or deny a Coastal Development Permit or Coastal Development Use Permit for a cannabis cultivation site subject to the findings contained in Section 20.532.095 and 20.532.100 and the following supplemental findings:

- (A) The cannabis cultivation site is allowed in the zoning district and it is in compliance with the provisions of Chapter 10A.17.
- (B) There is no other environmentally superior cultivation site located on the same parcel; the location and operation of the cannabis cultivation site will, to the maximum extent feasible, avoid or minimize its impact on environmentally sensitive areas including hillsides exceeding fifteen (15) percent, prime soil, oak woodland, timber resources and environmentally sensitive habitat areas as defined in Section 20.308.040(G).
- (C) The cannabis cultivation will avoid or minimize odor and light impact on residential uses.

**Section 2:** Chapter 20.538 is hereby added to the Mendocino County Code to read as follows:

### **CHAPTER 20.538 – COASTAL CANNABIS FACILITIES CODE**

Sec. 20.538.005 Title, Purpose, and Intent  
Sec. 20.538.010 Application

## EXHIBIT A

Sec. 20.538.015	Definitions
Sec. 20.538.020	Use Classifications
Sec. 20.538.025	General Limitations on Cannabis Facilities in the Coastal Zone
Sec. 20.538.030	Coastal Permit Types and Zoning Districts
Sec. 20.538.035	Coastal Development Permit Review Procedure
Sec. 20.538.040	Coastal Permit Application Submittal Requirements for Cannabis Facilities
Sec. 20.538.045	Permit Revocation
Sec. 20.538.050	Cannabis Events

### **Sec. 20.538.005 - Title, Purpose, and Intent**

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

It is the purpose and intent of this Chapter to regulate the processing, manufacturing, testing, dispensing, retailing and distributing of cannabis within the Coastal Zone 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 implementation of the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") and subsequent legislation.

All commercial processing, manufacturing, testing, dispensing, retail sales and distributing of cannabis within the jurisdiction of the County of Mendocino within 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, as defined herein, from compliance with all other applicable Mendocino County coastal zoning and land use regulations, or other applicable provisions of the County Code, or 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 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 on private property.

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

### **Sec. 20.538.010 - Application**

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

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### Sec. 20.538.015 - Definitions

The definitions in this Chapter are intended to apply solely to the regulations in this Chapter or Chapters that specifically refer to this Chapter. Applicable definitions in Mendocino County Code Section 10A.17.020 and Section 20.537.015 shall also apply to this Chapter, unless the term is otherwise defined in this section. 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 twenty-one (21) years of age and over and who do not possess a physician's recommendation.

"A-licensee" means any person holding a license for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess a physician's recommendation.

"Bureau" means the Bureau of Cannabis Control.

"Cannabis" means all parts of the plant *Cannabis sativa*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the State of California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this Section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the State of California Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Cannabis 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 event" means an event involving the retail of cannabis products subject to the retailer obtaining event licenses from both local and state entities, for the purpose of this Chapter.

"Cannabis facility" means a business and/or structure or location where, or from where, retailing, distributing, processing, testing, manufacturing or delivering of cannabis.

"Cannabis Facility Business License" or "CFBL" 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.



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"CFBL Holder" means any person holding a cannabis facility business license issued pursuant to Chapter 6.36, including any review or permit required by this Chapter.

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

"Coastal Access Point" means Designated Coastal Access Points and Trail Systems as provided in Table 3.6-1 of Appendix 13 of the Mendocino County Coastal Element of the General Plan plus any additional Public Access Trails for which an Accessway Management Plan in conformance with Section 20.528.045 has been prepared and accepted by the Planning and Building Services Director.

"Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis and cannabis products.

"Customer" means a natural person twenty-one (21) years of age or over or a natural person eighteen (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.

"Dwelling unit" means a legal residential structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

"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 pursuant to MAUCRSA, regardless of whether the license held is an A-license or an M-license and includes the holder of a testing laboratory license.

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"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 cannabis products using nonvolatile solvents, or no solvents or volatile solvents using a non-volatile method.

"Manufacturing Level 2 (Volatile)" means facilities that manufacture cannabis products using volatile solvents.

"MAUCRSA" means the Medical and Adult-Use Cannabis Regulations Safety Act, or subsequent legislation amending its provisions.

"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 at least three (3) of the following commercial cannabis activities: (1) cultivation of cannabis on an area ten thousand (10,000) square feet or less, (2) distribution, (3) Manufacturing Level 1 (Non-Volatile), and (4) acting as a licensed retailer/dispensary under this Chapter, provided such licensee/CFBL Holder complies with all requirements imposed by this Chapter on each of the three or more activities, to the extent the licensee/CFBL Holder engages in such activities.

