

## **Introducing Measure AF**

Measure AF is a Mendocino County citizen's initiative on the November 2016 ballot. The measure was spearheaded by members of the cannabis industry who want to protect small local farms from large corporate business interests, as well as protect community safety and our County's natural resources.

In 2015, the State of California passed historic legislation to regulate commercial cannabis and designate cannabis as an agricultural product, to be regulated by the Department of Agriculture. This opened the doors for counties to follow suit and regulate on a local level. Regulation means that we can control the future of the industry, protect small family farms, reduce black market activity, end trespass grows, and safeguard our natural resources.

The unregulated cannabis industry has divided our community for decades and has negatively impacted our natural resources and sense of safety. Measure AF is a chance to change direction, providing the most time-efficient and cost-effective path to regulation while making Mendocino County's rules consistent with state law.

How will Measure AF benefit the people of Mendocino County?

### **Regulation protects the environment**

- The biggest threat to the environment is an unregulated market. Permittees will be mandated by the State of CA to enroll in the North Coast Regional Water Quality Control Board's program to obtain a water discharge waiver before they can apply for a County permit. This waiver must be renewed annually, and it will be enforced by a joint task force of NCRWQCB, Fish & Wildlife, and local law enforcement. It also subjects violators to significant fines.
- Contrary to fears about loose regulation, cannabis cultivators will be subject to more stringent environmental standards than any other agricultural product.

### **Safer neighborhoods**

- Today, reckless manufacturing takes place in our neighborhoods and in protected watersheds where unregulated operations create a fire & safety risk. Measure AF restricts these activities (such as butane processing) to industrial zones and introduces new, rigorous statewide safety standards.
- AF makes Mendocino County consistent with state law which prohibits cultivation and dispensaries within 600 feet of a school; prohibits illegal diversion of water; and provides for the safety & protection of our community. It also creates workplace safety standards and restricts employment to individuals over 21 years of age.

### **Taxes benefit the community**



- County is embarrassingly underfunded, with severe gaps in social services. It is time to tax the cannabis industry. Comprehensive regulation of all parts of the industry will grow the tax base and provide a crucial source of economic development.
- Cannabis regulation and taxation will make Mendocino County safer and benefit our entire community, helping to fund enhanced mental health services, repair of county roads, and expand fire and emergency medical services.

#### **Increased enforcement**

- By drawing a clearer line between legal and illegal operations, AF strengthens enforcement, and provides the Sheriff with the resources to focus on hard drugs, illegal grows, and violent crime. Bringing the industry out of the shadows is the single most important factor in increasing public safety in Mendocino County.
- State enforcement agents protect against environmental impacts by mandating permits and compliance inspections.

#### **Protects local business**

- Measure AF only allows permits to be issued to Mendocino County residents that have lived here for at least two years and requires majority ownership by locals to keep out large corporate interests. These permitted businesses will be required to follow all the same rules as every other business in Mendocino County.
- Contrary to claims that the residency requirement is unconstitutional, they have not been challenged elsewhere and are commonly applied to cannabis policy.

Policy must change over time. Measure AF is amendable, and it empowers the Board of Supervisors to make changes to the permitting program to continue to meet the needs of all county residents. Regardless of which side you fall on regarding medical cannabis, there is a very real threat to our environment and our economic base if voters fail to approve Measure AF. A no vote on AF means the perpetuation of a black market that is not serving the greater good of our community. The challenges we face will persist until our local policies are up to date.

Mendocino County needs solutions. Measure AF creates a clear regulatory program for local farms and businesses who wish to come into compliance, pay taxes, create good jobs, and protect the environment. Vote yes on AF to protect Mendocino County and our legacy of leading the way on sustainable agricultural management. We hope you will consider all sides of the issue before making a decision.

Sincerely,

#### **Yes on AF**

Sarah Bodnar   Jude Thilman   Casey O'Neill   Tom Rodrigues   Tim Blake   Justin Calvino

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# MEASURE

# AF

MENDOCINO  
**HERITAGE ACT**  
2016

## YES ON MEASURE AF

Measure AF: The Mendocino Heritage Act offers the most efficient and responsive path toward a safer, regulated cannabis industry.

- **BRIDGE POLICY:** The Mendocino Heritage Act will serve as a crucial bridge policy to bring Mendocino County into alignment with the provisions of the state of California's Medical Cannabis Regulation & Safety Act (MCRSA) policy.
- **COMPREHENSIVE REGULATION FOR THE ENTIRE INDUSTRY:** It immediately introduces comprehensive oversight for all aspects of the cannabis industry including cultivation, nurseries, manufacturing, testing, processing, distribution, transportation and dispensary operations. These will go into effect immediately without bureaucratic delay.
- **NO FARMER LEFT BEHIND:** The Heritage Act protects small local farmers and guarantees that permits will be available for cultivation for the 2017 season, ensuring environmental oversight and helping to curb unregulated activity.
- **CANNABIS AS AGRICULTURE:** Supports the State of California's designation of cannabis as agriculture by moving regulation of industry under Department of Agriculture for permitting and enforcement of cultivation.
- **GENERATES TAXES FOR PUBLIC BENEFIT:** Introduces a 2.5% tax on gross receipts for medical cannabis which will provide much needed funding for County services such as roads, mental health and emergency services.
- **PROTECTS OUR ENVIRONMENT:** Regulation and monitoring will curb unlawful activity and introduce strict regulation for permitted farms relating to water usage and land management best practices.

Endorsed by California Growers Association, Small Farmers Association, Mendocino Cannabis Policy Council, and Mendocino Cannabis Industry Association, and several community allies, the Initiative represents thousands of Mendocino County's smallholder cultivators who are committed to participating in the next era of a regulated cannabis industry, for the greater good of our entire community.

Join us in voting YES on Measure AF this November! #yesonAF

## SMART CANNABIS REGULATION FOR MENDOCINO COUNTY

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**AN INITIATIVE OF THE PEOPLE OF THE COUNTY OF MENDOCINO, CALIFORNIA,  
REGULATING LAWFUL MEDICAL CANNABIS CULTIVATION, PROCESSING, TESTING,  
DISTRIBUTION, TRANSPORTATION, DELIVERY, AND DISPENSARIES IN THE COUNTY  
OF MENDOCINO**

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 (codified at Health & Safety Code §11362.5 and entitled "The Compassionate Use Act of 1996");

**WHEREAS**, The Compassionate Use Act enables seriously ill Californians to legally possess, use, obtain and cultivate cannabis for medical use under state law once a physician has determined that the patient suffers from any medical condition for which cannabis provides relief;

**WHEREAS**, the California Medical Marijuana Program Act (Health and Safety Code § 11362.7 et seq.), permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate, transport, and sell cannabis for medical purposes without being subject to criminal prosecution or sanction;

**WHEREAS**, the Medical Marijuana Regulation and Safety Act (Business and Professions Code §19300 et seq., hereinafter known as "MMRSA") contains provisions that govern the cultivation, transportation, manufacturing, testing, and distribution of medical cannabis to qualified patients and allows local governments to regulate and permit the cultivation, transportation, manufacturing, testing, and distribution of medical cannabis to qualified patients within their jurisdictions;

**WHEREAS**, a significant part of Mendocino County's culture and economy is founded on cannabis cultivation on small family farms with a heritage of decades of specialized agricultural cultivation and skilled cultivation practices, and the local culture and economy will thrive if farmers are encouraged to work with the plant and ecosystem in a regenerative and sustainable way;

**WHEREAS**, the People of the County of Mendocino desire to establish a local regulatory framework, including heritage appellations, to make medical cannabis available to qualified patients and their caregivers and to avoid the reported negative impacts that may arise from unregulated cultivation, processing and distribution activities, including but not limited to offensive odors, illegal sales and distribution of cannabis, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests;

**WHEREAS**, the People find and declare that all information received by and/or generated by the operation of Chapter 9.31 of the Mendocino County Code has always been intended to be treated and held by the County as confidential information to the fullest extent authorized by State and Federal law;

**WHEREAS**, the People find and declare that all information received by and/or generated by the operation of this Ordinance shall be treated and held by the County as confidential information to the fullest extent authorized by State and Federal law;

**WHEREAS**, Health and Safety Code §11362.777 declares that medical cannabis is an agricultural product and cultivation is to be regulated by the California Department of Food and Agriculture;

**WHEREAS**, the Right to Farm Ordinance, Chapter 10A.13 of the Mendocino County Code, conserves, protects, and encourages sustainable agricultural production;

**WHEREAS**, the Mendocino County Board of Supervisors affirmed its support for both a state regulatory framework and local control measures pursuant to such regulation (*2016 Legislative Platform*);

**WHEREAS**, the Mendocino County Board of Supervisors has at least twice reaffirmed its support of the principles of legalization, regulation, and taxation of marijuana (BoS statement adopted 6/5/2007 and North Coast Policy Statement, adopted 5/5/2015)

**NOW THEREFORE**, the People do ordain as follows:

**Section 1. Title.** This ordinance shall be known and may be cited as the “Mendocino Heritage Act of 2016.”

**Section 2.** The People hereby find that the above recitals are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 3. Cannabis Cultivation is Agriculture**

Mendocino County Code Chapter 10A.13, Agricultural Nuisances and Customer Disclosures, is amended with the following:

Mendocino County Code §10A.13.010, Medical Cannabis Agriculture. The commercial cultivation of cannabis, in accordance with all applicable state and local laws, ordinances, and regulations, shall be considered an agricultural operation within the meaning of this Chapter.

**Section 4. Repeal of Mendocino County Code Chapter 9.37 and Chapter 9.31.**

Mendocino County Code § 9.31.010 and § 9.31.020, et seq. (Medical Marijuana Cultivation Regulation), is hereby repealed.

Mendocino County Code Chapter 9.37, Adoption of New Guidelines for Maintenance and Possession of Medical Marijuana that Do Not Exceed the Minimum State Limits, is hereby repealed.

**Section 5. Lawful Cannabis Permits.** The People hereby add Chapter 6.22, entitled "Lawful Cannabis Permits" to Title 6 (Business Permits and Regulations) of the Mendocino County Code, to read as follows.

**6.22.010 Legislative Findings and Statements of Purpose**

**6.22.020 Definitions**

**6.22.030 Patients and Caregivers Exempt from Permitting Requirement**



<b>6.22.040</b>	<b>Commercial Medical Cannabis Activity Subject to Permit</b>
<b>6.22.050</b>	<b>Types of Permits for Commercial Medical Cannabis Activity</b>
<b>6.22.060</b>	<b>Limitations on Location for Commercial Medical Cannabis Activity</b>
<b>6.22.070</b>	<b>Permits for Commercial Medical Cannabis Activity</b>
<b>6.22.080</b>	<b>Medical Cannabis Cultivation</b>
<b>6.22.090</b>	<b>Medical Cannabis Dispensaries</b>
<b>6.22.100</b>	<b>Medical Cannabis Manufacturing</b>
<b>6.22.110</b>	<b>Medical Cannabis Testing</b>
<b>6.22.120</b>	<b>Medical Cannabis Distribution and Transportation</b>
<b>6.22.130</b>	<b>Permit Fees</b>
<b>6.22.140</b>	<b>Cannabis Business Tax</b>
<b>6.22.150</b>	<b>Enforcement and Appeals</b>
<b>6.22.160</b>	<b>Establishment of Cannabis Commission</b>
<b>6.22.170</b>	<b>Applicability to Change in State Regulations</b>

**Sec. 6.22.010 - Legislative Findings and Statement of Purpose.**

The People find that the local regulation of medical cannabis cultivation, manufacturing, testing, distribution, transportation, delivery, and dispensaries is necessary for the preservation and protection of the public health, safety, and welfare.

The People find that this chapter: (1) expresses the People's intent to permit the lawful cultivation, manufacturing, testing, distribution, processing, transportation, delivery and dispensing of cannabis within the County; (2) exercises the People's local authority to enact and enforce local regulations and ordinances; and (3) exercises the People's police power to enact and enforce regulations for the public benefit, safety, and welfare of the residents of Mendocino County.

**Sec. 6.22.020 - Definitions.**

For purposes of this chapter, the following definitions shall apply:

"Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single

manufacturing order during the same cycle of manufacture, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. "Cannabis" shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Caregiver" or "primary caregiver" means the individual designated by a patient who has consistently assumed responsibility for the housing, health, or safety of that patient, and shall have the same meaning as that set forth in Health and Safety Code Section 11362.5(e).

"Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Coastal Zone" shall be the geographic region governed by the Mendocino County Zoning Code-Division II, which excludes those areas within the Inland Zone.

"Commercial Medical Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act ("MMRSA") for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found in Health and Safety Code Section 11362.5, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Cultivation Area" means the sum of the area(s) of cannabis cultivation as measured around the perimeter of each discrete area of cannabis cultivation on a single parcel, as defined herein. Area of cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, the exterior dimensions of hoop houses or green houses, and the total area of each of the pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises.

"Cultivation Site" means the location or facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license if available, and that holds a valid local permit, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary to a primary caregiver or qualified patient, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently holding a state license if available, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products. "Delivery" shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale. "Dispensary" shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between locally permitted entities, and shall have substantially the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Distribution Facility" means the location or a facility where a person licensed with a Type 11 license pursuant to the MMRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging, and other processes prior to transport to licensed dispensaries.

