

Sample Cannabis Ordinances

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SONOMA COUNTY

Sec. 26-88-258. - Cannabis cultivation—Personal.

- (a) Purpose. This section establishes development criteria and operating standards for personal cannabis cultivation for medical or adult use. Cultivation of cannabis for personal use shall be subject to the following standards and limitations as allowed in the base zone in compliance with Section 26-88-250. These standards shall apply to any cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.
- (1) Residency Requirement. Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.
 - (2) Maximum Personal Cultivation. Cultivation of cannabis for personal use is limited to no more than one hundred (100) square feet per residence, of which up to six (6) plants can be cultivated for adult use purposes.
 - (3) Prohibition of Volatile Solvents. The use of volatile solvents as defined herein to manufacture cannabis products is prohibited.
 - (4) Outdoor Personal Cultivation. Cannabis plants shall not be located in front and side yard setback areas and shall not be visible from a public right of way. Outdoor cannabis cultivation is prohibited on parcels with multi-family units or in the medium and high density residential zones (R2 and R3).
 - (5) Indoor and Mixed-Light Personal Cultivation.
 - (i) Indoor and mixed light personal cultivation must be contained within an enclosed accessory structure, greenhouse or garage. Cultivation within a structure approved for residential use as set forth in Chapter 7 of the county code is prohibited, unless there is no other feasible alternative location.
 - (ii) All structures (including greenhouses) used for cultivation must be legally constructed with all applicable permits such as grading, building, electrical, mechanical and plumbing.
 - (iii) All structures associated with the cultivation shall not be located in the front yard setback area and shall adhere to the setbacks stated within the base zone. There shall be no exterior evidence of cannabis cultivation. Greenhouses shall be screened from the public right of way.
 - (iv) All structures used for cultivation shall have locking doors or gates to prevent free access. All cultivation structures shall be equipped with odor control filtration and ventilation systems adequate to prevent an odor, humidity, or mold.
 - (v) Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
 - (vi) The use of generators is prohibited, except as emergency back-up systems.
 - (vii) All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.

(Ord. No. [6189](#), § II(H)(Exh. A-4), 12-20-2016)

Chapter 20

MEDICAL MARIJUANA CULTIVATION

Sections:

- 5-20.01 Purpose and intent.
- 5-20.02 Relationship to other laws.
- 5-20.03 Definitions.
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Sec. 5-20.01. Purpose and intent.

A. It is the purpose and intent of this chapter to regulate marijuana in a manner that is consistent with state law and that promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Yolo by balancing: (1) the needs of medical patients and their caregivers for enhanced access to medical marijuana; (2) the needs of neighbors and communities to be protected from public safety and nuisance impacts of marijuana cultivation and related activities; and (3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation and related activities.

B. Nothing in this chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) to conflict with state law as contained in MAUCRSA; or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California law.

C. Nothing in this chapter is intended, nor shall it be construed, to exempt the cultivation of marijuana as allowed under this chapter from compliance with all other applicable provisions of the Yolo County Code or compliance with any applicable state laws. Further, nothing in this chapter is intended, nor shall it be construed, to exempt the cultivation of marijuana as allowed under this chapter from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

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

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.02. Relationship to other laws.

This chapter is not intended to apply to, nor shall it be construed or given effect in a manner that causes it to apply to, any activity that is regulated by federal or state law to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. This chapter shall be interpreted to be compatible and consistent with federal, state, and county enactments and in furtherance of the public purposes which those enactments express. The provisions of this chapter will supersede any other provisions of this Code found to be in conflict.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.03. Definitions.

As used in this ordinance the following definitions shall apply:

A. "Abatement" or "abate" means the removal and destruction of all marijuana plants or products creating the condition(s) constituting a violation of this chapter as identified in a notice of violation issued by the enforcing officer.

B. "Abatement costs" means any costs or expenses, including County staff time reasonably related to the abatement of a violation under this chapter, and shall include, but shall not be limited to, enforcement, investigation, summaries, reports, notices, telephonic contact, correspondence, mailing expense, title search costs, costs incurred in obtaining an administrative warrant, administrative costs, including the total direct and indirect costs of enforcement established by generally accepted accounting principles that are reasonably and necessarily incurred by the County to investigate, inspect, or cure any violation or monitor the recurrence of any violation that is the subject of a notice issued by the enforcing officer, including, but not limited to, scheduling and participation at hearings, hearing officer costs, expenses incurred by the County, and any other costs associated with the removal, abatement or correction of a violation.

C. "Applicant" means a person applying for a license pursuant to this chapter.

D. "Caregiver" or "primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7 as it now reads or as amended.

E. "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

F. "Contiguous" means any two legal parcels which share a mutual boundary. Notwithstanding the foregoing, legal parcels shall be considered contiguous, even if they are separated by roads, streets, utility easements or railroad rights-of-way.

G. "Cultivate" or "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

H. "Cultivation site" means one or more locations or facilities on one legal parcel subject to a single approved license where medical marijuana is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport. It shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession of the premises and the area specified in the applicable Notice of Intent issued pursuant to Central Valley Regional Water Quality Control Board Order No. R5-2215-0113. One or more areas of marijuana cultivation may exist on the legal parcel used for that purpose.

I. "Enforcing officer" shall mean any County officer or employee, including his/her designee, with the authority to enforce this Code, its adopted codes or applicable state codes.

J. "Flowering" means that a marijuana plant has formed a mass of pistils measuring greater

than one half (1/2) inch wide at its widest point.

K. "Garden canopy" means the total aggregate area(s) of marijuana cultivation on a single legal parcel as measured around the outermost perimeter of each separate and discrete area of marijuana cultivation at the drip line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, and the exterior dimensions of garden beds, garden plots and hoop houses.

L. "Greenhouse" means a completely enclosed structure whose structural members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place, and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

M. "Hoop house" means a structure with structural members that are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

N. "Immature plant" means a marijuana plant that is not yet flowering.

O. "Indoor" or "indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Yolo, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

P. "Indoor cultivation" means the cultivation of marijuana within a structure using artificial light, at a rate greater than twenty-five (25) watts per square foot.

Q. "Legal parcel" or "parcel" means any parcel of real property for which one legal title exists that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code). Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single "premises" for purposes of this chapter.

R. "License" means a license issued by the County of Yolo to cultivate medical marijuana for commercial purposes in the unincorporated areas of Yolo County pursuant to this chapter.

S. "Licensee" means any person holding a license under this chapter.

T. "Marijuana", or "cannabis", shall have the same definition as "cannabis" as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

U. "M-licensee" means any person holding a license issued by the State of California for commercial marijuana activity involving medicinal marijuana.

V. "Medical marijuana" shall have the same definition as "medical cannabis" and "medical cannabis product" as set forth in California Business and Professions Code section 26001 as it now reads or as amended.

W. "Medical marijuana collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly

indicates otherwise.

X. "Mixed-light cultivation" means the cultivation of marijuana using light deprivation and/or artificial lighting below a rate of twenty-five (25) watts per square foot.

Y. "Nursery" means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of marijuana.

Z. "Nursery license" is a license issued by the County of Yolo to operate a nursery for commercial purposes in the unincorporated areas of Yolo County pursuant to Section 5-20.16 of this chapter.

AA. "Outdoor" or "outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined in this chapter.

BB. "Outdoor cultivation" means the cultivation of marijuana without the use of light deprivation and/or artificial lighting in the canopy area.

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

DD. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group, entity or combination acting as a unit, and the plural as well as the singular.

EE. "Premises" shall mean a single, legal parcel of real property. In addition, where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single "premises" for purposes of this chapter.

FF. "Processing" means to harvest, dry, cure, grade, trim, or package for transport medical marijuana.

GG. "Processing facility" means a site that conducts only drying, curing, grading, trimming or packaging for transport of marijuana and non manufactured marijuana products.

HH. "Processing license" is a license issued by the County of Yolo to operate a processing facility for commercial purposes in the unincorporated areas of Yolo County pursuant to Section 5-20.16 of this chapter.

II. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7 as it now reads or as amended.

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

KK. "Residential treatment facility" means a state-licensed residential facility that provides treatment for drug and/or alcohol dependency.

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

MM. "Task force" means the Yolo County Cannabis Task Force.

NN. "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the

establishment are predominantly minors.
(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.04. Prohibited activities.

A. Except as provided for in the exemptions set forth in paragraphs (1) and (2) of this section, the cultivation of marijuana, in any amount or quantity, upon any premises, is declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.

1. Personal.

a. Patient.

1) Not more than (6) six living plants may be planted, cultivated, harvested, dried or processed within a single private residence, or upon the premises of that private residence, where a qualified patient resides, provided that qualified patient cultivates marijuana for his or her sole personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity.

2) The plant number limitation is imposed regardless of the number of qualified patients residing on the premises, participating directly or indirectly in or benefitting from the cultivation.

3) The qualified patient shall reside full-time in the residence where the medical marijuana cultivation occurs and may not participate in medical marijuana cultivation at any other residential location within the County of Yolo.

b. Adult use. Subject to Health and Safety Code section 11362.2, not more than six (6) living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the premises of that private residence, at one time.