"Nonvolatile extraction" means an extraction method using nonvolatile solvents (such as carbon dioxide or "CO<sub>2</sub>") to manufacture cannabis products.

"Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent. A nonvolatile solvent includes carbon dioxide used for extraction.

"Park" means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth. State or Federal designated parks and forestlands as recognized within the Mendocino County General Plan are not included within this definition.

"Permit" means a permit to cultivate cannabis in Mendocino County pursuant to this Chapter.

"Permittee" means a Person issued a permit to cultivate cannabis in Mendocino County pursuant to this Chapter.

"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.

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"Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, for purposes of this Chapter.

"Processing" means to harvest, dry, cure, grade, trim, or package for transport cannabis.

"Processing Facility" means a location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged at a location separate from the cultivation site where the cannabis is grown and harvested.

"Retailer/Dispensary" means the retail sale and delivery of cannabis or cannabis products to customers.

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed child day care or preschool facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

"Shared-Use Facility" or "Shared Facility" means a location or facility where more than one manufacturing businesses take turns utilizing the same space and equipment, allowing multiple users to create cannabis products in a single facility, such as a community commercial kitchen.

"State" means the State of California.

"Testing" means 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 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-oriented facility" means an elementary school, middle school, high school, public park, or any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Youth-oriented facility shall include "day care center," as defined in Section 1596.76 of the California Health and Safety Code, as that section may be modified or superseded, and shall include "youth center" as defined in Section 11353.1 of the Health and Safety Code, as that section may be modified or superseded.

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### Sec. 20.538.020 - 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.

Where a use in this section is allowed as an accessory use, that use shall be subject to the provisions of Chapter 20.456.

#### (A) Processing Facilities.

- (1) Processing facilities, as defined herein, shall be conditionally permitted as a coastal agricultural use type.
- (2) A processing facility for cannabis cultivated on site pursuant to a Coastal Development Permit issued pursuant to Chapter 20.537 and a cultivation permit issued pursuant to Chapter 10A.17 shall be allowed as an accessory use to the permitted cultivation operation and a separate Coastal Development Permit pursuant to this Chapter shall not be required for the processing facility.
- (3) Processing may be permitted as an accessory use to a retail license for a storefront dispensary but shall be limited to cannabis to be sold at that retail location. The square footage of the processing area shall not be greater than twenty-five (25) percent of the retail floor square footage that is open to the general public; in calculating the retail floor area, the administrative space, storage space, or any other space not visible to customers shall not be included.
- (4) A cultivator with multiple cultivation permits and/or locations may process the cultivator's own cannabis at a single facility located on one of the parcels, provided, however, that the parcels on which the cultivation is occurring are contiguous and under the same ownership.

#### (B) Manufacturing Facilities.

- (1) Manufacturing Level 1 (Non-volatile), as defined herein, shall be principally permitted as a coastal industrial use type.
- (2) Manufacturing Level 2 (Volatile), as defined herein, shall be conditionally permitted as a coastal industrial use type.
- (3) Exception for home manufacturing.
  - (a) Manufacturing Level 1 (Non-volatile) as an accessory use to cultivation is allowed as a Home Occupation or Cottage Industry in all zones where cultivation is allowed pursuant to Chapter 20.537 and is subject to the provisions of Chapter 20.448 or Chapter 20.452, as applicable, and the following provisions:

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- (i) The cultivator engaging in home manufacturing must be permitted to cultivate pursuant to Chapter 20.537 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 Coastal Development Permit issued pursuant to Chapter 20.537, and under a cultivation permit issued pursuant to Chapter 10A.17.
  - (iii) The manufacturing of edible cannabis products is permitted in compliance with State of California regulations.
  - (iv) Only non-volatile extraction methods may be used.
- (4) Multiple manufacturing facilities may occupy a single structure and operate as a "Shared Facility" in zones where Manufacturing Level 1 (Non-volatile) is permitted, provided that:
  - (a) At least one of the manufacturing facilities has obtained a Coastal Development Permit pursuant to this Chapter; and
  - (b) Use of the "Shared Facility" shall be limited to Manufacturing Level 1 (Non-volatile); and
  - (c) All manufacturing facilities at the "Shared Facility" shall obtain a manufacturing CFBL from the County.
- (C) Testing Laboratories and Research Institutions.
  - (1) Testing laboratories and research institutions, as defined herein, shall be permitted as a coastal commercial use type pursuant to Table 1 of Section 20.538.030.
- (D) Retailer/Dispensary.
  - (1) A Retailer/Dispensary, as defined herein, shall be a coastal commercial use type.
  - (2) A Retailer/Dispensary with a storefront shall only be allowed pursuant to Table 1 of Section 20.538.030.
  - (3) A Retailer/Dispensary may operate as a Non-Storefront Retailer, in which case all retail sales shall be conducted exclusively by delivery and the premises shall be closed to the public.
    - (a) A Non-Storefront Retailer may be permitted in any zoning district as an accessory use to any other cannabis facility and a separate Coastal Development Permit pursuant to this Chapter shall not be required.