"Distributor" means a person with a local permit and/or state license to engage in the business of purchasing medical cannabis from a licensed or permitted cultivator, or medical cannabis products from a licensed or permitted manufacturer, for sale to a licensed or permitted dispensary, and shall have the same

meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Dried flower" means all medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Flowering cycle" means the distinct stage of biological growth in which the flowers are produced by the cannabis plant, as opposed to the initial vegetative cycle.

"Hoop house" means a detached structure made of a rigid frame not more than fifteen (15) feet in height and with not greater than 6 (six) foot sidewalls, optionally equipped with non-rigid plastic covering and/or removable light obscuring tarps.

"Indoor" means indoor cultivation using exclusively artificial lighting.

"Inland Zone" shall be the geographic region governed by the Mendocino County Zoning Code- Division I, which excludes those areas within the Coastal Zone.

"Licensee" means a person issued a state license to engage in commercial medical cannabis activity, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Live plants" means living medical cannabis flowers, whole plants, mature plants, seeds, immature plants, and vegetative stage plants, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits. "Lot" shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or re-labels its container, that holds a state license and/or local permit, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Manufactured cannabis" 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, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee or permittee for these activities, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Food and Agricultural Code § 81000 or Health and Safety Code § 11018.5, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Mixed-Light" means cultivation using a combination of natural and supplemental artificial lighting during the flowering cycle at a maximum threshold as to be determined by the Department of Food and Agriculture.

"Nursery" means a permittee and/or licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis, and shall have substantially the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Outdoor" means outdoor cultivation without utilizing artificial lighting during the flowering cycle.

"Patient" means a natural person with a written or oral recommendation or approval of a physician authorizing the medical use of cannabis, and shall have the same meaning as that set forth in Health and Safety Code § 11362.5.

"Permit," means an official document issued by the County of Mendocino that specifically authorizes a person to conduct commercial medical cannabis activity.

"Permittee" means a person issued a permit by the County of Mendocino to engage in commercial medical cannabis activity.

"Person" means an 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 and includes the plural as well as the singular number, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Premise" or "Premises" means a lot, or contiguous lots or portions thereof, with functions, characteristics, or uses of outdoor, mixed-light, or indoor cultivation or processing of medical cannabis, or

a leased or owned space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

“Processing Facility” means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators; if the facility is at a location separate from the cultivation site it shall be considered a Packing and Processing: General Uses; if the facility is on the same premise or site as the cultivation site, it shall be considered a Packing and Processing: Limited Use.

“Slope” means Natural Grade, wherein the Natural Grade is the surface of the ground prior to the grading for cultivation.

"State license," "license," or "registration" means a state license, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Testing laboratory" means a facility, entity, or site that offers or performs tests of medical cannabis or medical cannabis products and that is accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in California. "Accrediting body" means an organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing, and shall have substantially the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

"Topical cannabis" means a product intended for external use, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

“Transport” and “transportation” means the transfer of medical cannabis or medical cannabis products from the permitted business location, site, or premise of one permittee to the permitted business location, site, or premise of another permittee, for the purposes of conducting commercial medical cannabis activity authorized pursuant to the MHA. “Transport” shall have the same meaning as set forth in Business and Professions Code § 19300.5, as may be amended from time to time.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described in the Public Resources Code Sections 21074, 21083.2(g), and 21084.1, respectively. Tribal Cultural Resources shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

“Tribal Lands” means land within the boundaries of a Reservation or Rancheria, including land held in trust by the United States of America, land owned by the Tribe associated with that Reservation or Rancheria, fee parcels owned by members of the Tribe associated with that Reservation or Rancheria, and fee parcels owned by non-tribal members.

“Vegetative cycle” or “vegetative growth” means the initial biological growth of the immature cannabis plant prior to its development of bud or flower.

“Volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gases, such as butane, propane, xylene, styrene, gasoline, kerosene, O<sub>2</sub> or H<sub>2</sub>; and (2) dangerous poisons, toxins, or carcinogens, such as methanol, isopropyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloroethylene.

**Sec. 6.22.030 - Exemption for Cultivation by Patients and Caregivers.**

Pursuant to MMRSA Section 11362.777 (D)(f)(2)(g) No permit shall be required for the cultivation of medical cannabis by a qualified patient if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. No permit shall be required of a primary caregiver cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765 of the MMRSA. For purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises.

**Sec. 6.22.040 - Commercial Medical Cannabis Activity Subject to Permit.**

All commercial medical cannabis activity is subject to a permit. No commercial medical cannabis activity shall be deemed to have been a legally established use under the provisions of the Mendocino County Code, and such use shall not be entitled to claim a vested right, legal nonconforming or other similar status.

However, for the purpose of establishing a basis for vertical integration under Business and Professions Code § 19328 , and because the County of Mendocino had adopted Chapter 9.31 of the Mendocino County Code prior to July 1, 2015 in accordance with Business and Professions Code § 19328(c)(1), the County shall issue a Certificate of Good Standing to persons meeting all of the following conditions: (a) The person was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on July 1, 2015, and has continuously done so since that date; (b) the person has not been adjudicated, prior to the date of application, to be in violation of Mendocino County Code Chapter 9.31; and (c) the person is registered with the State Board of Equalization.

**Sec. 6.22.050 - Types of Permits for Commercial medical cannabis Activity.**

Permit classifications pursuant to this chapter are as follows, and shall have substantially the same meaning as set forth in Business & Professions Code § 19300 et seq. as the same may be amended from time to time:

Type MB = Micro-Business; Specialty outdoor/mixed-light/indoor; Micro. For outdoor/ mixed-light/indoor cannabis cultivation of less than or equal to 2,500 square feet of total canopy size on one parcel.

Type 1 = Cultivation; Specialty outdoor; Small. For outdoor cannabis cultivation using no artificial lighting during the flowering cycle of less than or equal to 5,000 square feet of total canopy size on one parcel.

Type 1A = Cultivation; Specialty indoor; Small. For indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one parcel.

Type 1B = Cultivation; Specialty mixed-light; Small. For cultivation using a combination of natural and supplemental artificial lighting during the flowering cycle at a maximum threshold to be determined by the California Department of Food and Agriculture, of less than or equal to 5,000 square feet of total canopy size on one parcel.

Type 2 = Cultivation; Outdoor; Small. For outdoor cultivation using no artificial lighting during the flowering cycle between 5,001 and 10,000 square feet, inclusive, of total canopy size on one parcel.

Type 2A = Cultivation; Indoor; Small. For indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one parcel.

Type 2B = Cultivation; Mixed-light; Small. For cultivation using a combination of natural and supplemental artificial lighting during the flowering cycle at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one parcel.

Type 3 = Cultivation; Outdoor; Medium. For outdoor cultivation using no artificial lighting during the flowering cycle from 10,001 square feet to one acre, inclusive, of total canopy size on one parcel.

Type 3A = Cultivation; Indoor; Medium. For indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one parcel.

Type 3B = Cultivation; Mixed-light; Medium. For cultivation using a combination of natural and supplemental artificial lighting during the flowering cycle at a maximum threshold to be determined by the California Department of Food and Agriculture, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one parcel.

Type 4 = Cultivation; Nursery. For cultivation of medical cannabis solely as a nursery. Nurseries may: transport and distribute live cannabis plants and seed stock to patients, caregivers, dispensaries, and commercial cultivators; cultivate an aggregate canopy size not in excess of that defined by MMRSA or other applicable State guidelines on multiple, noncontiguous parcels to preserve genetic stock in case of pest or disease outbreak; build and operate tissue culture facilities; and flower plants for breeding and quality control purposes.

Type 6 = Manufacturer 1; Non-Volatile Extraction. For the extraction of cannabis concentrates using non-volatile solvents and the manufacturing of edible cannabis products and topical cannabis.

Type 7 = Manufacturer 2; Volatile Extraction. For the extraction of cannabis concentrates using volatile solvents and the manufacturing of edible cannabis products and topical cannabis.



Type 8 = Testing laboratory. Means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products.

Type 10 = Dispensary; General. For dispensaries with more than three retail sites.

Type 10A = Dispensary. For dispensaries with no more than three retail sites.

Type 11 = Distribution. For distributors engaging in the procurement, sale, and transport of medical cannabis and medical cannabis products between permitted and/or licensed entities within California.

Type 12 = Transporter. For the transport of medical cannabis or medical cannabis products between permitted and/or licensed entities within California. Persons otherwise permitted under this Chapter are not required to obtain a Type 12 permit for transportation occurring wholly within Mendocino County.

**Sec. 6.22.060 - Limitations on Location for Commercial Medical Cannabis Activity.**

(A) Commercial medical cannabis activity shall be allowed only in compliance with Mendocino County Code Chapter 20, Zoning Ordinance, as amended by the Mendocino Heritage Act of 2016.

(B) Commercial medical cannabis cultivation, processing, manufacture, or distribution activity shall not be allowed in the following areas:

(1) Within six hundred (600) feet of any school or park.

(2) Within one hundred (100) feet of any occupied legal residential structure located on a separate parcel unless both the occupant and owner of the residential structure expressly waive or reduce the setback requirement.

(3) Outdoors within thirty (30) feet of a parcel under separate ownership unless the owner of the parcel expressly waives or reduces the setback requirement.

a. The distance between the uses in subsection (B)(1) and commercial medical cannabis activity shall be measured in a straight line from the nearest point of the fence required in Mendocino County Code § 6.22.084(A), or if the commercial medical cannabis activity occurs indoors, from the nearest exterior wall of the building in which the commercial medical cannabis activity occurs to the nearest boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in subsections (B)(2) and (B)(3) to any residential structure or parcel shall be measured from the fence required in Mendocino County Code § 6.22.084(A) to the nearest exterior wall of the residential structure or nearest boundary line of the parcel.

b. Any existing site of commercial medical cannabis activity that is in violation of section 6.22.060(B)(2) and/or section 6.22.060(B)(3) shall be given until July 1, 2018 to become compliant.

(C) Commercial medical cannabis dispensaries and testing facilities shall not be allowed in the following areas:

(1) Within six hundred (600) feet of any school or park, as measured in the manner set forth in

section 6.22.060(B)(3)(a).

**Sec. 6.22.070 - Permits for Commercial Medical Cannabis Activity.**

**(A) Permit Applications**

- (1) All permit applications shall include but not be limited to the following information:
  - a. Name, present address and telephone number for the applicant and all individuals involved in the commercial medical cannabis business, entity, or activity that is proposed to hold the permit, including owners, managers and employees.
  - b. Written proof that the applicant and all other individuals involved in the activities are over the age of twenty-one (21) years.
  - c. Written proof that the applicant has been a resident of Mendocino County for at least the last two years.
  - d. The address to which notice of action on the application and all other notices are to be mailed.
  - e. The location of operations by address and/or associate parcel number.
- (2) The residency requirement set forth in section 6.22.070(A)(1)(c) shall no longer be a requirement after January 1, 2020.

**(B) Qualifications of an Applicant**

- (1) For purposes of this section 6.22.070 and these rules, an applicant must:
  - a. Satisfy the residency requirement set forth in section 6.22.070(A)(1)(c);
  - b. Must own at least fifty-one percent (51%) of the business or entity applying for or holding the commercial medical cannabis Permit;
  - c. Must maintain full management and control, including operations, of the business or entity applying for or holding the commercial medical cannabis Permit;
- (2) Exclusive of any employees of the business or entity applying for or holding the commercial medical cannabis permit, no individual, entity, group, club, partnership, joint venture, or any other like or similar formation that does not meet the residency requirement set forth in section 6.22.070(A)(1)(c) shall exercise any management or control over the business applying for or holding the commercial medical cannabis Permit;
  - a. Passive investors and lenders shall not be considered to be exercising management or control over the business applying for or holding the commercial medical cannabis Permit.
- (3) For purposes of section 6.22.070, if a legal entity is designated as an applicant, where legal entity includes but is not limited to, a limited liability company, a corporation, a partnership, joint venture,

or any other group or formation of a group, the legal entity shall not be held to any residency requirement set forth in this section, only the following individuals comprising or involved with the legal entity must also be listed as applicants on the permit application:

- a. All partners in a limited partnership;
- b. All members having a membership interest in a limited liability company; and
- c. All directors and principal officers of a corporate entity;

(4) Any individual that meets the standards in section 6.22.070(B)(3)(a)-(c) must meet the residency requirement set forth in section 6.22.070(A)(1)(c). No legal entity or structure shall be required to meet the residency requirement in section 6.22.070(A)(1)(c).

#### **(C) Permit Renewals**

- (1) Applications for renewal shall be made at least 30 days before the expiration date of the permit.
- (2) Notwithstanding subsection (B)(1), a permittee that has applied for renewal at least 30 days before the expiration date of the permit may continue operations until its application for permit renewal is either approved or denied.
- (3) Appeals for a denial of a permit renewal shall be conducted as set forth in section 6.22.150(D).