2. Commercial. Except as provided in paragraph (A)(1) of this section, commercial cultivation of marijuana shall be allowed only for medical use and only following the issuance of a license pursuant to the provisions of this chapter.

a. All licenses shall comply with the following requirements:

1) Cultivation shall be in compliance with California Regional Water Quality Control Board Central Valley Region Order No. R5-2015-0113 as it now reads or as it may be amended from time to time. To be eligible for a license, an applicant shall have submitted a Notice of Intent (NOI), which must be complete and have been received with full payment by the Central Valley Regional Water Quality Control Board no later than 5:00 p.m. on October 11, 2016, to obtain regulatory coverage by the Central Valley Water Board as a Tier 1, 2 or 3 cultivator, monitoring self-certification. Applicants must be able to demonstrate compliance with Order No. R5-2015-0113, or any substantially equivalent rule that may be subsequently adopted by the County of Yolo or other responsible agency. Notwithstanding the foregoing, the cultivation site garden canopy must be between one thousand (1,000) square feet and forty-three thousand five hundred sixty (43,560) square feet; cultivation of medical marijuana of less than one thousand (1,000) square feet under this paragraph is prohibited.

2) Applicants shall be currently leasing or, as of October 11, 2016, have been the record owner of or have a fully executed purchase and sale agreement for the purchase of, the real property on which they will cultivate medical marijuana and for which they have filed a Notice of Intent with the Central Valley Water Board by October 11, 2016.

3) Licensees are not authorized to sublet any portion of a cultivation site for any purpose.

4) Prior to the issuance of an initial or renewal license under this chapter, applicants shall:

i. Along with owners of the premises on which cultivation will occur, sign a written consent to reasonable on-site compliance inspections of both the cultivation site area and of all records and documents related to the marijuana activities occurring on the premises by law enforcement,

the task force or other County personnel during reasonable hours, as specified in Section 5-20.10(F).

ii. Along with owners of the premises on which cultivation will occur, execute an agreement to indemnify and hold harmless the County of Yolo and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the cultivation of marijuana 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 cultivation of marijuana in a form prescribed by the County. The indemnification shall apply to any damages, costs of suit, attorneys' fees or other expenses awarded against the County, its agents, officers and employees in connection with any such action. In addition, the agreement shall release the County of Yolo, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any abatement, arrest or prosecution for cultivation in violation of state or federal laws.

iii. Sign a statement under penalty of perjury warranting that they will abide by the requirements of this chapter and applicable state law in a form prescribed by the County.

iv. Complete any application forms prescribed by the County and pay fees as established by resolution and adopted by the Board of Supervisors as amended from time to time.

v. Furnish the task force a surety bond in the amount of ten thousand dollars (\$10,000) furnished by a corporate surety authorized to do business in the state. Such bond shall be in favor of the County and shall be approved by the County Counsel. Such bond shall be conditioned upon full and faithful performance by the licensee of all obligations under this chapter and any license issued hereunder and shall be kept in full force and effect by the licensee throughout the life of the license and all renewals thereof. The Board of Supervisors may from time to time by resolution establish additional bond requirements as it deems necessary.

In the event that the licensee violates any of the provisions of this chapter or any rules or orders of the task force, such violation shall permit the County at its option to resort to the bond to cover any abatement costs or administrative penalties assessed.

5) Licensees are prohibited from commingling marijuana from other licensees, from unlicensed cultivators or from the licensee's other cultivation sites, and from transferring or receiving any marijuana or non-manufactured marijuana products to or from other licensees, unlicensed cultivators or licensee's other cultivation sites. Notwithstanding the foregoing, licensees are allowed to receive immature plants or seeds from licensed nurseries and to transfer marijuana and non-manufactured marijuana products to licensed processors.

6) Pursuant to Business and Professions Code section 26053, all commercial marijuana activity shall be conducted between persons holding a license from the State of California and all commercial marijuana activity by licensees shall only be conducted with M-licensees.

7) Licensees shall participate in any track and trace program required by the County, pay any associated fees and meet all associated requirements.

Failure to fully comply with the County's track and trace program, as determined by the task force, is unlawful and constitutes a violation of this chapter subject to disciplinary action pursuant to Section 5-20.04(A)(2)(c) and enforcement pursuant to Section 5-20.10 et seq.

8) Child support obligations.

i. Prior to the issuance of an initial or renewal license under this chapter, and at all times while holding a license, applicants and licensees shall be current with their monthly child support obligations. If the applicant or licensee has an account with past due child support arrears, he/she must have that balance at zero or have verification from the Department of Child Support

Services that they have been in and remain in compliance with a court ordered payment plan in order to remain eligible for a license.

ii. Licensees shall provide the task force a quarterly list of all employees employed by licensee at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter (March, June, September, and December). The list shall include names, addresses, phone numbers and social security numbers for all employees.

iii. If licensee uses a payroll withholding process, licensee must comply with any income withholding order for child support for any employee in licensee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information if self-employed for purposes of determining accurate child support orders.

b. Medical marijuana cultivation license.

1) Other than pursuant to Section 5-20.04(A)(1), it is unlawful to cultivate marijuana in the County of Yolo without first having obtained a license under this chapter.

2) The County Administrator is authorized to establish procedures and guidelines to process license applications.

3) A license does not create any interest of value, is not transferable, and automatically terminates upon transfer.

4) A license issued by the County constitutes a revocable privilege. Applicants and licensees have the burden of proving its qualifications for a license at all times.

5) The license shall be valid for one calendar year, or part thereof, beginning January 1st of the year in which it is issued. The license will expire on December 31st of the year in which it was issued.

6) A license is issued to and covers only the licensee identified on the license with respect to the cultivation site identified on the license. The license does not run with the land.

7) The County shall not accept any applications for an initial license after 5:00 p.m. on December 31, 2017.

8) Notwithstanding any provision in this chapter to the contrary, a licensee with a currently valid license may relocate the licensee's cultivation site to a site pre-approved in writing by the task force upon a determination that the proposed site will result in reduced community or environmental impacts. If relocating a cultivation site under this paragraph, the licensee may co-locate on the premises of another licensee provided the premises are no less than forty (40) acres in size. There shall not be more than two licenses located on a single premises.

c. Denial or revocation of license.

1) The County may deny an application for an initial or renewal license, revoke an original or renewal license, or may suspend, place on probation with terms and conditions, or otherwise discipline licensees (collectively referred to as "disciplinary action"), for any of the following reasons:

a) Failure to comply with one or more provisions of this chapter or any rule or regulation adopted pursuant to this chapter;

b) Failure to conduct cultivation operations in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes;

c) Violation of any requirement of the Yolo County Code;

d) Previous violation by the applicant, or previous violation at the proposed cultivation site, of any provision of the Yolo County Code or state law related to the cultivation of marijuana;

e) The creation or maintenance of a public nuisance where the licensee has failed to comply

with reasonable conditions to abate the nuisance;

f) Failure to allow unannounced inspections of the premises by County staff or law enforcement at any reasonable time, as specified in Section 5-20.10(F), without notice;

g) Discovery of untrue statement(s) or an omission of a material statement in a license application;

h) Failure to comply with any state or local law, ordinance, or regulation including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law;

i) Failure to comply with any applicable federal, state, or local environmental laws, regulations, or ordinances;

j) Failure to comply with any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee;

k) Failure to maintain safe conditions for inspection by the County;

l) Failure to pay applicable state or County taxes or fees on marijuana activity;

m) Attempts to falsify or misrepresent data or information, or provide incomplete data or information, entered into the track and trace system;

n) The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of medical marijuana cultivation. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the County shall include, but not be limited to, the following:

i. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

ii. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

iii. A felony conviction involving fraud, deceit, or embezzlement.

iv. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

v. A felony conviction for drug trafficking.

vi. Except as provided in paragraphs (iv) and (v) directly above, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license;

vii. The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code;

viii. The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities, has had a marijuana operations license suspended or revoked in the three (3) years immediately preceding the date the application is filed with the County.

2) Under no circumstances shall a cause of action for monetary damages be allowed against the County of Yolo, the task force, or any County employee as a result of a denial or a revocation

of a license.

3) The County may take disciplinary action against a licensee when the violation was committed by the licensee's officers, directors, owners, agents, or employees while acting on behalf of the licensee or engaged in commercial marijuana activity.

4) Denial, suspension or revocation of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a medical marijuana business to operate within the County, until the State of California, or its respective department or division, reinstates or reissues the state license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a medical marijuana business, such revocation or termination shall also revoke or terminate the ability of a medical marijuana business to operate within the County of Yolo.

5) The County may recover the costs of investigation and enforcement of disciplinary action following the procedures set forth in Section 5-20.11 of this Code.

6) Any disciplinary action may be appealed subject to the following procedure:

a) Use of hearing officers. An appeal of any disciplinary action may be heard by the County Administrator, or his designee, or by a third party hearing officer designated by the County Counsel (any one of which is referred to as the "administrative hearing officer").

b) Written request for appeal.

i. Within five calendar days after the date notice of a disciplinary action is served in accordance with Section 5-20.11(A)(2), below, an aggrieved party may appeal such action by filing a written appeal with the Clerk of the Board of Supervisors setting forth the reasons why the disciplinary action was not proper.

ii. At the time of filing, the appellant shall pay any designated appeal fee, established by resolution of the Board of Supervisors from time to time.

c) Appeal hearing.

i. Upon receipt of the written appeal, the Clerk of the Board of Supervisors shall set the matter for a hearing before the administrative hearing officer.

ii. The hearing shall be held at the date, time and location indicated on a notice to appellant, which shall be held within a reasonable time after filing the appeal, but in no event later than forty-five (45) days from the date of such filing.

iii. The County shall notify the appellant of the time and location at least five (5) days prior to the date of the hearing.

iv. The appellant may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The administrative hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

v. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide, at his or her sole cost, an interpreter who has been certified as an interpreter by either the State of California or the County of Yolo.

vi. The scope of an appeal of a denial to issue a license shall be limited to a determination of whether the application meets the requirements of this chapter.

vii. If no appeal is made within the time specified for an appeal following service of notice of

disciplinary action, the disciplinary action shall be deemed final and conclusive.

viii. At the conclusion of the hearing, the administrative hearing officer may affirm, reverse or modify the disciplinary action. The decision of the administrative hearing officer shall be final and conclusive.

d) Determination after hearing. The administrative hearing officer shall consider the evidence presented by the parties, and shall issue a written decision and order that affirms, reverses or modifies the disciplinary action. Such decision shall be delivered to the appellant by personal delivery, by first class mail, postage prepaid, or by overnight delivery. The decision shall become effective when signed by the administrative hearing officer and on the day the decision is personally delivered to the appellant, or five (5) days after the decision is mailed to the appellant by first class mail, or the day after it is sent by overnight mail.

d. Renewal of license.