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- (b) A Non-Storefront Retailer may be permitted in any zoning district as an accessory use to a cultivation site permitted pursuant to Chapter 20.537 and Chapter 10A.17 and a separate Coastal Development Permit pursuant to this Chapter shall not be required. A Non-Storefront Retailer as an accessory use to a cultivation site shall only retail cannabis cultivated on the cultivation site.
- (4) Additional requirements for all retailers/dispensaries:
  - (a) Retailers/dispensaries that cultivate nursery stock or seeds must comply with the provisions of Mendocino County Code Chapter 20.537 and Chapter 10A.17.
  - (b) 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.
  - (d) Promotional items and free product give-a-ways by A-license retailers/dispensaries is prohibited.
- (E) Distribution Facility.
  - (1) A distribution facility as defined herein, shall be principally permitted as a coastal industrial use type and conditionally permitted as a coastal agricultural use type, and shall be a site or location where distribution, as defined herein, occurs.
  - (2) A Coastal Development Permit for distribution may be issued in the following categories, as these categories are defined in State laws and regulations, and subject to the restrictions of this Chapter: Distributor Transport Only and Distributor.
  - (3) A distribution facility may operate as Self-Distribution and a separate Coastal Development Permit pursuant to this Chapter shall not be required, for a location in any zoning district as an accessory use to a cultivation site (which has a Coastal Development Permit issued pursuant to Chapter 20.537 and a cultivation permit issued pursuant to Chapter 10A.17) or other cannabis facility types at that location, provided that the Self-Distribution facility shall be limited to the distribution of cannabis cultivated at that location, cannabis processed at that location, cannabis products manufactured at that location, or, for a retailer/dispensary, the distribution of cannabis or cannabis products to be sold at that location.
  - (4) A cultivator with multiple cultivation permits and/or locations may operate a Self-Distribution facility located on one of the parcels, provided,

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however, that the parcels on which the cultivation is occurring are contiguous and under the same ownership.

(F) Microbusinesses.

- (1) Microbusiness, as defined herein, shall be conditionally permitted as a coastal commercial use type.
- (2) Microbusinesses with on-site cannabis cultivation must comply with and obtain a Coastal Development Permit pursuant to Chapter 20.537 of the Mendocino County Coastal Zoning Code and a cultivation permit pursuant to Chapter 10A.17 of the Mendocino County Code.
- (3) Microbusinesses with on-site distribution, manufacturing, and/or retail sales or dispensing of its products shall comply with all applicable sections of this Chapter.
- (4) Microbusinesses proposed in the Commercial (C) and Rural Village (RV) zoning districts must demonstrate that the retail component of the Microbusiness is the primary use and other uses are incidental and subordinate to the retail component.
- (5) All components of a microbusiness must comply with the development requirements of the zoning district in which it is located.
- (6) The manufacturing of edible cannabis products is permitted in compliance with State of California regulations.
- (7) Notwithstanding Table 1 of Section 20.538.030, a microbusiness may be allowed in any zoning district provided that (a) the microbusiness either (i) qualifies as a Home Occupation pursuant to Chapter 20.448 or (ii) is permitted as a Cottage Industry pursuant to Chapter 20.452; and (b) there is a cultivation site permitted pursuant to Chapter 20.537 and Chapter 10A.17.
- (8) Microbusinesses which are either a Home Occupation or Cottage Industry shall (a) have any distribution component be limited to Self-Distribution of the microbusiness' own cannabis and cannabis products and (b) have any retail/dispensary component be limited to that of a Non-Storefront Retailer.
- (9) All cultivation, manufacturing, distribution, and retail activities performed by a licensee/CFBL Holder under a permitted microbusiness shall occur on the same licensed premises.
- (10) Square footage related to cultivation of cannabis or the processing of the cannabis grown on-site as part of a microbusiness shall not be counted toward the maximum square footage allowed under either a Home Occupation or Cottage Industry.