#### **(D) Permit Application Grace Period**

Any existing commercial medical cannabis activity currently located in any zoning district pursuant to Title 20 of the Mendocino County Code where that respective medical cannabis activity is a principal or conditional permitted use may continue to operate, function, exist, and continue to carry on the cannabis activity during the permitting process pursuant to this Section and pursuant to the applicable zoning permitting process in Title 20. The permitting grace period for existing commercial medical cannabis to operate while applying for the Cannabis Permits pursuant to this Section and any applicable zoning permits shall be for one-hundred-eighty days (180) from the implementation of the MHA, after such time, if the necessary and required permits have not been obtained, the commercial medical cannabis activity must cease.

#### **Sec. 6.22.080 - Medical Cannabis Cultivation.**

The Mendocino County Department of Agriculture shall issue permits for the cultivation of medical cannabis, including but not limited to Permit Types 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B and 4.

#### **Sec. 6.22.082 - Term of Cultivation Permits and Renewals Required.**

- (1) Permits issued under this chapter shall expire one year following the date of their issuance.

(2) Permits may be renewed by the Department of Agriculture for additional periods of one year in length upon application by the permittee, unless the application for renewal fails to comply with the provisions of this chapter.

**Sec. 6.22.084 - Cultivation Operating Requirements.**

**(A) Visibility and Fencing.**

(1) In any location where cannabis plants are visible from the public right of way or publicly traveled private roads, a secure fence at least six (6) feet in height that fully encloses the immediate garden area must be used. The fence must include a lockable gate that is locked at all times when a permittee is not in the immediate area. The 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 that shade cloth may be used on the inside of the fence.

**(B) Lighting.**

(1) All lights used for cultivation 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 parcel upon which they are placed from dusk to dawn.

**(C) Noise.**

(1) The commercial cultivation of medical cannabis shall not exceed the noise level standards as set forth in Mendocino County General Plan policies DE100, 101 and 103.

**(D) Water Source.**

(1) The commercial cultivation of medical cannabis shall not utilize water that has been or is illegally diverted from any stream, creek, or river.

**(E) Water Discharge.**

(1) The commercial cultivation of medical cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

**(F) Security.**

(1) All buildings and enclosures where commercial medical cannabis cultivation takes place shall be properly secured to prevent unauthorized entry.

**(G) Plant Health.**

(1) Medical cannabis nurseries shall conduct and document inspections and tests to ensure that clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis are free from pests and disease. Medical cannabis nurseries shall not sell

or offer for sale any clones, immature plants, seeds, or other agricultural products unless they are believed in good faith to be free from pests and disease.

**Sec. 6.22.090 - Medical Cannabis Dispensaries.**

The Mendocino County Health and Human Services Agency shall issue permits for medical cannabis dispensaries, including but not limited to Permit Types 10 and 10A.

**Sec. 6.22.092 - Term of Dispensary Permits and Renewals Required.**

- (1) Permits issued under this chapter shall expire two (2) years following the date of their issuance.
- (2) Permits may be renewed by the Mendocino County Health and Human Services Agency for additional periods of two (2) years in length upon application by the permittee, unless the application for renewal fails to comply with the provisions of this chapter.

**Sec. 6.22.094 - Dispensary Operating Requirements.**

Dispensary operations shall be established and managed in compliance with the following standards:

**(A) Minors.**

- (1) It is unlawful for any permittee, operator, or other person in charge of any dispensary to employ any person who is not at least 21 years of age.
- (2) Persons under the age of 18 shall not be allowed on the premises of a dispensary allowing on-site consumption unless they are a qualified patient or a primary caregiver or they are in the presence of their parent or guardian.

**(B) Operating Hours.**

- (1) Dispensaries may operate between the hours of 9:00 am and 9:00 pm up to seven days per week.

**(C) Dispensing Operations.**

- (1) A dispensary shall only dispense to qualified patients or caregivers with a currently valid physician's approval or recommendation in compliance with the criteria in Health and Safety Code § 11362.5 et seq.
- (2) Prior to dispensing medical cannabis, the dispensary shall obtain and maintain verification from the recommending physician that the individual requesting medical cannabis is a qualified patient.
- (3) Patient records shall be maintained and verified as needed.
- (4) A dispensary may deliver medical cannabis to patients.

**(D) Consumption Restrictions.**

(1) Qualified patients may consume medical cannabis on-site provided that such consumption is by vaporization or oral consumption in a restricted area that does not allow persons under the age of 18 unless they have a health care provider's recommendation to use medical cannabis and are accompanied by an adult.

**(E) Operating Plans.**

(1) A permitted dispensary shall maintain on-site an operating plan that shall include but not be limited to the following information:

**(F) Access Control, Security, and Diversion Prevention.**

(1) A permitted dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

- a. Establishing limited access areas accessible only to authorized dispensary personnel.
- b. Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

**(G) Emergency Contact.**

(1) A dispensary shall provide the Health and Human Services Agency with the name, phone number and email address of a staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems.

**(H) Staff Training.**

(1) Dispensary staff shall receive appropriate training to understand cannabis medicine, how to best counsel patients on its use, and to ensure compliance with state and local law.

**(I) Compliance.**

(1) A dispensary shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within Mendocino County and shall make available recommendations on sensible cannabis etiquette and use.

**Sec. 6.22.100 - Medical Cannabis Manufacturing.**

The Mendocino County Department of Planning and Building Services shall issue permits for the manufacturing of medical cannabis, including but not limited to Permit Types 6 and 7.

**Sec. 6.22.102 - Term of Manufacturing Permits and Renewals Required.**

- (1) Permits issued under this chapter shall expire one (1) year following the date of their issuance.
- (2) Permits may be renewed by the Department of Planning and Building Services for additional periods of one (1) year in length upon application by the permittee, unless the application for renewal fails to comply with the provisions of this chapter.

**Sec. 6.22.104 - Manufacturing Operating Requirements.**

**(A) Minimum Standards.**

- (1) No later than June 1, 2017, the Department of Planning and Building Services shall establish minimum standards for the safe operation of manufacturing facilities, with public health and safety being the paramount concern.

**(B) Operating Plans.**

- (1) A permitted Manufacturer 7 using volatile solvents shall maintain on-site an operating plan that shall include but not be limited to the following information:
  - a. Methods or procedures to limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety.
  - b. A hazardous waste disposal plan.
  - c. A fire safety and suppression plan.
  - d. A water source and discharge plan.

**Sec. 6.22.110 - Medical Cannabis Testing.**

The Mendocino County Health and Human Services Agency shall issue permits for medical cannabis testing facilities, including but not limited to Permit Type 8.

**Sec. 6.22.112 - Term of Testing Permits and Renewals Required.**

- (1) Permits issued under this chapter shall expire two (2) years following the date of their issuance.
- (2) Permits may be renewed by the Health and Human Services Agency for additional periods of one (1) year in length upon application by the permittee, unless the application for renewal fails to comply with the provisions of this chapter.

**Sec. 6.22.114 - Testing Operating Requirements.**

- (A) The County shall, within a reasonable time, but no later than July 1, 2017, promulgate standard operating procedures and regulations for the testing of medical cannabis, which shall include but not be limited to:

- (1) A process for a facility to become accredited by an appropriate accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement;
  - (2) Standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products;
  - (3) Standards for accurate record keeping of testing of products.
- (B) Until such time as the County develops standard operating procedures and regulations for the testing of medical cannabis products pursuant to subsection 22.114(A), the County shall issue permits for this activity upon an applicant's submission of a detailed description of the applicant's operating procedures with the permit application, including:
- (1) Methods of testing medical cannabis products, including proof of the ability to test medical cannabis from dried flower for concentration, pesticides, mold, and other contaminants.
  - (2) If accredited, certificate or proof of accreditation.
  - (3) Methods of inventory control, including security and non-diversion tactics, and disposal techniques of tested medical cannabis products to ensure no diversion or theft occurs.
  - (4) Proof that no person or applicant for a Testing Permit has any ownership interest in any other Cannabis Permit approved under this Section, and proof that the applicant has no ownership interest in any parcel, site, or property that shall be the location of any other medical cannabis activity allowed by the Code.
- (C) When the County promulgates rules and regulations governing the Testing of medical cannabis products pursuant to subsection 22.114(A), any operator holding a permit to test shall have one-hundred eighty (180) days to become compliant with the governing rules.

**Sec. 6.22.120 - Medical Cannabis Distribution and Transportation.**

The Mendocino County Department of Planning and Building Services shall issue permits for the distribution and transportation of medical cannabis, including but not limited to Permit Types 11 and 12.

**Sec. 6.22.122 - Term of Distribution and Transportation Permits and Renewals Required.**

- (1) Permits issued under this chapter shall expire two (2) years following the date of their issuance.
- (2) Permits shall be renewed by the Department of Planning and Building Services for additional periods of one (1) year in length upon application by the permittee, unless the application for renewal fails to comply with the provisions of this Chapter.

**Sec. 6.22.124 - Distribution and Transportation Operating Requirements.**



(A) The County shall, within a reasonable time, but no later than July 1, 2017, promulgate standard operating procedures and regulations for the transportation and distribution of medical cannabis, which shall include but not be limited to:

- (1) A standard shipping manifest to be used by all permittees, both in electronic and physical form;
- (2) Standard security measures for storage, transport, and distribution of medical cannabis products;
- (3) Standard storage procedures for varieties of medical cannabis products;
- (4) Standard inventory systems and controls.

(B) Until such time as the County develops standard operating procedures and regulations for the transportation and distribution of medical cannabis products pursuant to subsection 22.124(A), the County shall issue permits for this activity upon an applicant's submission of a detailed description of the applicant's operating procedures with the permit application, including:

- (1) Methods of the transportation process, including security, non-diversion tactics, and handling of cannabis during transport, and inventory control during transport;
- (2) Methods of inventory control and storage at the distribution warehouse or other holding facility, including security measures, non-diversion measures, and loading and unloading practices of cannabis products.
- (3) Methods of quality control during loading, unloading, transport, and storage of all medical cannabis products to ensure proper handling techniques, mold and pest control, and proper sanitary controls.
- (4) Methods for maintaining accurate and complete records, including but not limited to, receipts and shipments of products, dates of shipments and receipts, identification of drivers, and accurate shipment and delivery amounts. The records should also include: quantity or weight, and variety of products shipped; estimated times of departure and arrival; quantity or weight, and variety of products received; actual time of departure and arrival; categorization of all products.

(C) When the County promulgates rules and regulations governing the Transportation and Distribution of medical cannabis products pursuant to subsection 22.124(A), any operator holding a permit to transport and distribute shall have one-hundred eighty (180) days to become compliant with the governing rules.

#### **Sec. 6.22.130 - Permit Fees.**

All commercial medical cannabis activity permit applications shall be accompanied by a three hundred dollar (\$300.00) deposit to the County Treasurer-Tax Collector, who will draw from the deposit as the application materials are reviewed, facilities are inspected, activities are monitored and regulations enforced regarding each individual business. If additional time or expense is necessary to administer a

permit, the County Treasurer-Tax Collector has the authority to request and deposit additional funds, in three hundred dollar (\$300.00) increments, as needed. In the event that all deposited funds were not expended upon full completion of the permitting process, the County will refund to the applicant the balance of the deposit.

#### **Sec. 6.22.140 - Cannabis Business Tax.**

For the purposes of this section:

"Medical Cannabis Business" means any entity permitted by this Chapter to plant, cultivate, harvest, transport, dispense, deliver, sell at retail or wholesale, manufacture, compound, convert, process, prepare, store, package, certify or test any cannabis pursuant to Health and Safety Code §§ 11362.5 and 11362.7-11362.83 and/or Business and Professions Code § 19300 et seq.

"Non-medical cannabis business" means any entity engaging in any of the activities described above that are not conducted pursuant to Health and Safety Code §§ 11362.5, 11362.7-11362.83, and/or Business and Professions Code § 19300 et seq., but are otherwise authorized by State law.

- (A) Each "medical cannabis business" shall pay a business tax of 2.5% of gross receipts.
- (B) Each "non-medical cannabis business" shall pay a business tax of 5% of gross receipts.

#### **Sec. 6.22.150 - Enforcement and Appeals Process.**

##### **(A) Civil Enforcement.**

(1) Any violations of this Chapter may be subject to administrative citation and other applicable civil injunctive or equitable remedies. No violations of this Chapter shall be subject to criminal enforcement. No enforcement of provisions in this Chapter shall take place against a permit applicant while their application is pending.

##### **(B) Notice of Inspections.**

(1) Cannabis regulatory agencies identified in this Chapter may conduct inspections only with three business days' notice given to the permitted entity.

##### **(C) Penalties.**

(1) Violations of this Chapter will result in a citation that included a \$100 fine and allows a period of 60 days to resolve the violation. If the violation is not corrected, a fine of \$1,000 will be levied and the permittee will have an additional 60 days to correct the violation. After 120 days, a fine of 1% of the permittee's annual gross receipts will be levied each day will be levied each day the named violation continues. Notwithstanding the foregoing, upon providing proof of correction of the named violation, the permittee may continue to operate and will not be fined while waiting for county inspection and confirmation that the named violation has been corrected.

(2) Any penalty imposed pursuant to this section 6.22.150 is appealable pursuant to the process and requirements set forth in section 6.22.150(D).