1) A licensee may apply for the renewal of a license no less than thirty (30) days prior to the license's expiration date. No activity related to marijuana cultivation may occur on the premises and the medical marijuana business shall cease operations after the expiration of a current license.

2) An application for renewal will only be accepted if it is accompanied by the requisite licensing fees.

3) Each application for renewal shall include updated information for any part of the application that has undergone a change in circumstance since the original application or last renewal filing.

4) All owners of the medical marijuana business and the owners of the property on which the business is located must be fingerprinted each year at renewal if required in the discretion of the task force.

5) Unless administratively continued upon a showing of good cause and at the sole discretion of the task force, a license is immediately invalid upon expiration and the medical marijuana business shall cease operations. If a license expires, the task force may approve a renewal of the expired license

at any time up to three (3) months from the expiration date of the license. After the license has been expired for three (3) months, the task force may not renew the license, and the holder of the expired license must apply for and obtain a new license to resume operations.

B. Additional prohibitions.

1. Notwithstanding compliance with the provisions of this chapter, cultivation of medical marijuana is prohibited if cultivated in any amount or quantity, upon any premises, that discharges from any source whatsoever such quantities of air contaminants, odor or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons, to the environment or to the public or which endanger the comfort, repose, health, or safety of any such persons or the public or which cause to have a natural tendency to cause injury or damage to business or property.

2. No person owning, leasing, occupying, or having charge or possession of any property within the County shall cause, or allow such property to be used for the cultivation of marijuana in violation of this chapter. The property owner shall be responsible and jointly liable for all violations of this chapter and applicable laws on the property.

3. Medical marijuana collectives shall not cultivate marijuana in excess of the amount allowed pursuant to Section 5-20.04(a)(1) above without a license and any other approval required under this chapter.

4. Except those activities expressly allowed pursuant to a license issued under this chapter, the establishment, maintenance, or operation of any commercial marijuana business or activity, including, but not limited to, cultivation, processing, manufacture, distribution (including delivery as defined in Business and Professions Code § 26001(h)), transportation, laboratory testing, and sale, which would require a state license to be issued pursuant to MAUCRSA, is prohibited within the unincorporated area of the County of Yolo.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.05. Limitation on location to cultivate marijuana.

A. The cultivation of marijuana, in any amount or quantity, shall not be allowed in the following areas, if in existence at the time an initial license is issued:

1. Outdoors within one thousand (1,000) feet of a youth-oriented facility, a school, a school bus stop, a park, a church, a residential treatment facility or federal lands held in trust by the federal government, or that is the subject of a trust application, for a federally recognized tribal government. The setback from lands held in trust, or the subject of a trust application, for a federally recognized tribal government shall apply prospectively and not be applicable to those exempt under 5-20.04(A)(1) and (2).

a. Such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the youth-oriented facility, school, school bus stop, park, church, residential treatment facility or tribal lands are located.

2. Outdoors within seventy-five (75) feet of any occupied residence located on a separate parcel. Notwithstanding the foregoing, a proposed outdoor cultivation site that is the subject of an application for an initial license filed between October 24, 2017 and December 31, 2017 must be at least one thousand (1,000) feet from any occupied residence located on a separate parcel.

B. Licensees are not authorized to relocate the cultivation site to other areas or units within a structure or outdoors on licensed premises without first filing a change of location or modification of the license, and obtaining approval from the task force.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.06. Residency requirements.

A. Persons cultivating medical marijuana under this chapter shall meet one of the following requirements:

1. Own the premises where medical marijuana is cultivated; or
2. Have entered into a written lease with the record owner of the property and have obtained the written permission (including notarized signatures) of the record owner(s) consenting to the cultivation of marijuana on the premises.

B. Evidence of lawful possession consists of properly executed deeds of trust, leases, evidence of ownership of the licensed premises, or other written documents acceptable to the County.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.07. Cultivation of marijuana.

A. It is declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel of land within any unincorporated area of the County to cause or allow such parcel of land to be used for the cultivation of marijuana in violation of the requirements and limitations imposed by this chapter or without being in full compliance with all Yolo County Code requirements prior to cultivation.

B. The use of light assistance for the outdoor cultivation or mixed-light cultivation of

marijuana shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area.

C. All lights used for the cultivation of marijuana 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 premises upon which they are placed.

D. The cultivation of marijuana shall not utilize water that has been or is illegally diverted from any stream, creek, river, ditch or any other body or source of water.

E. All buildings where marijuana is stored shall be properly secured to prevent unauthorized entry.

F. All licensees shall prominently display the license on the premises identified on the license. The license must be displayed where it can be viewed by the public and the task force.

G. Nothing in this section shall be construed as a limitation on the County's authority to abate any violation of any applicable law, federal, state or local, which may exist from the cultivation of marijuana plants or any part thereof from any location, indoor or outdoor.

H. At the discretion of the task force, all marijuana grown in Yolo County is subject to the requirement that it be in a location fully enclosed by an aesthetically pleasing, opaque fence at least six (6) feet in height, adequately secured by a locked gate to prevent unauthorized entry. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.08. Testing.

A. Marijuana shall not be sold or distributed pursuant to a license provided for under this chapter unless a representative sample of the marijuana has been tested by a licensed testing laboratory.

B. Marijuana shall be tested to determine whether the presence of contaminants exceeds the levels established by the California Bureau of Cannabis Control. Prior to distributing or selling any marijuana that contains more than the permissible levels of contaminants, the licensee shall mitigate for the contaminant and label all marijuana with the results of the test.

C. "Contaminants" shall have the same definition as set forth in Business and Professions Code section 26100, as it now reads or as it may be amended from time to time.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.09. Public nuisance.

A violation of any provision of this chapter shall be deemed to be a public nuisance.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.10. Enforcement.

A. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

B. The County or the District Attorney, on behalf of the people of the State of California, may, in their discretion, enforce a violation of this chapter by the prosecution of a civil action and/or civil penalties, including an action for injunctive relief without first going through the administrative procedures set forth in this chapter.

C. The County or the District Attorney, on behalf of the people of the State of California, may also abate a violation of this chapter through the abatement process established by Government Code section 25845 or as set forth in this chapter.

D. Any violation of this chapter is declared to be a misdemeanor. Violations of this chapter

may, in the discretion of the District Attorney, be prosecuted as infractions or misdemeanors. Any violations of this chapter may be prosecuted criminally and/or civilly.

E. Any person that violates this chapter shall be guilty of a separate offense for each and every day, or portion thereof, on which any violation of any provision of this chapter is committed, continued or permitted by any such person. Any violation which persists for more than one day is deemed a continuing violation.

F. At any time between 8:00 a.m. and 8:00 p.m. and without notice, any officer, employee, or designated agent of the County may enter upon any private or public property for the purpose of observing compliance of the cultivation site with the provisions of this chapter, including access to and inspection of the cultivation site's records, books, accounts, financial data, and any and all data relevant to its licensed activities for the purpose of conducting an audit or examination, and the owner, occupant, or person in charge of the premises shall permit the entry and inspection.

G. Nothing in this chapter shall be construed as imposing on the enforcing officer or the County of Yolo any duty to issue any notice hereunder, or to abate any unlawful marijuana cultivation, or to take any other action with regards to any unlawful marijuana cultivation, and neither the enforcing officer nor the County of Yolo shall be held liable for failure to issue any notice hereunder, or for failure to abate any unlawful marijuana cultivation, or for failure to take any other action with regard to unlawful marijuana cultivation.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.11. Abatement procedure.

A. Notice.

1. Whenever the enforcing officer determines that a violation of this chapter exists, he or she may issue a notice of violation and order to abate ("Notice").

2. A notice issued by the enforcing officer shall be served as follows by either:

a. Delivering it personally to the owner or the occupant; or

b. By first class mail, postage pre-paid, addressed to (i) the owner at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer, and (ii) to anyone known to the enforcing officer to be in possession of the property at the street address of the property subject to the notice, if the property is capable of receiving mail.

c. By overnight mail, addressed to (i) the owner at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer, and (ii) to anyone known to the enforcing officer to be in possession of the property at the street address of the property subject to the notice, if the property is capable of receiving mail.

3. Date of service shall be deemed to be the date of personal service, or five (5) days after notice is deposited in the United States mail, or one day after notice is delivered to a location or deposited in a box maintained by an overnight delivery service.

4. In the event that, after reasonable effort, the enforcing officer is unable to serve the notice as set forth above, service shall be accomplished by posting a copy of such notice conspicuously along the frontage of the real property subject to the notice, or if the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the enforcing officer to be in possession of the property. Service shall be deemed to have been completed upon posting.

5. If the notice is properly and timely served, the failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings conducted herein and shall not affect the validity of service or the validity of any administrative penalties imposed pursuant to this

chapter upon any other person.