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### Sec. 20.538.025 - General Limitations on Cannabis Facilities in the Coastal Zone

- (A) All cannabis facilities shall comply with all applicable regulations in the Mendocino County Coastal Zoning Code and State law.
- (B) Cannabis facilities, other than Microbusinesses with a cultivation site, shall not be allowed within a six hundred (600) foot radius of a youth-oriented facility, a school, a park, or a Coastal Access Point, as those terms are defined in Section 20.538.015 of the Mendocino County Code, that is in existence at the time a Cannabis Facility Business License is applied for; Microbusinesses with a cultivation site and Manufacturing Level 2 (Volatile) shall not be allowed within one thousand (1000) feet of such places or facilities. The distance between the uses listed in the preceding sentence and the cannabis facility shall be measured in a straight line from the nearest point of the cannabis facility 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.
  - (1) Applicants may seek a reduction in the setback described in this paragraph (B) through the Coastal Development Permit process in Section 20.538.035 of this Chapter.
- (C) All structures associated with permitted cannabis facilities shall comply with the setbacks established by the zoning district in which the cannabis facility site is located.
- (D) All cannabis facilities shall be located in a permanent building in conformance with the California Building Code as adopted by Mendocino County 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, except as provided for by Mendocino County Coastal Zoning Code Chapter 20.448 or Chapter 20.452.
- (E) The processing, manufacturing, testing, dispensing, retailing, and distributing of 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, except as provided for by Mendocino County Coastal Zoning Code Chapter 20.448 or Chapter 20.452.
- (F) All cannabis facilities shall be subject to the findings in Sections 20.532.095 and 20.532.100, as applicable.
- (G) 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.



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- (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 immediately to law enforcement.
- (H) 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 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.
- (I) Signage associated with permitted cannabis facilities shall meet the applicable requirements set forth in the Mendocino County Coastal Zoning Code for signage and other applicable State regulations.

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**Sec. 20.538.030 - Coastal Permit Types and Zoning Districts**

All cannabis facilities in the unincorporated Coastal Zone of the County of Mendocino shall be permitted in accordance with this Section. All cannabis facilities shall obtain approval from other State and Local agencies with permitting jurisdiction. Cannabis facilities may be allowed with an approved Coastal Development Permit or Coastal Development Use Permit as required for the zoning district in which the cannabis facility is located as listed in Table 1, below:

Table 1 Permit Requirements for Processing, Manufacturing, Testing, Retailers, Distribution, and Microbusiness by Coastal Zoning District and Cannabis Facilities Code Permit Type								
			6-A and 6-M	7-A and 7-M	8-A and 8-M	10-A and 10-M	11-A and 11-M	12-A
			Processing	Manufacturing Level 1 (Non-volatile)	Manufacturing Level 2 (Volatile)	Testing	Retail/ Dispensary	Distribution
Zoning District	Coastal							
	AG	CDP	—	—	—	—	CDU	—
	RL	CDP	—	—	—	—	—	—
	RR	CDU	—	—	—	—	—	—
	RMR	CDP	—	—	—	—	—	—
	C	—	CDP	—	—	ZC	CDU	CDU
	I	CDP	CDP	CDU	CDP	—	CDU	—
	Town of Gualala							
	GVMU	—	—	—	CDP	ZC	CDP	—
	GHMU	—	—	—	CDP	ZC	CDP	—
GI	CDP	CDP	CDU	CDP	—	CDP	—	
— = Not Allowed, ZC = Zoning Clearance (If new 'Development' as defined in Definitions Section 20.308, a CDP may be required.), CDP= Coastal Development Permit CDU = Coastal Development Use Permit								

Notwithstanding the above Table 1:

- (A) Distribution licenses shall be allowed in any zoning district as an accessory use to other cannabis facilities on the site, subject to the limitations of paragraph (E) of Section 20.538.020.
- (B) Non-Storefront Retail locations shall be permitted in any zoning district as an accessory use to a cultivation site or permitted pursuant to Chapter 20.538.

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- (C) Microbusiness locations may be accessory to a cultivation site permitted pursuant to Chapter 20.538 provided the microbusiness qualifies as a Home Occupation pursuant to Chapter 20.448, or as a Cottage Industry pursuant to Chapter 20.452.
- (D) Microbusinesses which are a Home Occupation or Cottage Industry shall (a) have any distribution component be limited to Self-Distribution of the microbusiness' own cannabis and cannabis products and (b) have any retail/dispensary component be limited to that of a Non-Storefront Retailer.