**(D) Appeals Process.**

(1) The permitted entity or permittee shall be allowed to continue operating during the Appeals process. Upon denial of any permit renewal or decision to impose penalties pursuant to section 6.22.150, a permittee shall have the right to appeal the decision to the respective Agency pursuant to the following:

a. Requests for an appeal must be filed with the respective Agency responsible for the denial within twenty (20) days of personal service of notice of the denial upon the permittee subject to the denial or adverse Agency decision.

b. Not later than fifteen (15) calendar days after receipt of the written request from the permittee for an appeal, the respective Agency shall provide written notice to the permittee of the date, time, and place of the hearing.

c. The respective Agency shall appoint a Hearing Officer, to conduct an evidentiary hearing, who was not involved in and is independent of the adverse Agency decision, including any decision to deny a permit renewal or decision to impose a penalty.

d. A record of the hearing shall be made by any means, as long as reasonably accurate and complete written transcription of the proceedings can be derived from the recording. Relevant evidence may be admitted and shall be given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of business.

e. A decision by the Hearing Officer shall be supported by substantial evidence. Following conclusion of the hearing, the Hearing Officer shall prepare a written decision that either grants or denies the appeal, contains findings of facts and conclusions of law in support of the Hearing Officer's decision to impose fines, penalties, or deny the permit renewal. The Hearing Officer's written decision shall be the final decision of the County and shall become final upon the date notice thereof is mailed to the appellant by certified mail.

d. Any determination of the Hearing Officer shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

**Sec. 6.22.160 – Establishment of a Mendocino County Cannabis Commission**

This Chapter shall require that an independent body, to be known as the Mendocino County Cannabis Commission, will be established and may, among other responsibilities, initiative and oversee the development of an annual Economic Impact Report measuring the economic impact of cannabis regulation on the local economy.

**Sec. 6.22.170 – Applicability to Change in State Regulations**

This Chapter 6.22, Lawful Cannabis Permits, shall remain effective and in full force and effect at such time as when the State of California passes legislation allowing for the use of cannabis for recreational

purposes. At such time, if cannabis for recreational use becomes a legal activity in the State of California, any Permits issued under this Title shall remain valid and in effect, and shall become immediately valid and allow for the permittee to engage in commercial medical cannabis activity for recreational use.

#### **Section 7: Conflicting legislation**

In the event that this initiative and another initiative or ordinance concerning the control, regulation, and taxation of marijuana, medical marijuana appear on the same election ballot, the provisions of the other initiative or ordinance shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative or ordinance shall be null and void.

#### **Section 8: Amendment**

This Ordinance shall be broadly construed to accomplish its purposes and intent as stated in Section 2. The Board of Supervisors may by majority vote amend the provisions of this Ordinance, provided that such amendments are consistent with and further the purposes and intent of this Ordinance as stated in Section 2, after June 1, 2018.

#### **Section 9: Severability**

The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. It is hereby declared to be the legislative intent of the People of Mendocino County that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

#### **Section 10: Effectiveness of this Act**

This Act shall take effect immediately upon its passage by the voters.

#### **Section 11. Title 20, the Mendocino County Zoning Ordinance, is hereby amended as follows:**

##### **Inland Zoning**

**Chapter 20.162** – Commercial Cultivation, Processing, Testing, Distribution, Transportation, Delivery, Dispensaries, and Manufacturing of Cannabis for Medical Use Land Use Regulation

##### **162.005 - Authority and Title**

This Section shall be known as the Mendocino Heritage Act (“MHA”), which provides for the regulation of Commercial Cultivation, Processing, Testing, Distribution, Transportation, Delivery, Dispensaries, and

Manufacturing of cannabis for medical use, as defined in this Code, located in the County of Mendocino, exclusive of those areas within the Inland Zone.

#### **162.010 – Purpose and Intent**

These regulations shall define and set forth cannabis policy consistent with MMRSA of 2015.

#### **162.015 – Applicability and Interpretation**

(A) These regulations shall apply to the location and permitting of commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use in zoning districts within which such use is authorized, as specified in this section. For purposes of this section and for clarity, the geographic region governed and regulated by Division I of the Mendocino County Zoning Code shall be referred to herein this Section as the “Inland Zone.”

(B) The commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use within the jurisdiction of the County of Mendocino, exclusive of the Inland Zone, shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.

(C) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, from compliance with all other applicable Mendocino County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

(D) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building, or land use standards of permitting requirements.

(E) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use on private property.

(F) The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Mendocino County Code Section 20.008 et seq. and Section 1.04 et seq. may also apply to this Section.

(G) As Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section, for purposes of the MMRSA, and Business and Professions Code Section 19300 et seq., this County intends to regulate the commercial cultivation of cannabis for medical use pursuant to the existing Code governing agricultural products. The commercial cultivation of medical cannabis shall be considered, contemplated as, and interpreted to be a Row and Field Crops Agricultural Use as defined in section 20.032.015. The commercial cultivation of medical cannabis shall be a

principal permitted use in each Inland Zone where Row and Field Crops Use is a principal permitted use, subject to any further restrictions set forth in this Section. The processing of commercial medical cannabis, as defined herein, shall be considered, contemplated as, and interpreted to be a Packing and Processing Agricultural Use, and shall further be considered Limited or General as defined in section 20.032.040. The processing of commercial medical cannabis shall be a principal permitted use in each Inland Zone where Packing and Processing (Limited/General) Use is a principal permitted use, subject to any further restrictions set forth in this Section. In Inland Zones where either or both Row and Field Crops and Packing and Processing Use is not a principal permitted use, the cultivation and processing of medical cannabis shall be subject to the relevant Administrative Permit, Minor Use Permit, and Major Use Permit requirements. Notwithstanding the foregoing, any person engaged in any activity contemplated by this Section shall be required to obtain a Cannabis Permit as set forth in Chapter 6.22: Lawful Cannabis Permits, of the Mendocino County Code. Additionally, any person engaged in any activity contemplated by this Section shall be required to obtain all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available and in effect.

#### **162.020 – Severability**

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

#### **162.025 – Release of Liability and Hold Harmless**

As a condition of approval for any Administrative Permit, Major Use Permit, or Minor Use Permit approved for the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, defined herein, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property or other third parties due to the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use.

#### **162.030 – Penalties and Enforcement**

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the County Code and the MMRSA, or other law.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing any required permit specified in this Section, shall be, and the same hereby is declared to be unlawful and shall be subject to injunction, abatement, or any other administrative or civil remedy available to the County under the applicable state and county laws, including those set forth in Chapter 20.216 of the

Mendocino County Code. No criminal remedy or penalty shall be available for any violation of this Section.

**162.035 – The definitions in Sec. 6.22.020 of this Chapter are hereby incorporated by reference herein as if fully set forth herein.**

**162.040 – General Provisions**

This section applies to all facilities and activities involved in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, as defined in this Section, within the Inland Zone.

(A) All commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws.

(B) Outdoor and Mixed-Light commercial cultivation of medical cannabis shall be allowed in specifically enumerated zones in which Row and Field Crops is a principally permitted use, subject to any further restrictions in this Section. Outdoor and Mixed-Light commercial cultivation of medical cannabis shall be allowed in specifically enumerated zones in which Row and Field Crops is not a principal permitted use, only, when available, with an Administrative Permit, Minor Use Permit, or Major Use Permit issued pursuant to Chapter 20.192 and 20.196 of the Mendocino County Code. Within the Inland Zone, zoning districts where the Outdoor and Mixed-Light commercial cultivation of cannabis for medical use is a principal permitted use are zoning districts SR, RR, AG, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, C-1, C-2, I-1, I-2, P-1, OS, and PF, subject to the conditions and limitations set forth in this section.

(1) On parcels less than 1 acre in size, outdoor and mixed-light cultivation shall not exceed 2,500 square feet.

(2) On parcels between 1 and 5 acres in size, outdoor and mixed-light cultivation shall not exceed 5,000 square feet.

(3) On parcels less than 20 acres in size, outdoor and mixed-light cultivation shall not exceed 10,000 square feet.

(4) Outdoor cultivation on a single parcel shall not exceed 1 acre in total canopy.

(5) The cultivation area must be set back at least one-hundred (100) feet of any occupied legal residential structure located on a separate parcel unless both the occupant and owner of the residential structure expressly waive or reduce the setback requirement.

(6) The cultivation area must be set back at least thirty (30) feet of a parcel under separate ownership unless the owner of the parcel expressly waives or reduces the setback requirement.

a. The distance from commercial medical cannabis activity shall be measured in a straight line from the nearest point of the fence required in Mendocino County Code § 6.22.084(A), or if the commercial medical cannabis activity occurs indoors, from the nearest exterior wall of the building in which the commercial medical cannabis activity occurs to the nearest boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in subsections (B)(5) and (B)(6) to any residential structure or parcel shall be measured from the fence required in Mendocino County Code § 6.22.084(A) to the nearest exterior wall of the residential structure or nearest boundary line of the parcel.

(7) Any existing cultivation site in violation of either set-back requirements shall be required to become compliant no later than July 1, 2018.

(C) Indoor commercial cultivation of medical cannabis shall be a principal permitted use inside the Inland Zone in zoning districts SR, RR, AG, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, C-1, C-2, I-1, I-2, P-1, OS, and PF, subject to the conditions and limitations set forth in this section. Indoor commercial cultivation of medical cannabis shall be permitted in cultivation facilities of up to 22,000 square feet that will be located in a non-residential structure, subject to the conditions and limitations set forth in this section. Electrical power for indoor cultivation operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by: a) on-grid power with 100% renewable source; b) on-site zero net energy renewable source; and/or c) purchase of carbon offsets of any portion of power not from renewable sources by January 1, 2023.

(1) No indoor cultivation site on a parcel less than 20 acres shall be able to cultivate an aggregate of more than 10,000 square feet.

(2) No indoor cultivation site on a parcel less than 5 acres shall be able to cultivate an aggregate of more than 5,000 square feet.

(3) No indoor cultivation site on a parcel less than 1 acre shall be able to cultivate an aggregate of more than 2,500 square feet.

(4) Indoor cultivation shall be subject to the same set-back requirements as set forth in section 162.040(B)(5)-(7).

(D) Processing facilities for commercial medical cannabis that are not located on the same site or premise as the cultivation site, shall be a principally permitted use in all zones where Packing and Processing: General Use is a principal permitted use. Processing facilities for commercial medical cannabis shall be a principal permitted use in zoning districts I-1 and I-2 in the Inland Zone. Processing facilities for commercial medical cannabis that are not located on the same site or premise as the cultivation site shall be a conditionally permitted use in the Inland Zone in zoning districts AG, RL, FL, and P-1 subject to a Minor Use Permit, and zoning district RC subject to a Major Use Permit, and the conditions and limitations set forth in this Section.



(E) Processing located on the same site or premise as the cultivation site shall be a principal permitted use anywhere cultivation is a principal permitted use. For purposes of this section 20.162.040(B)(10), “processing” shall be interpreted as set forth in section 20.032.040.

(F) Manufacturing of commercial medical cannabis products with the use of volatile solvents shall be contemplated as, considered, and interpreted to be the same as General Industrial Use set forth in section 20.028.015. As such, the manufacturing of commercial medical cannabis products with the use of volatile solvents shall be a principal permitted use in all zoning districts where General Industrial Use is a principal permitted use. Manufacturing of commercial medical cannabis products with the use of volatile solvents shall be a principal permitted use in zoning district I-1 and I-2, and a conditional use in zoning district P-1, subject to a Major Use Permit.

(G) Manufacturing of commercial medical cannabis products with the use of non-volatile solvents shall be contemplated as, considered, and interpreted to be the same as Food and Beverage Preparation – Without Consumption Use set forth in section 20.024.080. As such, the manufacturing of commercial medical cannabis products with the use of non-volatile solvents shall be a principal permitted use in all zoning districts where Food and Beverage Preparation – Without Consumption Use is a principal permitted use. Manufacturing of commercial medical cannabis products with the use of non-volatile solvents shall be a principal permitted use in zoning district C-1 and C-2.

(H) Wholesale Distribution Facilities for commercial medical cannabis shall be contemplated as, considered, and interpreted to be the same as Wholesaling, Storage and Distribution: Light as set forth in section 20.024.140(B). As such, wholesale distribution facilities for commercial medical cannabis shall be a principal permitted use in all zoning districts where Wholesaling, Storage and Distribution: Light Use is a principal permitted use. Wholesale distribution facilities shall be a principal permitted use in zoning districts RC, I-1, I-2, and P-1. Wholesale distribution facilities shall be a conditionally permitted use in zoning district C-2, subject to a Major Use Permit and the conditions and limitations set forth in this Section.

(I) Nurseries, as defined herein, producing commercial medical cannabis nursery products shall be a principal permitted use in any zoning district in the Inland Zone where Row and Field Crops Use is a principal permitted use.

(1) In zone RR, no nursery may be located on a parcel that is less than 10 acres in total size, and cultivation area may not exceed 25% of the total parcel area.

(2) No nursery may be located on a parcel in zoning districts SR, R-1, R-2, and R-3.