6. The enforcing officer may record the notice.
7. A notice shall be in writing and include the following:
 - a. If known, identify the person(s) violating this chapter, or in the case of property where the violation is occurring, identify the owner(s) as named in the records of the county assessor, and identify the occupant(s) if other than the owner(s) if known;
 - b. The approximate location of the violation;
 - c. A general description of the violation;
 - d. A statement that the unlawful marijuana cultivation must be abated within seventy-two (72) hours after the date that the notice is served;
 - e. That an administrative penalty will accrue for each day that the violation continues to exist after the expiration of the seventy-two (72) hour period;
 - f. The date of service;
 - g. A statement that the violation determination may, within five (5) calendar days after the date the notice was served, be appealed by providing the Clerk of the Board of Supervisors with a request in writing for a hearing to appeal the determination of the enforcing officer;
 - h. A statement that, unless an appeal hearing is requested within the time prescribed in the notice, the enforcing officer will abate the nuisance at the expense of those determined by the enforcing officer to have violated this chapter. It shall also state that the abatement costs and the administrative penalty may be made a special assessment added to the county assessment roll and become a lien on the real property where the violation has occurred, on the real property owned by those persons violating this chapter, or be placed on the unsecured roll.
- B. Absent timely appeal, the notice shall be deemed final and conclusive and the enforcing officer may enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may, but need not, apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary in the sole discretion of the enforcing officer.
- C. If a violation is corrected pursuant to a notice and the same conduct is committed within forty-five (45) days of correction, the violation will be deemed continuing and immediate fines will be incurred dating back to the date of original notice.
- D. Upon the occurrence of three (3) verified violations or hearing officer determinations of violation of any of the license requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two (2) year period, all licenses for marijuana cultivation held by said owner or operator shall be automatically deemed nullified, voided and revoked. Upon revocation, an application to reestablish a marijuana cultivation operation at the subject property shall not be accepted for a minimum of two (2) years.
- E. Administrative hearing.
 1. In order to hear cases brought by the enforcing officer under this chapter, the Board of Supervisors authorizes the use of a hearing officer appointed pursuant to Yolo County Code section 1-5.09.
 2. The hearing officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a violation under this chapter. This hearing shall be held no more than ten (10) calendar days after service of the notice.
 3. The hearing officer may continue the appeal hearing from time to time for good cause.
 4. The hearing officer shall consider the matter de novo and determine whether:

- a. The conditions existing on the property subject to the notice constitute a nuisance under this chapter; and
- b. To impose, modify, or disapprove, in whole or in part, the proposed penalty set forth in the notice.

5. The owner(s) and/or occupant(s) of the property shall be given an opportunity at the hearing to present and elicit testimony (including by cross-examination) and other evidence regarding whether the conditions existing on the property constitute a violation of this chapter, and/or to contest the proposed amount of administrative penalty. Failure of the owner(s) and/or occupant(s) to appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing and shall constitute a failure to exhaust administrative remedies.

6. Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

7. The standard of proof shall be by a preponderance of the evidence and the burden of proof to establish the existence of the nuisance shall be borne by the enforcing official. The burden of proof that the nuisance has been abated shall be borne by the owner(s) and/or occupant(s).

8. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter, at its sole cost, who has been certified as an interpreter by either the State of California or the County of Yolo.

9. After the hearing, the hearing officer shall render his or her written decision affirming, reversing or modifying the determination made by the enforcing officer about the alleged violation. If the violation is affirmed, the decision shall include a statement that the County is entitled to recover its abatement costs and administrative penalties. If the hearing officer determines that the violation continues to exist, the decision shall also order that the owner of the property, or persons known to be in possession of the property, abate the violation within a reasonable time, not to exceed two (2) calendar days of the date of service of the hearing officer requiring such abatement.

A copy of the decision shall be served on the parties upon whom the notice was served pursuant to Section 5-20.11(A)(2) and (3) or in the manner agreed upon by the parties. The decision shall be final and conclusive when signed by the hearing officer and served as provided by this paragraph.

Payment of abatement costs and an administrative penalty specified in the hearing officer's decision shall be made to the County within twenty (20) calendar days of the decision, unless timely appealed to the Superior Court in accordance with Government Code section 53069.45, subdivision (b).

F. Enforcement of abatement order.

1. Any owner or occupant may abate the nuisance or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. An owner or occupant abating unlawful marijuana cultivation hereunder shall notify the enforcing officer upon completion of abatement. Abatement shall not be deemed completed until the unlawful marijuana has been completely removed from the premises and destroyed and notification of

such has been provided as set forth in this section. Such abatement by any owner or occupant shall not impair the enforcing officer's ability to impose an administrative penalty accrued prior to such abatement.

2. Notwithstanding the foregoing, whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within two (2) calendar days of the date of service of the decision of the hearing officer requiring such abatement, the enforcing officer may enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may, but need not, apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary in his or her sole discretion.

3. If a violation is corrected pursuant to an abatement order, either by the owner, occupant, or the County, and the same conduct is committed within forty-five (45) days of correction, the violation will be deemed continuing and immediate fines will be incurred dating back to the date of original abatement order.

4. The owner and/or occupant of the property shall be responsible for paying all of the County's abatement costs. Each department performing abatement activities shall, upon completion of the activity, report abatement costs to the task force.

G. Liability for abatement costs and/or administrative penalties; interest.

1. No person or entity owning, leasing, occupying or having charge or possession of any premises within the unincorporated area of the County of Yolo shall cause, permit, maintain, conduct or otherwise suffer or allow a public nuisance as defined in this chapter to exist. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the unincorporated area of the County of Yolo to remove, abate, and prevent the reoccurrence of the public nuisance upon such land. Such duty of an owner shall exist regardless of whether the owner is in actual possession of his or her real property, and may include an obligation to take action to evict or otherwise remove an occupier who creates a public nuisance upon the owner's property. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

2. In any enforcement action brought pursuant to this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the nuisance to exist shall be personally liable for:

a. All costs incurred by the County, including, but not limited to, abatement costs and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter.

b. Any administrative penalty imposed pursuant to this chapter. In the event that an administrative penalty is imposed on two (2) or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the administrative penalty imposed. Payment of administrative penalties does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice. Payment of the administrative penalty does not bar the County from taking any other enforcement action regarding a violation that is not corrected.

3. Interest shall accrue on all amounts due under this chapter, from the effective date of the decision to the date paid pursuant to the laws applicable to civil money judgments.

4. At such time as the information becomes known, the enforcing officer shall make a demand for abatement costs and/or accrued administrative penalty by issuing an invoice to the owner(s)

and/or occupant(s) of the premises subject to enforcement action.

5. Whenever the amount of abatement costs incurred by the County to abate the nuisance, or the amount of any administrative penalty imposed pursuant to this chapter has not been satisfied in full within ninety (90) calendar days after service of the invoice, and/or has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, all or any part of, this obligation may constitute a lien against the real property on which the violation occurred.

6. In addition to any other remedy, the County may prosecute a civil action through the Office of the County Counsel to collect any abatement costs and/or any administrative penalty imposed pursuant to this chapter.

H. Lien hearing. At such time as abatement costs and/or administrative penalties due and owing have not timely been paid:

1. The enforcing officer shall prepare and file a written report of abatement costs and/or administrative penalties ("report"), itemized by property, with the Clerk of the Board of Supervisors stating, as applicable:

- a. For each abatement carried out, the amount of all accrued abatement costs, and/or
- b. For each accrued administrative penalty, the amount of delinquent administrative penalty.

2. Upon receipt of the report, the Clerk of the Board of Supervisors shall serve a written Notice of Hearing on Report of Abatement Costs and/or Administrative Penalties.

3. At the time and date set for the lien hearing, the Board of Supervisors shall meet to review and consider the report and any protests or objections to it.

4. At the conclusion of the lien hearing, the Board of Supervisors shall make such modifications to the report as it deems necessary and thereafter shall adopt a resolution confirming, modifying, or discharging the lien amount. As part of the resolution, the Board of Supervisors may order that all or any part of the cost to abate the nuisance pursuant to this chapter, including the abatement costs, as confirmed by the Board of Supervisors be placed upon the county tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code; provided, however, that the abatement costs, including the cost of administration, as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

5. The liens provided herein shall have no force and effect until recorded with the County Recorder. The Board of Supervisors may cause notices of abatement lien and/or notices of administrative penalty lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code. Upon recordation, the Clerk of the Board of Supervisors shall serve, in the manner set forth in Section 5-20.11(A)(2), a copy of the recorded notice(s).

6. Within thirty (30) calendar days following the Board of Supervisors' adoption of a resolution imposing a lien, the Clerk of the Board of Supervisors will file same as a judgment lien in the Yolo County Recorder's Office.

7. Once recorded, any costs or penalties not specially assessed by the Board of Supervisors pursuant to this section shall have the same force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure section 697.340, and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220, inclusive.

8. Interest shall accrue on the principal amount of any lien remaining unsatisfied at the rate set forth in Civil Code section 685.010.

9. Once the County receives full payment for outstanding principal, penalties, and costs, the Clerk of the Board of Supervisors will record a notice of satisfaction. A fee shall be paid by the owner(s) and/or occupant(s) for processing the notice of satisfaction. This notice of satisfaction will cancel the County's lien under this section.

10. The lien may be foreclosed and the real property sold by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The County shall be entitled to its attorneys' fees and costs.