### **Sec. 20.538.035 – Coastal Development Permit Review Procedure**

- (A) Planning Approval Procedure. Each cannabis facility site is subject to one (1) of the following planning procedures that correspond to the applicable zoning district, as specified by Table 1 in Section 20.538.030 of this Chapter. The Department shall review the application in accordance with the applicable planning approval process.
  - (1) Zoning Clearance. The Department of Planning and Building Services and the Division of Environmental Health shall review projects for compliance with applicable local regulations.
  - (2) Coastal Development Permit.
    - (a) In accordance with the Coastal Development Permit review procedure listed in Chapter 20.536.010, the Coastal Permit Administrator may approve, conditionally approve or deny a Coastal Development Permit for cannabis facility sites based on the findings in Sections 20.532.095 and 20.532.100 and the following special findings:
      - (i) The cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 20.537, as applicable.
      - (ii) The cannabis facility will avoid or minimize odor and light impact on residential uses.
      - (iii) The Coastal Development Permit shall expire at the end of any period stated in the permit. If the Coastal Development Permit for the cannabis facility is dependent on a cannabis cultivation Coastal Development Permit, should the Coastal Development Permit for cultivation be revoked, the permit for the cannabis facility shall be revoked.
    - (b) In addition to the requirements of paragraph (a) above, a Coastal Development Permit may be approved, conditionally approved or denied for the reduction of the setback provided for in Section 20.538.025(A) based on the following special findings:

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- (i) That there be special circumstances applicable to the property involved, including size, shape, topography, location or surrounding;
  - (ii) That the granting of such reduction will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; and
  - (iii) That the granting of such reduction will not adversely affect the Local Coastal Program.
- (3) Coastal Development Use Permit. In accordance with the Coastal Development Use Permit review procedure listed in Chapter 20.536.005, the Planning Commission may approve, conditionally approve or deny a Coastal Development Use Permit for a cannabis facility based on findings in Sections 20.532.095 and 20.532.100 and the following special findings:
- (a) The proposed cannabis facility site is allowed in the zoning district and is in compliance with the provisions of this Chapter and Chapter 20.537, as applicable.
  - (b) The medical or adult use cannabis facility will avoid or minimize odor and light impact on residential uses.
  - (c) The Coastal Development Use Permit shall expire at the end of any period stated in the permit. If the Coastal Development Use Permit for the cannabis facility is dependent on a cannabis cultivation Coastal Development Use Permit, should the Coastal Development Use Permit for cultivation be revoked, the permit for the cannabis facility shall be revoked.
- (B) The County shall notify any State licensing authority, as defined by the MAUCRSA, as applicable, whenever a Coastal Development Permit or Coastal Development Use Permit has been revoked or terminated.

### **Sec. 20.538.040 - Coastal Permit Application Submittal Requirements for Cannabis Facilities**

Any person or entity that wishes to engage in the processing, manufacturing, testing, dispensing, retailing, and distributing, of cannabis use in the unincorporated Coastal Zone Mendocino County's Cannabis Facility sites shall submit an application to the Department of Planning and Building Services. Applications for facilities shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Department of Planning and Building Services 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 coastal permit for cannabis facility shall provide the standard application materials for a Coastal Development Permit or Coastal Development Use Permit as applicable, and all of the following information on, or as an attachment to, the application:

## EXHIBIT A

- (A) An operations plan which provides a description of the proposed processing, manufacturing, testing, dispensing, retailing, or distributing of 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) The Department of Planning and Building Services 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.

### **Sec. 20.538.045 - Permit Revocation**

A Coastal Development Permit or Coastal Development Use Permit may be revoked or modified according to the revocation or modification provisions in Mendocino County Coastal Zoning Code Section 20.536.030 and any successor provisions. Grounds for seeking revocation or modification include: non-compliance with one (1) or more of the requirements listed in this Code or failure to comply with the requirements of the Mendocino County Certified Unified Program Agency (CUPA).

### **Sec. 20.538.050 – Cannabis Events**

- (A) An event at which cannabis is retailed shall apply for a permit pursuant to Section 20.460.020, including events of less than 100 people, provided, however, that venues shall also be subject to the following:
  - (1) The event venue shall be permitted with the state licensing body.
  - (2) The parcel(s) on which the event is located shall be located at least six hundred (600) feet from any youth-oriented facility, school, and/or park. The distance between the uses listed in the preceding sentence and the event shall be measured in a straight line from the property line of the event venue to the nearest point of any fenced, maintained or improved area where the users of the sensitive receptor are typically present during normal hours of operation.
  - (3) All retailers shall be licensed with both local and state entities.

**EXHIBIT A**

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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

\_\_\_\_\_  
Deputy

*APPROVED AS TO FORM:*  
CHRISTIAN M. CURTIS,  
Acting County Counsel

\_\_\_\_\_

\_\_\_\_\_  
CARRE BROWN, Chair  
Mendocino County Board of Supervisors

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