(3) Nurseries may: transport and distribute live cannabis plants and seed stock to patients, caregivers, dispensaries, and commercial cultivators; cultivate an aggregate canopy size not in excess of that defined by MMRSA or other applicable State guidelines on multiple, non-contiguous parcels to preserve genetic stock in case of pest or disease outbreak; build and operate tissue culture facilities; and flower plants for breeding and quality control purposes.

**(J)** Transport and transportation of medical cannabis or medical cannabis products, as defined herein and under the MMRSA, shall be a principally permitted use in any zoning district in the Inland Zone where any other commercial medical cannabis activity is a principal or conditional permitted use.

**(K)** Testing facilities, as defined under the MMRSA and as Type 8 classification under the Health and Safety Code section 19300.7(m), shall be a principal permitted use inside the Inland Zone in zoning districts C-2, I-1, I-2, and a conditional use in zone RC, subject to a Minor Use Permit.

**(L)** Dispensaries and dispensary operations, as defined in this section, shall be a principal permitted use inside the Inland Zone in zoning district C-1, C-2, and shall be a conditional use in zoning district RC, subject to a Minor Use Permit.

(1) Dispensaries shall operate in compliance with the MHA, including but not limited to the requirements and limitations set forth in Chapter 6, Section 22 of the Mendocino County Code.

**(M)** Outdoor and mixed-light type cultivators in any zoning district where cultivation is permissible shall be granted agricultural building exemptions for the use of detached, rigid frame hoop houses, as defined herein, from the Planning and Building Services Department pursuant to Section 18.12.030 of the Mendocino County Code, provided the following requirements are met:

(1) The parcel must be more than one (1) acre in size.

(2) The hoop house is not more than fifteen (15) feet in height or with greater than six (6) foot side walls.

(3) On parcels between one (1) and ten (10) acres in size, the total square footage of the hoop house may not be more than six-hundred (600) square feet.

(4) On parcels greater than ten (10) acres in size, there is no restriction of the total square footage area of the hoop house.

(5) The hoop houses may be optionally equipped with non-rigid plastic covering and/or removable light deprivation tarps.

**(N)** Other than as enumerated in this Section, the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use in any other zoning district inside the Inland Zone of County of Mendocino is prohibited.

**(O)** Any existing commercial medical cannabis activity currently located in any zoning district in the Inland Zone where that respective medical cannabis activity is a principal or conditional permitted use may continue to operate, function, exist, and continue to carry on the cannabis activity during the permitting process pursuant to this Section and pursuant to the permitting process in Chapter 6.22. The permitting grace period for existing commercial medical cannabis to operate while applying for the necessary permits shall be for one-hundred-eighty days (180) from the implementation of the MHA, after such time, if a permit has not been obtained, the commercial medical cannabis activity must cease.

(P) Any permit or zoning regulation or zoning permission under this Section shall remain valid and in full force and effect, and shall apply to and regulate zoning, in the event the State of California passes legislation legalizing cannabis for recreational use. In any event, should the State of California pass legislation allowing for and legalizing cannabis for recreational use, the zoning rules and permissions in this Section shall apply to equally to commercial medical cannabis for recreational use and the County shall make such permits available in a reasonable and timely fashion.

(Q) The fact that an applicant possesses other types of state, county, or city permits, licenses, or other entitlements does not exempt the applicant from the requirement, as applicable and required under this Section, of obtaining an Administrative Permit, Major Use Permit, or Minor Use Permit from the County of Mendocino to engage in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use within the Inland Zone jurisdiction of the County.

(R) Any person engaged in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of medical cannabis, regardless of whether conducting activity as a principal permitted use or conditional use, shall obtain the proper Cannabis Permit as required in Chapter 6.22 of the Mendocino County Code.

#### 162.045 – Permit Types

Whether an activity is a Principal Permitted Use, or requires an Administrative Permit, Major Use Permit, or Minor Use Permit that shall be required in order to engage in any commercial medical cannabis activity shall be determined by the size and zoning classification of the parcel on which the activity is to be conducted and the type of state license required for that operation pursuant to MMRSA, in accordance with the following chart:

#### Inland Zone Chart

Zone Type	Permit Tier/Restrictions	License Class	Cultivated Area Size Limit
SR, AG, RR, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, OS, PF	Principal Permitted Use	MB	≤ 2500 sq. ft.
AG, SR, RR, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, OS, PF	Principal Permitted Use/Parcel must be larger than 1 acre	1, 1A, 1B	≤ 5,000 sq. ft.
C-1, C-2, I-1, I-2	Principal Permitted Use/Parcel must be larger than 1 acre	1A	≤ 5,000 sq. ft.

AG, SR, RR, AG, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, OS, PF	Principal Permitted Use/Parcel must be larger than 5 acres	2, 2A, 2B	Between 5,001 – 10,000 sq. ft.
C-1, C-2, I-1, I-2	Principal Permitted Use/Parcel must be larger than 5 acres	2A	Between 5,001 – 10,000 sq. ft.
AG, SR, RR, AG, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, OS, PF, C-1, C-2, I-1, I-2	Principal Permitted Use/Parcel must be greater than 20 acres	3A, 3B	10,0001 sq. ft. up to 22,000 sq. ft.
AG, SR, RR, AG, UR, RL, FL, TPZ, R-1, R-2, R-3, RC, OS, PF, C-1, C-2, I-1, I-2	Principal Permitted Use/Parcel must be greater than 20 acres	3	10,0001 sq. ft. up to one (1) acre
AG, UR, RL, FL, TPZ, RC, OS, PF, C-1, C-2, I-1, I-2	Principal Permitted Use	4	
RR	Principal Permitted Use/Must be located on a parcel 10 acres or greater and cultivation area may not exceed 25% of the total parcel tomorrow	4	
SR, R-1, R-2, R-3	Prohibited	4	
C-1, C-2	Principal Permitted Use	6	
I-1, I-2	Principal Permitted Use	7	
P-1	Major Use Permit	7	
C-2, I-1, I-2, RC	Principal Permitted Use	8	
RC	Minor Use Permit	8	
C-1, C-2	Principal Permitted Use	10, 10A	
RC	Minor Use Permit	10, 10A	
RC, I-1, I-2, P-1	Principal Permitted Use	11	
C-2	Major Use Permit	11	
Any zone where commercial medical cannabis activity is permitted	Principal Permitted Use	12	

Applications for any permit listed in the above chart shall be processed in accordance with the procedures set forth in Chapter 20.192 and 20.196 of the Mendocino County Code.

(A) Processing of cannabis shall be allowed pursuant to the conditions set forth in section 20.162.040(D)-(E), provided that the Processing Performance Standards and Employee Safety Practices enumerated in section 20.162.055(A)(12) through (14) below are met.

(B) Multiple applicants may obtain a single Major Use Permit, Minor Use Permit, or Administrative Permit for outdoor cultivation, mixed-light cultivation, or both on a single premise so long as the cumulative cultivation area does not exceed the total cultivation area size limits for that clearance or permit type set forth in section 20.162.045. For purposes of the limitation of the number of permits that may be granted on a single parcel, multiple permits or combinations of permit types combined in a single application shall be considered a single permit.

#### **162.050 – Additional Requirements for All Persons Involved in Commercial Medical Cannabis Activity**

(A) Additional requirements for all individuals involved in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of medical cannabis pursuant to this Section:

- (1) The owner, cultivator, or operator shall prepare and keep a site plan and operating procedures, consistent with Business & Professions Code 19322, in a safe and secure location on the premise or at a location under the control of the individuals.
- (2) A copy of the statement of water diversion, or other permit, license, or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable shall be kept with the operations plan.
- (3) If applicable, to be kept with the operations plan, a copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2, or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.
- (4) For indoor cultivation facilities, a document shall be kept with the operations plan identifying the source of electrical power and how it complies with the energy requirements in section 162.040(C), and all documentation demonstrating compliance with all applicable Building Codes.

#### **162.055 – Performance Standards for All MHA Cultivation and Processing Operations**

(A) Performance Standards applicable to all Cultivation and Processing Operations pursuant to the MHA

- (1) Cannabis cultivation and other commercial medical cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building

or other health, safety, or other state or county statute, ordinance, or regulation is discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for commercial medical cannabis activity and shall not extend to personal residences or other structures that are not used for commercial medical cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 162.065 below, except the Planning Commission, and not the Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.

- (2) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.
- (3) Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- (4) The area of cannabis cultivation, processing, manufacture, or distribution shall be located as shown on the application site plan, set back at least 30 feet from any property line and 600 feet from any school. The minimum setback required from property lines or adjacent uses may be waived or reduced with the express written consent of the adjacent property owner and occupant. Cultivation areas and associated facilities shall observe all required setbacks from watercourses and wetlands.
- (5) Maintain certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, if applicable, or any substantially equivalent rule.
- (6) For cultivation areas for which no enrollment pursuant to NCRWQCB Order No. 2015-0023 is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers by January 1, 2023.
- (7) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- (8) Consent to an annual on-site compliance inspection, with at least 3 business days prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. – 5:00 p.m., excluding holidays).
- (9) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Any uses of pesticide products shall be in compliance with the State pesticide laws and

regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.

(10) Pay all applicable application and annual inspection fees.

(11) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Administrative Permit, Major Use Permit, or Minor Use Permit.

(12) Cultivators engaged in processing shall comply with the following Processing Practices:

a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment

b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.

(13) All persons hiring employees to engage in commercial medical cannabis cultivation and processing shall comply with the following Employee Safety Practices:

a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:

1) Emergency action response planning as necessary;

2) Employee accident reporting and investigation policies;

3) Fire prevention;

4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);

5) Materials handling policies;

6) Job hazard analyses; and

7) Personal protective equipment policies, including respiratory protection.

b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

1) Operation manager contacts;

2) Emergency responder contacts;

3) Poison control contacts.

c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

d. On site housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

(14) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:

- e. Summary of Processing Practices.
- f. Description of location where processing will occur.
- g. Estimated number of employees, if any.
- h. Summary of Employee Safety Practices.
- i. Description of toilet and handwashing facilities.

j. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.

k. Description of source of drinking water for employees.

l. Description of increased road use resulting from processing and plan to minimize that impact.

m. Description of on-site housing, if any.

(15) Those cultivators using artificial lighting for vegetative growth or mixed-light cultivation shall shield greenhouses and hoop houses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

(16) The light source should comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Mendocino County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within thirty (30) working days of the receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected, and corrected as necessary.

#### **162.060 – Terms of Commercial Medical Cannabis Cultivation Permit**

(A) Terms of permits issued pursuant to this section for medical cannabis activity.

(1) Any Major Use Permit, Minor Use Permit, or Administrative Permit for commercial medical cannabis activity issued pursuant to this section shall expire after one (1) year of date of issuance, and on the anniversary of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(2) Any Major Use Permit, Minor Use Permit, or Administrative Permit for any dispensary issued pursuant to this section shall expire after two (2) years of date of issuance, and every two (2) years



thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(3) Any Major Use Permit, Minor Use Permit, or Administrative Permit for any manufacturing of medical cannabis products, either with or without volatile solvents, issued pursuant to this section shall expire after two (1) years of date of issuance, and every two (1) years thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(4) Any Major Use Permit, Minor Use Permit, or Administrative Permit for any testing facility or site for medical cannabis products issued pursuant to this section shall expire after two (2) years of date of issuance, and every one (1) year thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(5) Any Major Use Permit, Minor Use Permit, or Administrative Permit for any transportation or distribution of medical cannabis products issued pursuant to this section shall expire after two (2) years of date of issuance, and every one (1) year thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(B) If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the Use Permit, Minor Use Permit, or Major Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

(C) The County shall notify any state license authority, as defined by the MMRSA, whenever the Administrative Permit, Major Use Permit, or Minor Use Permit has been revoked or terminated.

#### **162.065 – Appeal of Inspection Determination**

Within twenty (20) days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Zoning Administrator, acting as the Hearing Officer. The appeal shall be made, in writing, on a form provided by the County. The fee for filing the appeal is \$100.00.

(1) The appeal shall be heard by the Hearing Officer within ten (10) business days following the filing of the appeal. The Hearing Officer shall render a written ruling on the appeal within three (3) business days following the hearing.

(2) The decision of the Hearing Officer may be appealed to the Board of Supervisors in accordance with Chapter 20.208 of the Mendocino County Code. If a timely appeal to the Board of Supervisors is not filed, the ruling by the Hearing Officer shall be final.

#### **162.075 – Disclosure**

When required to execute or make available a disclosure statement pursuant to the “Right to Farm Ordinance,” said statement shall include information describing the possibility of commercial cultivation of medical cannabis.

### **Coastal Zoning**

#### **Chapter 20.514 – Commercial Cultivation, Processing, Testing, Distribution, Transportation, Delivery, Dispensaries, and Manufacturing of Cannabis for Medical Use Coastal Zone Land Use Regulation**

##### **514.005 - Authority and Title**

This Section shall be known as the Mendocino Heritage Act (“MHA”), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing, and Distribution of cannabis for medical use, as defined in this Code, located in the Coastal Zone of the County of Mendocino.

##### **514.010 – Purpose and Intent**

These regulations shall define and set forth commercial medical cannabis policy consistent with MMRSA.