I. Alternative hearing procedure. If a hearing officer has been appointed in accordance with Section 5-20.11(D)(1) of this chapter, the hearing officer is authorized to conduct the hearing required under paragraph (H) [Lien Hearing] above and shall prepare a recommended decision and resolution for the Board of Supervisors pursuant to Government Code sections 25845 and 27721. The recommended decision and resolution shall include any proposed modifications to the report. The hearing officer shall promptly submit that recommendation and the administrative record to the Clerk of the Board of Supervisors. The Board of Supervisors may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors. In the event that the Board of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of paragraph (H) [Lien Hearing] above.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.12. Administrative penalties.

A. In addition to any other remedies provided by County Code or state law, and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of violation of this chapter, any person who violates any provision of this chapter, including the owner of the premises, shall be liable and responsible for, and shall pay to the County the following penalties ("Administrative Penalties"), as determined by the enforcing officer:

1. Up to \$500 per plant, per day; or
2. Up to \$25 per square foot of garden canopy that exceeds the garden canopy allowed by license or applicable law.

B. Administrative penalties shall begin accruing three (3) days after date of service of a notice and continue for each day that the violation continues.

C. At the nuisance abatement hearing, the hearing officer shall determine the total amount of administrative penalties that have accrued as of the time of the hearing, and that amount shall be reflected in the decision and awarded to the County. If at the time of the hearing the nuisance has yet to be abated, the decision shall state that administrative penalties shall continue to accrue until the nuisance is abated.

D. In determining the amount of the administrative penalty, the hearing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require.

E. The administrative penalty may be imposed via the administrative process set forth in this chapter, as provided in Government Code Section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.13. Summary abatement.

A. Notwithstanding any other provision in this chapter, when any unlawful marijuana cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in Section 5-20.11 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 5-20.11(A) but the formal notice and hearing procedures set forth in this chapter shall not apply. The County may recover its costs for abating that nuisance in the manner set forth in this chapter.

B. Without limitation to any other unlawful marijuana cultivation constituting an immediate threat to the public health or safety under this section, marijuana cultivated in violation of Section 5-20.05(A)(1) of this chapter is deemed an immediate threat to the public health or safety and may be summarily abated.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.14. Non-exclusive remedy.

This chapter is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.15. No vested or non-conforming rights.

Neither this chapter nor any other provision of this code, or action, failure to act, statement, representation, certificate, approval, or license issued by the County or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any marijuana cultivation or other commercial marijuana activity.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.16. Nursery and processing facilities.

A. Notwithstanding any other provision of this chapter, the Board of Supervisors may approve a nursery license or a processing license. By resolution or minute order, the Board of Supervisors shall establish the maximum number of nursery licenses and processing licenses that may be approved pursuant to this section. The Board of Supervisors may increase or decrease the maximum number of such licenses from time to time in its sole discretion.

B. The Board of Supervisors may approve a nursery license or processing license upon determining as follows:

1. The applicant complied with all aspects of the competitive solicitation process undertaken by the County Administrator's Office in connection with nursery and processing facilities; and

2. Issuance of the proposed license would not result in an exceedance of the maximum number of authorized nursery or processing facilities; and

3. The proposed license complies with all provisions of this chapter relating to state and local agency approvals (excluding only the October 11, 2016 deadline for coverage under Regional Board Order No. R-5-2015-0113), location restrictions, and/or applicable testing requirements; and

4. Unless determined to be exempt, the application has been reviewed in conformance with the California Environmental Quality Act; and

5. All aspects of the proposed license are consistent with the protection of public health, safety and welfare.

6. If an applicant for a nursery license or processing license proposes a development agreement pursuant to Government Code Section 65864 et seq., all aspects of the content,

review, and approval of the development agreement shall comply with applicable provisions of state law. Provisions of Title 8 of the Yolo County Code relating to development agreements, including but not limited to Chapter 5 thereof, shall not apply to development agreements proposed in connection with nursery and processing facilities.

C. Following issuance, unless otherwise specified in an approved development agreement, all matters relating to the expiration, administration, renewal, enforcement, and revocation of licenses under this chapter shall apply to a nursery license or processing license.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.17. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof is for any reason held to be unconstitutional or otherwise invalid by any final court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

(§ 3, Ord. 1493, eff. December 7, 2017)

Sec. 5-20.18. Sunset provision.

A. Repeal. This chapter shall be automatically repealed and be of no further force or effect as of December 31, 2018 unless the Board of Supervisors submits a County tax on commercial marijuana activity to the voters on the June 2018 ballot, the voters approve the tax, and the tax is certified by the County pursuant to Section 15372 of the California Elections Code. Further, this chapter shall be automatically repealed and be of no further force if such tax is thereafter successfully challenged and repealed or otherwise invalidated.

B. Grace period. Notwithstanding a repeal pursuant to paragraph (A) above, licensees may wind-down marijuana cultivation activities conducted pursuant to a license in effect and in good standing as of July 1, 2018, with no modifications to the nature, scope or location of the license, until the date specified below:

1. Outdoor cultivation – December 31, 2018.
2. Mixed-light cultivation – December 31, 2019.
3. Indoor cultivation – December 31, 2020.
4. Cultivation pursuant to a development or cultivation agreement approved by the Board of Supervisors - by the expiration date specified in the agreement.

(§ 3, Ord. 1493, eff. December 7, 2017)

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING SECTIONS 28.21, 28.22, 28.23, 28.31, 28.32, 28.41, 28.42, 28.43, 28.51, 28.52, 28.61 AND ADDING SECTION 28.82 TO REGULATE CANNABIS CULTIVATION FOR PERSONAL USE IN UNINCORPORATED SOLANO COUNTY

The Board of Supervisors of Solano County do hereby ordain as follows:

SECTION I. Findings

- A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a Schedule I Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess cannabis, whether for medical or recreational purposes.
- B. In 1996, the voters of the State of California approved Proposition 215, the Compassionate Use Act (Health and Safety Code Section 11362.5), which was intended to provide a defense to criminal charges for the cultivation and possession of medical cannabis by a seriously ill patient, or the patient's primary caregiver, for the patient's personal use. The Compassionate Use Act further provided that nothing in it shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for non-medical purposes.
- C. SB 420, the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et seq.), was enacted in 2004 to expand and clarify the scope of Proposition 215 by creating the Medical Marijuana Identification Card program, creating reasonable regulations for cultivating, processing, transporting and administering medical cannabis, as well as limiting the amount of medical cannabis a qualified individual may possess.
- D. SB 420 defines a "primary caregiver" as an individual who is designated by a qualified patient or by a person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person.
- E. The State enacted the Medical Marijuana Regulation and Safety Act (MMRSA) on September 11, 2015 (SB 643, AB 266, and AB 243), instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis. Although MMRSA provides that patients may cultivate up to 100 square feet of cannabis for their personal use, and caregivers may cultivate up to 500 square feet of cannabis for the personal use of up to five patients, cities and counties retain local regulatory authority over medical cannabis, including personal cultivation.
- F. The Governor signed SB 837 on June 27, 2016, changing references to the term "marijuana" in MMRSA to "cannabis" and renaming MMRSA the "Medical Cannabis Regulation and Safety Act" (MCRSA).
- G. On November 8, 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was enacted by the voters to decriminalize and regulate commercial and non-commercial recreational cannabis. AUMA provides that cities and counties retain local regulatory control over commercial recreational cannabis, but personal cultivation of up to six plants must be allowed inside a private residence or in a secured structure on the grounds of a private residence.

- H. In response to MCRSA and AUMA, the Board of Supervisors, at an open public meeting, directed staff to bring forward a zoning ordinance allowing but regulating medical and recreational cannabis cultivation for personal use within the jurisdictional boundaries of Solano County.
- I. The unregulated personal cultivation of cannabis in the unincorporated area of Solano County can adversely affect the health, safety, and well-being of the County, its residents and environment. Comprehensive civil regulation of premises used for personal cannabis cultivation, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated indoor cannabis cultivation.
- J. Children are particularly vulnerable to the effects of cannabis use and the presence of cannabis plants or products is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children, such as schools, parks, and other similar locations.
- K. Outdoor cannabis cultivation, especially within the remote areas, is creating significant impacts to California's surface and groundwater resources. The State Water Resources Control Board, the San Francisco Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board and the Department of Fish and Wildlife have seen a dramatic increase in the number of cannabis cultivation operations, and corresponding increases in impacts to water supply and water quality, including the discharges into water of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste.
- L. The ability to cultivate cannabis plants for medical or recreational purposes conferred by MCRSA and AUMA does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter in coordination with MCRSA and AUMA, the County intends to minimize the risks and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated cultivation of cannabis in the unincorporated area of Solano County.
- M. Nothing herein shall be construed to allow the cultivation or use or allow any activity relating to the cultivation or use of cannabis that is otherwise illegal under State law.
- N. The Board finds and declares that the adoption of this Ordinance is necessary and desirable to ensure that environmental, public health, safety and nuisance factors related to the cultivation of cannabis for personal use are adequately addressed.

SECTION II.

The Residential Allowed Uses in the Tables of Allowed Uses in sections 28.21, 28.22, 28.23, 28.31, 28.32, 28.41, 28.42, 28.43, 28.51, 28.52, 28.61 of Article II, Chapter 28 are hereby amended as depicted in Attachment A to allow by right personal cultivation of medical and recreational cannabis in a residence or on the grounds of a residence, subject to the land use regulations at section 28.82, in all zones where a residence is a use allowed by right. Primary caregiver cultivation of up to 500 square feet is allowed with an administrative permit in in all zones where a residence is a use allowed by right, subject to the land use regulations at section 28.82.

SECTION III.