##### **514.015 – Applicability and Interpretation**

(A) These regulations shall apply to the location and permitting of commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this section.

(B) The commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and distribution of cannabis for medical use within the jurisdiction of the County of Mendocino inside the Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.

(C) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and

distribution of cannabis for medical use, from compliance with all other applicable Mendocino County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

(D) Nothing in this Section is intended, nor shall it be construed, to exempt commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and distribution of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building, or land use standards of permitting requirements.

(E) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and distribution of cannabis for medical use on private property.

(F) The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Mendocino County Code Section 20.308 et seq. and Section 1.04 et seq. may also apply to this Section.

(G) As Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section, for purposes of the MMRSA, and Business and Professions Code Section 19300 et seq., this County intends to regulate the commercial cultivation of cannabis for medical use pursuant to the existing Code governing agricultural products. The commercial cultivation of medical cannabis shall be considered, contemplated as, and interpreted to be a Row and Field Crop Agricultural Use as defined in section 20.336.040. The commercial cultivation of medical cannabis shall be a principal permitted use in each Coastal Zone where Row and Field Crop Use is a principal permitted use, subject to any further restrictions set forth in this Section. The processing of commercial medical cannabis, as defined herein, shall be considered, contemplated as, and interpreted to be a Packing and Processing Agricultural Use, and shall further be considered Limited or General as defined in section 20.366.035. The processing of commercial medical cannabis shall be a principal permitted use in each Coastal Zone where Packing and Processing (Limited/General) Use is a principal permitted use, subject to any further restrictions set forth in this Section. In Coastal Zones where either or both Row and Field Crops and Packing and Processing Use is not a principal permitted use, the cultivation and processing of medical cannabis shall be subject to all necessary Coastal Development Permit, Coastal Development Administrative Permit, and Use Permit requirements. Notwithstanding the foregoing, any person engaged in any activity contemplated by this Section shall be required to obtain a Cannabis Permit as set forth in Chapter 6.22: Lawful Cannabis Permits, of the Mendocino County Code. Additionally, any person engaged in any activity contemplated by this Section shall be required to obtain all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available and in effect.

#### **514.020 – Severability**

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

#### **514.025 – Release of Liability and Hold Harmless**

As a condition of approval for any Use Permit, Coastal Development Permit, and Coastal Development Administrative Permit approved for the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and distribution of cannabis for medical use, defined herein, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property or other third parties due to the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing, and distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

#### **514.030 – Penalties and Enforcement**

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the County Code and the MMRSA, or other law.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing any required permit specified in this Section, shall be, and the same hereby is declared to be unlawful and shall be subject to injunction, abatement, or any other administrative or civil remedy available to the County under the applicable state and county laws, including those set forth in Chapter 20.552 of the Mendocino County Code. No criminal remedy or penalty shall be available for any violation of this Section.

#### **514.035 – Definitions**

**The definitions in Sec. 6.22.020 of this Chapter are hereby incorporated by reference herein as if fully set forth herein.**

#### **514.040 – General Provisions**

This section applies to all facilities and activities involved in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, as defined in this Section, within the Coastal Zone.

(A) All commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws.

(B) Outdoor and Mixed-Light commercial cultivation of medical cannabis shall be allowed in specifically enumerated zones in which Row and Field Crops is a principally permitted use, subject to any

further restrictions in this Section. Outdoor and Mixed-Light commercial cultivation of medical cannabis shall be allowed in specifically enumerated zones in which Row and Field Crops is a conditional use, only with a Coastal Development Use Permit or Coastal Development Administrative Permit issued pursuant to Chapter 20.532 of the Mendocino County Code. Inside the Coastal Zone, zoning districts where the Outdoor and Mixed-Light commercial cultivation of cannabis for medical use may be located are AG, RL, RR, RMR, and RV, subject to the conditions and limitations set forth in this section. Additionally, with a Coastal Development Use Permit, Outdoor and Mixed-Light commercial cultivation of medical cannabis may be conducted in FL, TP, and OS zones, subject to the conditions and limitations set forth in this section.

(1) On parcels less than 1 acre in size, outdoor and mixed-light cultivation shall not exceed 2,500 square feet.

(2) On parcels between 1 and 5 acres in size, outdoor and mixed-light cultivation shall not exceed 5,000 square feet.

(3) On parcels less than 20 acres in size, outdoor and mixed-light cultivation shall not exceed 10,000 square feet.

(4) Outdoor cultivation on a single parcel shall not exceed 1 acre in size of total canopy.

(5) The cultivation area on any parcel must be set back at least one-hundred (100) feet of any occupied legal residential structure located on a separate parcel unless both the occupant and owner of the residential structure expressly waive or reduce the set-back requirement.

(6) The cultivation area on any parcel must be set-back at least thirty (30) feet of any parcel under separate ownership unless the owner of the parcel expressly waives or reduces the set-back requirement.

a. The distance from commercial medical cannabis activity shall be measured in a straight line from the nearest point of the fence required in Mendocino County Code § 6.22.084(A), or if the commercial medical cannabis activity occurs indoors, from the nearest exterior wall of the building in which the commercial medical cannabis activity occurs to the nearest boundary line of the property on which the facility, building, structure, or portion of the facility, building, or structure in which the above listed use occurs is located. The distance in subsections (B)(5) and (B)(6) to any residential structure or parcel shall be measured from the fence required in Mendocino County Code § 6.22.084(A) to the nearest exterior wall of the residential structure or nearest boundary line of the parcel.

(7) Any existing cultivation site in violation of any set-back requirements shall become compliant with the set-back rules no later than July 1, 2018.

(C) Indoor commercial cultivation of medical cannabis shall be a principal permitted use inside the Coastal Zone in zoning districts AG, RL, RR, RMR, and RV subject to the conditions and limitations set forth in this section. Indoor commercial cultivation of medical cannabis shall be a conditionally permitted use inside the Coastal Zone in zoning districts FL, TP, and OS, subject to a Coastal Development Use

Permit and the conditions and limitations set forth in this section. Indoor commercial cultivation of medical cannabis shall be permitted in cultivation facilities up to 22,000 square feet that will be located in a non-residential structure, subject to the conditions and limitations set forth in this section. Electrical power for indoor cultivation operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by: a) on-grid power with 100% renewable source; b) on-site zero net energy renewable source; and/or c) purchase of carbon offsets of any portion of power not from renewable sources by January 1, 2023.

(1) No indoor cultivation site on a parcel less than 20 acres shall be able to cultivate an aggregate of more than 10,000 square feet.

(2) No indoor cultivation site on a parcel less than 5 acres shall be able to cultivate an aggregate of more than 5,000 square feet.

(3) No indoor cultivation site on a parcel less than 1 acre shall be able to cultivate an aggregate of more than 2,500 square feet.

(4) Indoor cultivation shall be subject to the same set-back requirements as set forth in section 514.040(B)(5)-(7).

(D) Processing facilities for commercial medical cannabis that are not located on the same site or premise as the cultivation site, shall be a principally permitted use in all zones where Packing and Processing: General Use is a principal permitted use. Processing facilities for commercial medical cannabis that are not located on the same site or premise as the cultivation site shall not be a principal permitted use in the Coastal Zone. Processing facilities for commercial medical cannabis that are not located on the same site or premise as the cultivation site shall be a conditionally permitted use inside the Coastal Zone in zoning districts RL and I subject to a Coastal Development Use Permit and the conditions and limitations set forth in this Section.

(E) Processing facilities located on the same site or premise as the cultivation site shall be a principal permitted use where the cultivation site is a principal permitted use. For purposes of this section 20.514.040(E), "processing" shall be interpreted as set forth in section 20.336.035.

(F) Manufacturing of commercial medical cannabis with the use of volatile solvents shall be contemplated as, considered, and interpreted to be the same as General Industrial Use set forth in section 20.328.025. As such, the manufacturing of commercial medical cannabis with the use of volatile solvents shall be a principal permitted use in all zoning districts where General Industrial Use is a principal permitted use. Manufacturing of commercial medical cannabis with the use of volatile solvents shall be a conditional permitted use in zoning district I and GI.

(G) Manufacturing of commercial medical cannabis with the use of non-volatile solvents shall be contemplated as, considered, and interpreted to be the same as Food and Beverage Preparation – Without Consumption Use set forth in section 20.324.075. As such, the manufacturing of commercial medical cannabis with the use of non-volatile solvents shall be a principal permitted use in all zoning districts where Food and Beverage Preparation – Without Consumption Use is a principal permitted use.

Manufacturing of commercial medical cannabis with the use of non-volatile solvents shall be a principal permitted use in zoning district C, GVMU, GHMU, and shall be conditional use in zoning district RV.

**(H)** Wholesale Distribution Facilities for commercial medical cannabis shall be contemplated as, considered, and interpreted to be the same as Wholesaling, Storage and Distribution: Light as set forth in section 20.324.125(B). As such, wholesale distribution facilities for commercial medical cannabis shall be a principal permitted use in all zoning districts where Wholesaling, Storage and Distribution: Light Use is a principal permitted use. Wholesale distribution facilities shall be a principal permitted use in zoning districts GVMU, GHMU, and GI. Wholesale distribution facilities shall be a conditionally permitted use inside the Coastal Zone in zoning districts RV, C, and I, subject to a Coastal Development Use Permit and the conditions and limitations set forth in this Section.

**(I)** Nurseries, as defined herein, producing commercial medical cannabis nursery products shall be a conditionally permitted use in any zoning district in the Coastal Zone where Row and Field Crops Use is either a permitted use or conditional use. Nurseries shall be a conditionally permitted use inside the Coastal Zone in zoning districts AG, FL, TP, RL, OS, RR, RMR, and RV, subject to a Coastal Development Use Permit and the conditions and limitations set forth in this Section.

(1) Nurseries may: transport and distribute live cannabis plants and seed stock to patients, caregivers, dispensaries, and commercial cultivators; cultivate an aggregate canopy size not in excess of that defined by MMRSA or other applicable State guidelines on multiple, non-contiguous parcels to preserve genetic stock in case of pest or disease outbreak; build and operate tissue culture facilities; and flower plants for breeding and quality control purposes.

**(J)** Transport and transportation of medical cannabis or medical cannabis products, as defined herein and under the MMRSA, shall be a principally permitted use in any zoning district in the Coastal Zone where any other commercial medical cannabis activity is a principal or conditional permitted use.

**(K)** Testing facilities, as defined under the MMRSA and as Type 8 classification under the Health and Safety Code section 19300.7(m), shall be a principal permitted use inside the Coastal Zone in zoning district I, and a conditional use in zoning districts C, GVMU, and GHMU, subject to a Coastal Development Use Permit.

**(L)** Dispensaries and dispensary operations, as defined in this section, shall be a principal permitted use inside the Coastal Zone in zoning district C, GVMU, GHMU, and shall be a conditional use in zoning district RV.

(1) Dispensaries shall operate in compliance with the MHA, including but not limited to the requirements and limitations set forth in Chapter 6, Section 22 of the Mendocino County Code.

**(M)** Outdoor and mixed-light type cultivators in any zoning district where cultivation is permissible shall be granted agricultural building exemptions for the use of detached, rigid frame hoop houses, as defined herein, from the Planning and Building Services Department pursuant to Section 18.12.030 of the Mendocino County Code, provided the following requirements are met:

- a. The parcel must be more than one (1) acre in size.
- b. The hoop house is not more than fifteen (15) feet in height or with greater than six (6) foot side walls.
- c. On parcels between one (1) and ten (10) acres in size, the total square footage of the hoop house may not be more than six-hundred (600) square feet.
- d. On parcels greater than ten (10) acres in size, there is no restriction of square footage area.
- e. The hoop houses may be optionally equipped with non-rigid plastic covering and/or removable light deprivation tarps.

(N) Any existing commercial medical cannabis activity currently located in any zoning district in the Coastal Zone where that respective medical cannabis activity is a principal or conditional permitted use may continue to operate, function, exist, and continue to carry on the cannabis activity during the permitting process pursuant to this Section and pursuant to the permitting process in Chapter 6.22. The permitting grace period for existing commercial medical cannabis to operate while applying for the necessary permits shall be for one-hundred-eighty days (180) from the implementation of the MHA, after such time, if a permit has not been obtained, the commercial medical cannabis activity must cease.

(O) Other than as enumerated in this Section, the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use in any other zoning district inside the Coastal Zone of County of Mendocino is prohibited.

(P) Any permit or zoning regulation or zoning permission under this Section shall remain valid and in full force and effect, and shall apply to and regulate zoning, in the event the State of California passes legislation legalizing cannabis for recreational use. In any event, should the State of California pass legislation allowing for and legalizing cannabis for recreational use, the zoning rules and permissions in this Section shall apply to equally to commercial medical cannabis for recreational use and the County shall make such permits available in a reasonable and timely fashion.

(Q) The fact that an applicant possesses other types of state, county, or city permits, licenses, or other entitlements does not exempt the applicant from the requirement, as applicable and required under this Section, of obtaining a Coastal Development Permit and a Use Permit or Administrative Permit from the County of Mendocino to engage in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use within the Coastal Zone jurisdiction of the County.

(R) Any person engaged in the commercial cultivation, processing, manufacture, testing, transportation, or distribution of medical cannabis, regardless of whether conducting activity as a principal permitted use or conditional use, shall obtain the proper Cannabis Permit as required in Chapter 6.22 of the Mendocino County Code.

#### **514.045 – Permit Types**



Whether an activity is a Principal Permitted Use, requires a Coastal Development Use Permit or Coastal Development Administrative Permit that shall be required in order to engage in the commercial medical cannabis activity shall be determined by the size and zoning classification of the parcel on which the activity is to be conducted and the type of state license required for that operation pursuant to MMRSA, in accordance with the following chart:

### Coastal Zone Chart

Zone Type	Permit Tier	MMRSA License Class	Cultivated Area Size Limit
AG, RL, RR, RMR, RV	Principal Permitted Use/Parcel may be less than 1 acre	MB	≤ 2,500 sq. ft.
FL, TP, OS	Use Permit/Parcel may be less than 1 acre	MB	≤ 2,500 sq. ft.
AG, RL, RR, RMR, RV	Principal Permitted Use	1, 1A, 1B	≤ 5,000 sq. ft.
FL, TP, OS	Use Permit	1, 1A, 1B	≤ 5,000 sq. ft.
AG, RL, RR, RMR, RV	Principal Permitted Use/Parcel must be more than 5 acres in size	2, 2A, 2B	Between 5,001 – 10,000 sq. ft.
FL, TP, OS	Use Permit/Parcel must be more than 5 acres in size	2, 2A, 2B	Between 5,001 – 10,000 sq. ft.
AG, RL, RR, RMR, RV	Principal Permitted Use/Parcel must be greater than 20 acres	3A, 3B	10,0001 sq. ft. up to 22,000 sq. ft.
AG, RL, RR, RMR, RV	Principal Permitted Use/Parcel must be greater than 20 acres	3	10,0001 sq. ft. up to one (1) acre
FL, TP, OS	Use Permit/ Parcel must be greater than 20 acres	3A, 3B	10,0001 sq. ft. up to 22,000 sq. ft.
FL, TP, OS	Use Permit/ Parcel must be greater than 20 acres	3	10,0001 sq. ft. up to one (1) acre
AG, RL, RMR, RV, FL, TP, OS	Use Permit	4	

C, GVMU, GHMU	Principal Permitted Use	6	
RV	Use Permit	6	
I, GI	Use Permit	7	
I	Principal Permitted Use	8	
C, GVMU, GHMU	Use Permit	8	
C, GVMU, GHMU	Principal Permitted Use	10, 10A	
RV	Use Permit	10, 10A	
GVMU, GHMU, GI	Principal Permitted Use	11	
RV, C, I	Use Permit	11	
Any zone where commercial medical cannabis activity is permitted	Principal Permitted Use	12	
SR, FV	Not Permitted		

### Not Permitted

Applications for any permit listed in the above chart shall be processed in accordance with the procedures set forth in Chapter 20.532 of the Mendocino County Code.

(A) Processing of cannabis shall be allowed pursuant to the conditions set forth in section 20.514.040(D)-(E), provided that the Processing Performance Standards and Employee Safety Practices enumerated in section 20.514.055(A)(12) through (14) below are met.

(B) Multiple applicants may obtain a single Use Permit or Administrative Permit for outdoor cultivation, mixed-light cultivation, or both on a single premise so long as the cumulative cultivation area does not exceed the total cultivation area size limits for that clearance or permit type set forth in section 20.514.045. For purposes of the limitation of the number of permits that may be granted on a single parcel, multiple permits or combinations of permit types combined in a single application shall be considered a single permit.

### 514.050 – Additional Requirements for All Persons Involved in Commercial Medical Cannabis Activity

(A) Additional requirements for all individuals involved in the commercial cultivation, processing, manufacturing, and distribution of medical cannabis pursuant to this Section:

- (1) The owner, cultivator, or operator shall prepare and keep a site plan and operating procedure, consistent with Business & Professions Code 19322, in a safe and secure location on the premise or at a location under the control of the individuals.
- (2) A copy of the statement of water diversion, or other permit, license, or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable shall be kept with the operations plan.
- (3) If applicable, to be kept with the operations plan, a copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2, or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.
- (4) For indoor cultivation facilities, a document shall be kept with the operations plan identifying the source of electrical power and how it complies with the energy requirements in section 162.040(C), and all documentation demonstrating compliance with all applicable Building Codes.

#### **514.055 – Performance Standards for All MHA Cultivation and Processing Operations**

(A) Performance Standards applicable to all Cultivation and Processing Operations pursuant to the MHA

- (1) Cannabis cultivation and other commercial medical cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation is discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for commercial medical cannabis activity and shall not extend to personal residences or other structures that are not used for commercial medical cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 162.065 below, except the Planning Commission, and not the Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.
- (2) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.

- (3) Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- (4) The area of cannabis cultivation, processing, manufacture, or distribution shall be located as shown on the application site plan, set back at least 30 feet from any property line and 600 feet from any school. The minimum setback required from property lines or adjacent uses may be waived or reduced with the express written consent of the adjacent property owner and occupant. Cultivation areas and associated facilities shall observe all required setbacks from watercourses and wetlands.
- (5) Maintain certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, if applicable, or any substantially equivalent rule.
- (6) For cultivation areas for which no enrollment pursuant to NCRWQCB Order No. 2015-0023 is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers by January 1, 2023.
- (7) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- (8) Consent to an annual on-site compliance inspection, with at least 3 business days prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. – 5:00 p.m., excluding holidays).
- (9) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Any use of pesticide products shall be in compliance with the State pesticide laws and regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.
- (10) Pay all applicable application and annual inspection fees.
- (11) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Administrative Permit, Major Use Permit, or Minor Use Permit.
- (12) Cultivators engaged in processing shall comply with the following Processing Practices:
  - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment
  - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
- (13) All persons hiring employees to engage in commercial medical cannabis cultivation and processing shall comply with the following Employee Safety Practices:

a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:

- 1) Emergency action response planning as necessary;
- 2) Employee accident reporting and investigation policies;
- 3) Fire prevention;
- 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
- 5) Materials handling policies;
- 6) Job hazard analyses; and
- 7) Personal protective equipment policies, including respiratory protection.

b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

- 1) Operation manager contacts;
- 2) Emergency responder contacts;
- 3) Poison control contacts.

c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

d. On site housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

(14) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:

- e. Summary of Processing Practices.
- f. Description of location where processing will occur.
- g. Estimated number of employees, if any.
- h. Summary of Employee Safety Practices.
- i. Description of toilet and handwashing facilities.

- j. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
- k. Description of source of drinking water for employees.
- l. Description of increased road use resulting from processing and plan to minimize that impact.
- m. Description of on-site housing, if any.

(15) Those cultivators using artificial lighting for vegetative growth or mixed-light cultivation shall shield greenhouses and hoop houses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

(16) The light source should comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Mendocino County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within thirty (30) working days of the receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected, and corrected as necessary.

#### **514.060 – Term of Commercial Medical Cannabis Activity Permit**

(A) Terms of permits issued pursuant to this section for medical cannabis activity.

(1) Any Coastal Development Use Permit or Administrative Permit for cultivation of medical cannabis issued pursuant to this section shall expire after one (1) year of date of issuance, and on the anniversary of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(2) Any Coastal Development Use Permit or Administrative Permit for any dispensary issued pursuant to this section shall expire after two (2) years of date of issuance, and every two (2) years thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(3) Any Coastal Development Use Permit or Administrative Permit for any manufacturing of medical cannabis products, either with or without volatile solvents, issued pursuant to this section shall expire after two (1) years of date of issuance, and every two (1) years thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(4) Any Coastal Development Use Permit or Administrative Permit for any testing facility or site for medical cannabis products issued pursuant to this section shall expire after two (2) years of date of issuance, and every one (1) year thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(5) Any Coastal Development Use Permit or Administrative Permit for any transportation or distribution of medical cannabis products issued pursuant to this section shall expire after two (2) years of date of issuance, and every one (1) year thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(B) If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the Use Permit or Administrative Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

(C) The County shall notify any state license authority, as defined by the MMRSA, whenever the Use Permit, Major Use Permit, or Minor Use Permit has been revoked or terminated.

#### **514.065 – Appeal of Inspection Determination**

Within ten (10) days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Zoning Administrator, acting as the Hearing Officer. The appeal shall be made, in writing, on a form provided by the County. The fee for filing the appeal is \$100.00.

(1) The appeal shall be heard by the Hearing Officer within ten (10) business days following the filing of the appeal. The Hearing Officer shall render a written ruling on the appeal within three (3) business days following the hearing.

(2) The decision of the Hearing Officer may be appealed to the Board of Supervisors in accordance with Chapter 20.544 of the Mendocino County Code. If a timely appeal to the Board of Supervisors is not filed, the ruling by the Hearing Officer shall be final.

#### **514.075 – Disclosure**

When required to execute or make available a disclosure statement pursuant to the “Right to Farm Ordinance,” said statement shall include information describing the possibility of commercial cultivation of medical cannabis.

#### **Town Zoning**

#### **Chapter 20.698 – Commercial Cultivation, Processing, Testing, Distribution, Transportation, Delivery, Dispensaries, and Manufacturing of Cannabis for Medical Use Land Use Regulation**

#### **698.005 - Authority and Title**

This Section shall be known as the Mendocino Heritage Act (“MHA”), which provides for the regulation of Commercial Cultivation, Processing, Testing, Distribution, Transportation, Delivery, Dispensaries, and Manufacturing of Cannabis for medical use, as defined in this Code, located in the County of Mendocino, regulated by the Mendocino Town Zoning Code.

#### **698.010 – Purpose and Intent**

These regulations shall define and set forth commercial medical cannabis policy consistent with MMRSA.

#### **698.015 – Applicability and Interpretation**

(A) These regulations shall apply to the location and permitting of commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use in zoning districts within which such use is authorized, as specified in this section. For purposes of this section and for clarity, the geographic region governed and regulated by the Mendocino Town Zoning Code shall be referred to herein this Section as the “Town Zone.”

(B) The commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use within the jurisdiction of the County of Mendocino, Town Zone, shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.

(C) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, from compliance with all other applicable Mendocino County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

(D) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building, or land use standards of permitting requirements.

(E) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use on private property.

(F) The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Mendocino County Code Section 20.608 et seq. and Section 1.04 et seq. may also apply to this Section.

(G) As Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section, for purposes of the MMRSA, and Business and Professions Code Section 19300 et seq., this County intends to regulate the commercial cultivation of cannabis for medical



use pursuant to the existing Town Zoning Code governing agricultural products. The commercial cultivation of medical cannabis shall be considered, contemplated as, and interpreted to be a Horticultural Agricultural Use as defined in section 20.632.010. The commercial cultivation of medical cannabis shall be a principal permitted use in each Town Zone where Horticultural Use is a principal permitted use, subject to any further restrictions set forth in this Section. The processing of commercial medical cannabis, as defined herein, shall be considered, contemplated as, and interpreted to be a Packing and Processing Agricultural Use, as defined in section 20.632.020. The processing of commercial medical cannabis shall be a principal permitted use in each Town Zone where Packing and Processing Use is a principal permitted use, subject to any further restrictions set forth in this Section. Notwithstanding the foregoing, any person engaged in any activity contemplated by this Section shall be required to obtain a Cannabis Permit as set forth in Chapter 6.22: Lawful Cannabis Permits, of the Mendocino County Code. Additionally, any person engaged in any activity contemplated by this Section shall be required to obtain all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available and in effect.

#### **698.020 – Severability**

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

#### **698.025 – Release of Liability and Hold Harmless**

As a condition of approval for any Administrative Permit or Use Permit approved for the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, defined herein, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property or other third parties due to the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use.

#### **698.030 – Penalties and Enforcement**

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the County Code and the MMRSA, or other law.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing any required permit specified in this Section, shall be, and the same hereby is declared to be unlawful and shall be subject to injunction, abatement, or any other administrative or civil remedy available to the County under the applicable state and county laws, including those set forth in Chapter 20.736 of the Mendocino County Code. No criminal remedy or penalty shall be available for any violation of this Section.

## **698.035 – Definitions**

**The definitions in Sec. 6.22.020 of this Chapter are hereby incorporated by reference herein as if fully set forth herein.**

## **698.040 – General Provisions**

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacture, or Distribution of cannabis for medical use, as defined in this Section, within the Town Zone.

(A) All commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws.

(B) Outdoor and Mixed-Light commercial cultivation of medical cannabis shall be allowed in specifically enumerated zones in which Horticulture is a principally permitted use, subject to any further restrictions in this Section. Outdoor and Mixed-Light commercial cultivation of medical cannabis shall be allowed in specifically enumerated zones in which Horticulture is not a principal permitted use, only, when available, with an Administrative Permit or Use Permit issued pursuant to Chapter 20.270 of the Mendocino County Code. Within the Town Zone, Outdoor and Mixed-Light commercial cultivation of cannabis for medical use is not a principal permitted use. Outdoor and Mixed-Light cultivation of medical cannabis shall be a conditional use in zones MRR and MOS subject to a Use Permit, and zone MFL subject to a Coastal Development Use Permit, all subject to the conditions and limitations set forth in this section.