Section 28.82 is added to Article III, Chapter 28 of the Solano County Code to read as follows:

28.82 Personal Cannabis Cultivation and Primary Caregiver Cultivation Uses

A. General Requirements.

1. Personal and primary caregiver cannabis cultivation indoors in a residence or inside a permanent residential accessory structure on the grounds of a residence shall be allowed if it meets the applicable standards in this Chapter and complies with all state and county laws.
2. Personal and primary caregiver cannabis cultivation outdoors on the grounds of a residence is allowed if it meets the applicable standards in this Chapter and complies with all state and county laws.

B. Definitions

1. Cannabis: all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.
2. Canopy (plant): the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed, clones, including plants in vegetative or flowering states. The canopy shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises.
3. Cultivation Room: the premises or structure where cannabis is planted, grown, and harvested.
4. Indoor Cannabis Cultivation: cultivation of cannabis using artificial lighting inside a structure with permanent floor, walls, and roof that can be secured with a lock.
5. Marijuana: see "Cannabis", above.

6. Medical Marijuana Identification Card: document issued by the State Department of Health Services that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.
7. Outdoor Cannabis Cultivation: outdoor cultivation of cannabis exclusively outdoors, using natural light and not within a structure. Cultivation inside a hoop house, greenhouse or similar shall be deemed outdoor cultivation.
8. Personal Cannabis Cultivation: any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis in compliance with state and county law for medical or recreational use that is intended for use by a) medical cannabis patients in accordance with Health and Safety Code section 11362.777(g), as may be amended, pursuant to the Compassionate Use Act of 1996 (Proposition 215); or b) recreational cannabis users in accordance with Health & Safety Code section 11362.1(a)(3), as may be amended.
9. Primary Caregiver Cultivation or Caregiver Cultivation: any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of up to 500 square feet of medical cannabis canopy by a designated primary caregiver for up to five qualified patients or holders of Medical Marijuana Identification cards in compliance with county and state laws, including Health and Safety Code section 11362.777(g), as may be amended.
10. Primary Caregiver Administrative Permit: a permit that must be obtained by a primary caregiver prior to cultivating for qualified patients or holders of Medical Marijuana Identification Cards. This permit shall be issued pursuant to the requirements of section 28.101(Administrative Permit) and this section.
11. Primary Caregiver or Caregiver: an individual who is designated by a qualified patient or by a person with a Medical Marijuana Identification Card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as defined in Health & Safety Code section 11362.7(d), as may be amended.
12. Qualified Patient: a person who is entitled to the protections of Health and Safety Code section 11362.5, but who does not have a Medical Marijuana Identification Card, as defined in Health and Safety Code section 11362.7(f), as may be amended.
13. Recreational Cannabis: cannabis used by and intended for an individual over 21, who is neither a qualified patient nor a holder of a Medical Marijuana Identification Card, in accordance with Health & Safety Code section 11362.1(a)(3), as may be amended.

C. Personal and Caregiver Cultivation Amounts

The following amounts of personal and caregiver cannabis may be cultivated so long as the cultivation is in compliance with county and state law and regulations and the Cultivation Standards provided herein:

1. Qualified patients or individuals with a Medical Marijuana Identification Card who are over 18 may cultivate up to 100 square feet of medical cannabis canopy for their own use outside, inside a private residence, or in a permanent residential accessory structure located on the grounds of a private residence in compliance with the personal cannabis cultivation standards.
2. Individuals over 18 designated as the primary caregiver of qualified patients or individual(s) with a Medical Marijuana Identification Card may cultivate up to 500 square feet of medical cannabis outside, inside a private residence, or in a permanent residential accessory structure on the grounds of a private residence for up to five patients or card-holders in compliance with the caregiver cultivation standards and upon obtaining a Primary Caregiver Administrative Permit from the County.
3. Individuals over 21 may cultivate up to 6 cannabis plants for their own recreational use outside, inside a private residence, or in a permanent residential accessory structure located on the grounds of a private residence in compliance with the personal cannabis cultivation standards.

D. Personal Cannabis Cultivation Standards

1. Outdoor Cannabis Cultivation

- a. The outdoor cultivation must occur on a parcel with an inhabited residence. The residence must be occupied by the person for whom the personal use cannabis is intended.
- b. Outdoor personal cannabis cultivation must occur in the rear 50% of the parcel and any cannabis canopy area must be at least 10 feet from any property line or easement and must be screened from public view and or right-of way.
- c. The location of cannabis cultivation, drying, curing, and trimming activities must be in a fenced and secured area not accessible to household visitors or underage individuals

2. Indoor Cannabis Cultivation

- a. The indoor cultivation of personal use cannabis must occur within either an inhabited residence or in a permanent residential accessory structure on the grounds of an inhabited residence. The residence must be occupied by the person for whom the personal use cannabis is intended.

- b. The location of cannabis cultivation, drying, curing, and trimming activities must be in a secured room not accessible to visitors or underage individuals.
- c. Gas products (including, but not limited to CO2, butane, propane, and natural gas) or ozone generators shall not be used in any cultivation room.
- d. No open flame or burning of any substance may occur in the cultivation room.

E. Primary Caregiver Cultivation

1. Primary Caregiver Administrative Permit

- a. All individuals who intend to cultivate cannabis as a primary caregiver must obtain a yearly administrative permit from the Department of Resource Management in compliance with the requirements of this section and section 28.101. The following shall be provided, along with any other information required in section 28.101, in order to process a caregiver cultivation administrative permit:
 - i. Proof of legal ownership of the parcel or written documentation from a landlord that the applicant has permission to cultivate cannabis as a caregiver at the subject location.
 - ii. A copy of the Medical Marijuana Identification Card number for each individual the primary caregiver is cultivating for, which will be verified on the California Department of Public Health website. If the qualified patient does not have a Medical Marijuana Identification Card, then a copy of the patient's physician recommendation for medical cannabis, along with a signed statement from the qualified patient naming the applicant as his/her primary caregiver.
 - iii. Plot plan of where the cultivation will occur on the parcel, in the permanent residential accessory structure on the parcel, or in the residence on the parcel.
 - iv. Acknowledgement that County personnel will schedule a site visit with the applicant to review compliance with the primary caregiver cultivation standards, as well as any applicable requirements of the County Code.
 - v. Acknowledgement that a permit automatically expires after one year, at which time a new permit application must be made, and that no caregiver cultivation may occur prior to issuance of a permit or if the permit has expired.

- vi. Acknowledgement that a caregiver cultivation administrative permit may be denied or revoked in the event the cultivation does not occur in compliance with the requirements of this Chapter and state law.
- vii. Payment of a fee, as established by the Board of Supervisors to recover the reasonable costs of administering this administrative permit program.

2. Primary Caregiver Cultivation Standards

a. Outdoor Caregiver Cultivation

- i. Upon obtaining a yearly administrative permit, caregiver cultivation may occur outdoors on a parcel one acre or larger that has a residence inhabited by the primary caregiver or the patient for whom the medical cannabis is intended.
- ii. Caregiver cultivation must occur in the rear 50% of the parcel and any cannabis canopy area must be at least 20 feet from any property line or easement and must be screened from public view and or public right-of-way.
- iii. Drying, curing, trimming, and any other cannabis processing activities must be in a secured area not accessible to visitors or underage individuals.
- iv. Electrical lights shall not be used for outdoor cannabis cultivation.
- v. In the absence of regulations from the State of California providing guidance on which substances may be safely used on cannabis, only substances that are exempt from residue tolerance requirements as established by the U.S. EPA and either exempt from registration requirements (40 CFR § 152.25 and 3 CCR § 6147, as they may be amended) or registered for a use that is broad enough to include use on cannabis may be used on medical cannabis cultivated by primary caregivers.

b. Indoor Caregiver Cultivation

- i. Upon obtaining a yearly administrative permit, a primary caregiver may cultivate medical cannabis in an inhabited residence or in a permanent residential accessory structure on the grounds of an inhabited residence. The caregiver or the patient for whom the medical cannabis is intended must inhabit the residence.
- ii. Window coverings must be utilized in the indoor cultivation room to minimize, to the extent possible, light pollution from grow lights.

- iii. Gas products (including, but not limited to CO₂, butane, propane, and natural gas) or ozone generators shall not be used in any cultivation room.
- iv. No open flame or burning of any substance may occur in the cultivation room.
- v. The use of generators to power any cultivation equipment is prohibited, except as an emergency back-up system. The use of extension cords in the cultivation room are likewise prohibited.
- vi. In the absence of regulations from the State of California providing guidance on which substances may be safely used on cannabis, only substances that are exempt from residue tolerance requirements as established by the U.S. EPA and either exempt from registration requirements (40 CFR § 152.25 and 3 CCR § 6147, as they may be amended) or registered for a use that is broad enough to include use on cannabis may be used on medical cannabis cultivated by primary caregivers.

F. Confidentiality

To the extent permitted by law, any personal or medical information submitted with a primary caregiver administrative permit application shall be kept confidential and shall only be used for purposes of administering this section.

G. Enforcement

It is hereby declared unlawful and a public nuisance for any person to cultivate cannabis for personal or primary caregiver use except as provided for in this Chapter. The County may elect to pursue any and all available administrative remedies and civil causes of action to enforce this Section.

SECTION IV. Environmental Determination.

In accordance with the California Environmental Quality Act (CEQA), it has been determined that this project is exempt from further environmental review under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment. The Director of Resource Management is directed to file a Notice of Exemption in accordance with CEQA.

SECTION V. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion(s) of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION VI. Effective Date.

This Ordinance and all amendments to the Solano County Code as set forth within shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of Board adoption. This Ordinance shall be published once before the expiration of fifteen (15) days after adoption, with the names of the Supervisors voting for or against the same, in a newspaper of general circulation published in Solano County, California.