(1) On parcels 1 acres or larger in size, outdoor or mixed-light commercial medical cannabis cultivation for an area up to 5,000 square feet shall be a conditionally permitted use in zoning districts MRR, MOS, and MFL, on slopes of less than 15% or less, and with documented current water right or other non-diversionary source of irrigation water (e.g., municipal, public utility, or permitted well), subject to the conditions and limitations set forth in this section.

a. On parcels less than 1 acre in size, no cultivation shall be allowed in the Town Zone.

b. On eligible parcels under 5 acres in size, the cultivation area must be set back at least 300 feet from existing residences on adjoining parcels, unless both the resident and owner of the adjoining parcels expressly waive the setback requirement.

(2) Any outdoor or mixed-light commercial medical marijuana cultivation in zoning districts MRR, MOS, and MFL shall be considered a conditionally permitted use only when the cultivation is fully compliant with all applicable standards set forth in this section. The total cultivation area allowed on a single parcel shall not exceed 5,000 square feet for outdoor cultivation or for mixed-light cultivation, subject to the provisions contained in this Section.

a. On parcels less than 1 acre in size, cultivation in existence prior to January 1, 2016 must cease no later than January 1, 2017.

b. On any parcel under 5 acres, the cultivation area must be set back 300 feet from existing residences on adjoining parcels, unless both the occupant and owner of the adjoining residence expressly waive this set-back requirement. Any existing cultivation in violation of the set-back requirement shall be required to be compliant with the set-back requirement January 1, 2017.

c. On any parcel 1 acre or greater, where the existing cultivation area is greater than 5,000 square feet, all expansion of the cultivation area shall be prohibited. Any existing cultivation site with more than 5,000 square feet of cultivation area shall be reduced to no more than 5,000 square feet no later than July 1, 2017. The cultivation area must be set back at least 300 feet from existing residences on adjoining parcels, unless the occupant and owner of the adjoining residences expressly waive this set-back requirement.

(C) Indoor commercial cultivation of medical marijuana shall be a conditional permitted use inside the Town Zone in zoning districts MRR, MFL, and MOS, subject to the conditions and limitations set forth in this section. Indoor commercial cultivation of medical marijuana shall be permitted in cultivation facilities of up to 5,000 square feet that will be located in a non-residential structure which existed on or before January 1, 2016, subject to the conditions and limitations set forth in this section. Electrical power for indoor cultivation operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by: a) on-grid power with 100% renewable source; b) on-site zero net energy renewable source; and/or c) with purchase of carbon offsets of any portion of power not from renewable sources by January 1, 2023.

(1) No indoor cultivation site on a parcel less than 1 acre shall be allowed in the Town Zone.

(2) All indoor cultivation areas must be set back 300 feet from existing residences on adjoining parcels, unless both the occupant and owner of the adjoining residence expressly waive this set-back requirement.

(3) All indoor facilities must be compliant with all applicable Building Codes.

(D) Processing facilities for commercial medical marijuana shall only be allowed on the same site as the cultivation site in the Town Zone. The total area of the processing site and cultivation site combined must not be greater than 5,000 square feet.

(E) Manufacturing of commercial medical marijuana, either with the use of volatile solvents or with the use of non-volatile solvents, shall be prohibited in any zoning district in the Town Zone.

(F) Wholesale Distribution Facilities for commercial medical marijuana shall be prohibited in any zoning district in the Town Zone.

(G) Nurseries, as defined herein, producing commercial medical cannabis nursery products shall be prohibited in any zoning district in the Town Zone.

**(H)** Transport and transportation of medical cannabis or medical cannabis products, as defined herein and under the MMRSA, shall be a principally permitted use in any zoning district in the Town Zone where any other commercial medical cannabis activity is a principal or conditional permitted use.

**(I)** Testing facilities, as defined under the MMRSA and as Type 8 classification under the Health and Safety Code section 19300.7(m), shall be prohibited in any zoning district in the Town Zone.

**(J)** Dispensaries and dispensary operations, as defined in this section, shall be a conditional permitted use inside the Town Zone in zoning district MMU subject to a Major Use Permit, and zoning district MC, subject to a Minor Use Permit.

(1) Dispensaries shall operate in compliance with the MHA, including but not limited to the requirements and limitations set forth in Chapter 6.22 of the Mendocino County Code.

(2) Notwithstanding any other provision, including subsection 698.040(J), any dispensary operating and located in zoning district MMU or MC in the Town Zone on or before January 1, 2016 shall be considered a principal permitted use and shall not be required to obtain any additional zoning permits or use permits and shall have one-hundred eighty (180) days from implementation of this Section to become compliant with the MHA, including the requirements set forth in Chapter 6.22 of the Mendocino County Code. Any dispensary permitted under this section 698.040(J)(2) shall also be exempt from the set-back requirements in section 6.22.060(B)(2)-(3).

**(K)** Other than as enumerated in this Section, the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use in any other zoning district inside the Town Zone of County of Mendocino is prohibited.

**(L)** Any permit or zoning regulation or zoning permission under this Section shall remain valid and in full force and effect, and shall apply to and regulate zoning, in the event the State of California passes legislation legalizing cannabis for recreational use. In any event, should the State of California pass legislation allowing for and legalizing cannabis for recreational use, the zoning rules and permissions in this Section shall apply to equally to commercial medical cannabis for recreational use and the County shall make such permits available in a reasonable and timely fashion.

**(M)** The fact that an applicant possesses other types of state, county, or city permits, licenses, or other entitlements does not exempt the applicant from the requirement, as applicable and required under this Section, of obtaining an Administrative Permit, Major Use Permit, or Minor Use Permit from the County of Mendocino to engage in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use within the Town Zone jurisdiction of the County.

**(N)** Any existing commercial medical cannabis activity currently located in any zoning district in the Town Zone where that respective medical cannabis activity is a principal or conditional permitted use may continue to operate, function, exist, and continue to carry on the cannabis activity during the permitting process pursuant to this Section and pursuant to the permitting process in Chapter 6.22. The permitting grace period for existing commercial medical cannabis to operate while applying for the

necessary permits shall be for one-hundred-eighty days (180) from the implementation of the MHA, after such time, if a permit has not been obtained, the commercial medical cannabis activity must cease.

(O) Any person engaged in the commercial cultivation, processing, manufacture, testing, transportation, or distribution of medical cannabis, regardless of whether conducting activity as a principal permitted use or conditional use, shall obtain the proper Cannabis Permit as required in Chapter 6.22: Lawful Cannabis Permits, of the Mendocino County Code.

#### 698.045 – Permit Types

Whether an activity is a Principal Permitted Use, or requires an Administrative Permit, Use Permit, or Coastal Development Permit that shall be required in order to engage in any commercial medical cannabis activity shall be determined by the size and zoning classification of the parcel on which the activity is to be conducted and the type of state license required for that operation pursuant to MMRSA, in accordance with the following chart:

#### Town Zone Chart

Zone Type	Permit Tier/Restrictions	License Class	Cultivated Area Size Limit
MRR	Coastal Development Use Permit/Parcel shall be 1 acre or greater	1, 1A, 1B	≤ 5,000 sq. ft.
MFL, MOS	Use Permit/Parcel shall be 1 acre or greater	1, 1A, 1B	≤ 5,000 sq. ft.
MMU	Major Use Permit	10, 10A	
MC	Minor Use Permit	10, 10A	
Any zone where commercial medical cannabis activity is permitted	Principal Permitted Use	12	

Applications for any permit listed in the above chart shall be processed in accordance with the procedures set forth in Chapter 20.192 and 20.196 of the Mendocino County Code.

(A) Processing of cannabis shall be allowed pursuant to the conditions set forth in section 20.162.040(D), provided that the Processing Performance Standards and Employee Safety Practices enumerated in section 20.698.055(A)(12) through (14) below are met.

(B) Multiple applicants may obtain a single Major Use Permit, Minor Use Permit, or Administrative Permit for outdoor cultivation, mixed-light cultivation, or both on a single premise so long as the cumulative cultivation area does not exceed the total cultivation area size limits for that clearance or permit type set forth in section 20.162.045. For purposes of the limitation of the number of permits that

may be granted on a single parcel, multiple permits or combinations of permit types combined in a single application shall be considered a single permit.

**698.050 – Additional Requirements for All Persons Involved in Commercial Medical Cannabis Activity**

(A) Additional requirements for all individuals involved in the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of medical cannabis pursuant to this Section:

- (1) The owner, cultivator, or operator shall prepare and keep a site plan and operating procedure, consistent with Business & Professions Code 19322, in a safe and secure location on the premise or at a location under the control of the individuals.
- (2) A copy of the statement of water diversion, or other permit, license, or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable shall be kept with the operations plan.
- (3) If applicable, to be kept with the operations plan, a copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2, or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.
- (4) For indoor cultivation facilities, a document shall be kept with the operations plan identifying the source of electrical power and how it complies with the energy requirements in section 162.040(C), and all documentation demonstrating compliance with all applicable Building Codes.

**698.055 – Performance Standards for All MHA Cultivation and Processing Operations**

(A) Performance Standards applicable to all Cultivation and Processing Operations pursuant to the MHA

- (1) Cannabis cultivation and other commercial medical cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation is discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for commercial medical cannabis activity and shall not extend to personal residences or other structures that are not used for commercial medical

cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 162.065 below, except the Planning Commission, and not the Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.

- (2) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.
- (3) Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- (4) The area of cannabis cultivation, processing, manufacture, or distribution shall be located as shown on the application site plan, set back at least 30 feet from any property line and 600 feet from any school. The minimum setback required from property lines or adjacent uses may be waived or reduced with the express written consent of the adjacent property owner and occupant. Cultivation areas and associated facilities shall observe all required setbacks from watercourses and wetlands.
- (5) Maintain certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, if applicable, or any substantially equivalent rule.
- (6) For cultivation areas for which no enrollment pursuant to NCRWQCB Order No. 2015-0023 is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers by January 1, 2023.
- (7) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- (8) Consent to an annual on-site compliance inspection, with at least 3 business days prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. – 5:00 p.m., excluding holidays).
- (9) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Any use of pesticide products shall be in compliance with the State pesticide laws and regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.
- (10) Pay all applicable application and annual inspection fees.
- (11) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Administrative Permit, Major Use Permit, or Minor Use Permit.
- (12) Cultivators engaged in processing shall comply with the following Processing Practices:

a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment

b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.

(13) All persons hiring employees to engage in commercial medical cannabis cultivation and processing shall comply with the following Employee Safety Practices:

a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:

- 1) Emergency action response planning as necessary;
- 2) Employee accident reporting and investigation policies;
- 3) Fire prevention;

4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);

5) Materials handling policies;

6) Job hazard analyses; and

7) Personal protective equipment policies, including respiratory protection.

b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

- 1) Operation manager contacts;
- 2) Emergency responder contacts;
- 3) Poison control contacts.

c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

d. On site housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

(14) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:

- a. Summary of Processing Practices.
- b. Description of location where processing will occur.



- c. Estimated number of employees, if any.
- d. Summary of Employee Safety Practices.
- e. Description of toilet and handwashing facilities.
- f. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
- g. Description of source of drinking water for employees.
- h. Description of increased road use resulting from processing and plan to minimize that impact.
- i. Description of on-site housing, if any.

(15) Those cultivators using artificial lighting for vegetative growth or mixed-light cultivation shall shield greenhouses and hoop houses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

(16) The light source should comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Mendocino County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within thirty (30) working days of the receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected, and corrected as necessary.

#### **698.060 – Term of Commercial Medical Cannabis Activity Permit**

(A) Terms of permits issued pursuant to this section.

(1) Any Major Use Permit, Minor Use Permit, Use Permit, or Coastal Development Use Permit, or Administrative Permit for commercial medical marijuana cultivation issued pursuant to this section shall expire after one (1) year of date of issuance, and on the anniversary of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(2) Any Major Use Permit, Minor Use Permit, or Administrative permit for any dispensary issued pursuant to this section shall expire after two (2) years of date of issuance, and every two (2) years thereafter, unless a compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

(B) If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file

an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the Use Permit, Minor Use Permit, or Major Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

(C) The County shall notify any state license authority, as defined by the MMRSA, whenever the Administrative Permit, Major Use Permit, or Minor Use Permit has been revoked or terminated.

#### **698.065 – Appeal of Inspection Determination**

Within twenty (20) days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Zoning Administrator, acting as the Hearing Officer. The appeal shall be made, in writing, on a form provided by the County. The fee for filing the appeal is \$100.00.

(1) The appeal shall be heard by the Hearing Officer within ten (10) business days following the filing of the appeal. The Hearing Officer shall render a written ruling on the appeal within three (3) business days following the hearing.

(2) The decision of the Hearing Officer may be appealed to the Board of Supervisors in accordance with Chapter 20.208 of the Mendocino County Code. If a timely appeal to the Board of Supervisors is not filed, the ruling by the Hearing Officer shall be final.

#### **698.075 – Disclosure**

When required to execute or make available a disclosure statement pursuant to the “Right to Farm Ordinance,” said statement shall include information describing the possibility of commercial cultivation of medical marijuana.