* * * * *

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on _____ by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____
EXCUSED: Supervisors _____

JOHN M. VASQUEZ, Chair
Solano County Board of Supervisors

ATTEST:
Birgitta E. Corsello, Clerk
Board of Supervisors

By: _____
Jeanette Neiger, Chief Deputy Clerk

MENDOCINO COUNTY

CHAPTER 10A.17 - MEDICAL CANNABIS CULTIVATION ORDINANCE

Sec. 10A.17.010 - Title, Purpose and Intent.

This Chapter is known and may be cited as the Medical Cannabis Cultivation Ordinance ("MCCO"). Chapter 20.242 of the Mendocino County Code, titled Medical Cannabis Cultivation Site, is complementary to this Chapter and together the chapters may be cited as the Medical Cannabis Cultivation Regulation ("MCCR").

It is the purpose and intent of this Chapter, together with complementary regulations found in Chapter 20.242 of the Mendocino County Zoning Code, to regulate the cultivation of cannabis intended exclusively for medical use (which may also be referred to herein as medical cannabis) within the unincorporated areas of Mendocino County in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses within those areas by balancing the needs of medical patients and their caregivers for enhanced access to medical cannabis, the needs of neighbors and communities to be protected from public safety and nuisance impacts, and the need to limit harmful environmental impacts that are sometimes associated with cannabis cultivation.

Adoption of this Chapter will protect the public health, safety and welfare of the residents of the County of Mendocino by adopting a local permitting structure that will operate in conformance with State licensing requirements for the cultivation of medical cannabis, once state licenses become available.

All cultivation of cannabis for medical use within the County of Mendocino shall comply with the provisions of the MCCR, as well as all applicable state and local laws, regardless of whether the cultivation site existed or occurred prior to the adoption of the MCCR.

Nothing in this Chapter is intended, nor shall it be construed, to:

- 1) Allow persons to engage in conduct that endangers others or causes a public nuisance,
- 2) Allow the use or diversion of cannabis for nonmedical purposes, or
- 3) Allow any activity relating to the cultivation, distribution or consumption of cannabis that is otherwise illegal under California State law.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation 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.

Nothing in this Chapter is intended, nor shall it be construed, to confer upon qualified patients and their primary caregivers the right to create or maintain a public nuisance in the course of cultivating cannabis plants for medical purposes.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis for medical use, as defined herein, from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

Nothing in this Chapter is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting the cultivation of cannabis for medical use.

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

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.020 - Definitions.

As used herein the following definitions shall apply:

"Agricultural Commissioner" or "Agricultural Commissioner's Office" or the "Department of Agriculture" means the Mendocino County Department of Agriculture or the authorized representatives thereof.

"Attorney General's Guidelines" means the document titled "Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use issued by the California State Attorney General in August 2008.

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

"Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Clone" means a portion of a stem that is cut from a parent plant and induced to form roots by chemical, mechanical, or environmental manipulation.

"Collective" means a medical marijuana collective, as defined below.

"Cultivation cycle" means each individual cycle where cannabis plants are grown to maturity from seeds, clones or nursery starts.

"Cultivation of cannabis for medical use" means the planting, growing, harvesting, drying or processing at a cultivation site of cannabis plants or any part thereof.

"Cultivation site" means one or more locations or facilities on one legal parcel subject to a single approved Permit where medical cannabis is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport, or that does all or any combination of those activities. One or more areas of cannabis cultivation may exist on the legal parcel used for that purpose.

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

"Greenhouse" means a completely enclosed structure whose structural members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place, and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

"Hoop House" means a structure with structural members are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

"Identification card" shall have the same definition as California Health and Safety Code section 11362.5 et seq., and as may be amended.

"Indoors" means within a fully enclosed and secure structure that complies with the California Building Code, as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be

broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Legal parcel" or "Parcel" means a lot of real property which was created pursuant to the Subdivision Map Act prior to January 1, 2016, or for which a certificate of compliance was recognized and recorded prior to January 1, 2016; provided, however, for real property within Industrial zoning districts, subdivisions or certificates of compliance may be recognized and recorded after January 1, 2016

"Licensee" means a person issued a state license under the MCRSA to engage in commercial cannabis activity.

"Medical marijuana collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense cannabis for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

"Mixed light" means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate cannabis for medical use. Included in this definition is the process of solely manipulating natural light to cultivate cannabis for medical use.

"Nursery producer" means a Permittee that produces vegetative immature medical cannabis plants, through cloning, seed germination, or tissue culture. A nursery producer may also apply to be a "seed producer" as defined herein.

"Outdoors" means any cultivation site that uses no artificial or supplemental lighting to cultivate cannabis for medical use. Use of supplemental lighting to maintain vegetative starts or immature plants prior to transplanting outdoors shall be considered consistent with this definition.

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

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

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

"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.

"Person with an identification card" means an individual who is a qualified patient who has applied for and obtained a valid identification card pursuant to Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Section 11362.7 et seq.).

"Plant canopy" or "square footage" or "total square footage of plant canopy" or "cultivation area" means the cumulative total of square footage occupied by growing cannabis plants as calculated by the Agricultural Commissioner's Office but does not include aisles or other open areas outside the canopy area of growing cannabis plants.

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as defined in Health and Safety Code section 11362.7(d).

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

"Publically traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.008.052 (26).

"Qualified patient" or "Patient" means a person who is entitled to the protections of section 11362.5 of the Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Section 11362.7 et seq.).

"Residential treatment facility" means a State licensed residential facility that provides treatment for drug and/or alcohol dependency.

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

"Seed producer" means a permitted nursery producer that has applied for and been approved to grow medical cannabis plants for the expressed purpose of producing specific breeds or varieties of cannabis seeds or to develop unique strains or varieties.

"Sheriff" or "Sheriff's Office" means the Sheriff's Office of the County of Mendocino or the authorized representatives thereof.

"Track and Trace" means a monitoring system providing traceability throughout the production and distribution lifecycle of permitted cannabis utilizing a unique identifier pursuant to section 11362.777 of the Health and Safety Code to assist government with enforcing regulations and preventing the illegal diversion of medical cannabis.

"Unique identifier" or "Unique ID" means individual, non-repeating identification issued to a permittee and attached to the base of each medical cannabis plant permitted at a cultivation site during the cultivation period or otherwise utilized in connection with an approved Track and Trace system.

"Wildlife exclusionary fence" means fencing that is designed to prevent the access of wild animals to the cultivation area by incorporating exclusionary measures designed to prevent the surface digging of wild animals under the upright portion of the fencing, the scaling of the fencing itself, and intrusion over the fencing. A number of methods are available to develop such fencing, including but not limited to: use of "no climb" wire fencing, addition of electrified "hot" wire(s) to the exterior of a solid fence, height extensions to a standard fence (where permissible) using hot wire or barbed wire strung between the extensions, etc.

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

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 1, 8-29-2017](#))

Sec. 10A.17.030 - Cultivation Permit Required; Exemptions.

- (A) Except as provided for by paragraph (B) of this section, cultivation of cannabis for medical use shall be allowed only following the issuance of a Permit pursuant to the provisions of this Chapter, and the review of a permit pursuant to the provisions of Chapter 20.242 of the Mendocino County Zoning Code. Chapter 20.242 authorizes the cultivation of cannabis for medical use only in specifically enumerated zoning districts, as determined by permit type, subject either to a zoning clearance, administrative permit or minor use permit.

(B) Qualified patients, persons with an identification card or primary caregivers cultivating medical cannabis are exempt from the permit requirements of paragraph (A) of this section, subject to the following requirements:

- (1) Registration with the Agricultural Commissioner on an annual basis and maintaining such registration.
- (2) Compliance with the provisions of Section 10A.17.040.
- (3) Any and all cannabis cultivated by a qualified patient or person with an identification card shall be for the sole and exclusive use by the patient only; such cannabis may not be provided, donated, sold or distributed to any other person. A maximum of one hundred (100) square feet of medical cannabis may be cultivated on a legal parcel by a qualified patient or patients.
- (4) Any and all cannabis cultivated by a primary caregiver shall be for the sole and exclusive use of up to a maximum of two (2) patients which have provided written designation to the primary caregiver to provide those services; the primary caregiver may not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Health and Safety Code section 11362.765. A maximum of one hundred (100) square feet of cultivation area of medical cannabis may be cultivated by a primary caregiver for each patient they are cultivating for. A maximum total of two hundred (200) square feet may be cultivated on a legal parcel by a primary caregiver or caregivers.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 2, 8-29-2017](#))

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

The following limitations shall apply to all cultivation of cannabis for medical use in Mendocino County, whether pursuant to a Permit issued under this Chapter or the exemption provided for in Section 10A.17.030. Cultivation of cannabis for medical use shall also be subject to all applicable restrictions of Mendocino County Code Chapter 20.242.

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

- (a) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.
 - (b) The cultivation of cannabis for medical use within an accessory structure shall be allowed subject to the development requirements of the zoning district in which it is located and to requirements of Chapter 20.164 — Accessory Use Regulations except, notwithstanding Section 20.164.010: (a) the cultivation of cannabis for medical use in an accessory structure is not permitted prior to the construction of the legal dwelling unit on the parcel, if a legal dwelling unit is required by this Chapter, and (b) cultivation of cannabis for medical use shall only be allowed on the same parcel as the dwelling unit, if required.
- (B) The distance between the listed uses in the above paragraph (A)(1) and cannabis that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 10A.17.040(H), or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest point of the exterior wall of the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs or to the nearest point of any fenced, maintained or improved area where the users of the facility are typically present during normal hours of operation, whichever is closest. The distance in paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 10A.17.040(H) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(5) shall be measured from the fence required in section 10A.17.040(H) to the boundary line of a legal parcel or access easement.

Applicants may seek a reduction in the setback described in paragraph (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242.

- (C) The outdoor, indoor or mixed light cultivation of medical cannabis shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.
- (D) The indoor or mixed-light cultivation of medical cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power.
- (E) All lights used for the indoor or mixed light cultivation of medical cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.
- (F) All activities associated with the cultivation of medical cannabis shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.
- (G) All cultivation of medical cannabis shall not utilize water that has been or is illegally diverted from any spring, wetland, stream, creek, or river. The activities associated with the cultivation of medical cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.
- (H) All medical cannabis grown in Mendocino County (excluding indoor growing) must be within a secure, wildlife exclusionary fence of at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when a qualified patient, caregiver or permittee (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.
- (I) All buildings where medical cannabis is cultivated or stored shall be properly secured to prevent unauthorized entry.

- (J) Prohibition on Tree Removal. Removal of any commercial tree species as defined by Title 14 California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to address safety or disease concerns.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 3, 8-29-2017](#))

Sec. 10A.17.050 - Medical Marijuana Collectives.

Until such time as State law provides otherwise, medical marijuana collectives operating pursuant to Health and Safety Code section 11362.775 shall obtain any Permit or other approval required by the MCCR and shall also comply with the following:

- (A) Operate on a non-profit basis as set forth in Section IV B.1. of the Attorney General's Guidelines.
- (B) Employ only persons who are at least twenty one (21) years of age and comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or contributions for unemployment insurance, state workers' compensation and liability laws.
- (C) Follow the membership and verification guidelines as set forth in Section IV B.3. of the Attorney General's Guidelines, except that wherever "should" appears it shall be replaced with "shall".
- (D) Require all prospective members to complete and sign a written membership application acknowledging and agreeing to abide by all the rules of the collective and all applicable requirements of this Section.
- (E) Prohibit sales to non-members as set forth in Section IV B.5. of the Attorney General's Guidelines. Allow reimbursements and allocations of medical cannabis as set forth in Section IV B.6. of the Attorney General's Guidelines.
- (F) Possess cannabis only in amounts consistent with the medical needs of the members of the collective; and only cultivate cannabis consistent with the limits set forth in this Ordinance.
- (G) Exterior signage shall not indicate or advertise the presence or availability of medical cannabis.

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.060 - Permit Types.

The cultivation Permits that may be applied for under this Chapter are for the production of flowering medical cannabis plants and for nursery and seed production, as defined in section 10A.17.020. A Permittee producing flowering medical cannabis plants may maintain an area scaled appropriately for their operation where they may propagate their own starts through cloning, seed germination or tissue culture. Starts produced in this manner shall be for the exclusive and personal use of the permittee only and the sale, trade, barter, etc. of such starts is prohibited. The square footage of cultivation area dedicated to propagation of starts will be included in measuring the cumulative total square footage allowed under a given Permit.

The following medical cannabis cultivation Permit types may be applied for and granted provided the applicant and the legal parcel that contains the cultivation site are determined to be in compliance with all applicable conditions of this Chapter and Mendocino County Code Chapter 20.242.

- (1) "Type C" for small outdoor cultivation using no artificial lighting not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy.

- (2) "Type C-A" for small indoor cultivation using exclusively artificial lighting not to exceed a maximum two thousand five hundred (2,500) square feet of total plant canopy within a structure or structures.
- (3) "Type C-B" for small mixed light cultivation (using a combination of natural and supplemental artificial lighting) not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle.
- (4) "Type 1" for medium outdoor cultivation using no artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy on one (1) legal parcel not less than five (5) acres in size.
- (5) "Type 1A" for medium indoor cultivation using exclusively artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy within a structure or structures.
- (6) "Type 1B" for medium mixed light cultivation (using a combination of natural and supplemental artificial lighting) of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than five (5) acres in size.
- (7) "Type 2" for large outdoor cultivation using no artificial lighting of five thousand one (5,001) to a maximum of ten thousand (10,000) square feet of total plant canopy on one (1) legal parcel not less than ten (10) acres in size.
- (8) "Type 2A" for large indoor cultivation using exclusively artificial lighting of five thousand one (5,001) to ten thousand (10,000) square feet of total plant canopy on one (1) legal parcel.
- (9) "Type 2B" for mixed light cultivation (using a combination of natural and supplemental artificial lighting) of five thousand one (5,001) to a maximum of ten thousand (10,000) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than ten (10) acres in size.
- (10) "Type 4" for the cultivation of medical cannabis nursery stock and/or seed production which shall not exceed a maximum of twenty-two thousand (22,000) square feet of total plant canopy on one (1) legal parcel, subject to the limitation of paragraph (C) below regarding seed production Nursery stock and/or seed production may only be sold to a Permittee, a qualified patient, person with an identification card or a primary caregiver. The nursery product may take the form of vegetative and non-flowering plant starts or may also be in the form of seeds, if the applicant also applies and is approved as a seed producer under this type of Permit. The legal parcel shall not be less than ten (10) acres in size, provided, however, that legal parcels in industrial zoning districts are not subject to this parcel size restriction. Additional requirements for Type 4 Permits are as follows:
 - (A) The Permittee shall produce only vegetative immature medical cannabis plants through cloning, seed termination or tissue culture starts for the planting, propagation and cultivation of medical cannabis, provided, however, with the approval of the Agricultural Commissioner, plants may be grown to maturity for the purpose of verifying genetic expression. The Agricultural Commissioner's approval shall include a square footage limitation and the plants shall be included within the Track and Trace system. No consumable medical cannabis product of any kind shall be derived from the plants being cultivated.
 - (B) Intentionally Omitted.
 - (C) A maximum of five thousand (5,000) square feet of plant canopy may be dedicated to medical cannabis seed production if the Permittee applies and is approved as a seed producer. The square footage of plant canopy dedicated to seed production shall be counted towards the maximum square footage allowed under this type of permit and shall be entered into the approved Track and Trace system.

- (D) Any on-site sales of nursery products which were produced on and occur on a parcel within the Timberland Production, Rangeland or Forestland zoning districts shall be limited to permitted cultivators only.
- (E) At the time of sale, the nursery shall generate a manifest stating the date and time, nursery name, address, permit number (and license number, when applicable), buyers name, cultivation address, and permit number (and license number, when applicable). A copy of this manifest shall be retained by the purchaser and serve as a transport document for the purchaser to proceed directly from the nursery to the intended cultivation site. If the nursery is transporting nursery products to the cultivator's location, this manifest shall be filled-out and in possession of the nursery operator, their employee or their designated transporter during transport. Both the nursery and the buyer shall retain these records for a period of two (2) years.
- (F) The permittee shall agree to abide by the Mendocino Cannabis Nursery and Seed Manual established by the Mendocino County Agricultural Commissioner.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 4, 8-29-2017](#))

Sec. 10A.17.070 - Requirements for All Permits.

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements:

- (A) Zoning Districts. Cultivation of cannabis for medical use shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided in Chapter 20.242.
- (B) Indoor Cultivation Permits. The use or conversion of habitable space (i.e., kitchen, bedrooms, bathrooms, living room or hallways) in any structure shall not be allowed for the indoor cultivation of medical cannabis.
- (C) Cultivation of cannabis for medical use is not permitted within any required parking space.
- (D) A Person may apply for and obtain a maximum of two (2) Permits listed in section 10A.17.060 at any given time. Permits shall be granted at a maximum density of one (1) Permit per legal parcel; provided, however, that a Person may obtain two (2) separate Permits of different Permit types on a single legal parcel if the total square footage of the two (2) Permits does not exceed the largest maximum square footage permitted on a parcel for the relevant zoning district. A Person who applies for and obtains a Type 4 Permit in combination with any other Permit, shall not exceed a total square footage of twenty-two thousand (22,000) square feet per legal parcel, of which not more than ten thousand (10,000) square feet may be grown to maturity and entered into the Track and Trace system for commercial use. Plants may be grown to maturity by a Type 4 Permit holder for seed production or genetic expression, where the mature flowers are destroyed, and not used for commercial purposes, shall not require a separate cultivation permit.
- (E) Dwelling Unit Requirement. Legal parcels with a cultivation site are also required to have a dwelling unit; provided, however, that this requirement shall not apply to legal parcels within the following zoning districts: Upland Residential (U-R), Agricultural (A-G), Rangeland (R-L), Forest Land (F-L), Timberland Production (TPZ), Limited Industrial (I-1), General Industrial (I-2) Pinoleville Industrial (P-I). In addition, legal conforming parcels in Rural Residential, lot size ten (10) acres (R-R:L-10), shall also be exempt from the dwelling unit requirement of this paragraph, upon issuance of an administrative permit pursuant to Chapter 20.242.
- (F) Generators. The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power. If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (1)

the permittee shall install an alternative power source that will meet at least one-half (½) of the combined power requirements by the expiration of twelve (12) months from the date of initial application for a permit pursuant to this Chapter and (2) it will be a condition of the re-issuance of a permit that the cultivator commit, in writing, to expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit by the end of the second permitted year. See also section 10A.17.090 regarding application requirements related to generators.

- (G) Permittees shall be required to enroll in and comply with all requirements of any Track and Trace system adopted and implemented by the County to track the production and distribution of cannabis for medical use. Permittees shall obtain and use unique identifies from an approved source, maintain them in a readable state, comply with all data entry requirements (including, but not limited to, harvest dates, harvest data, and distribution or other disposition information), and pay all required Track and Trace fees. Non-compliance with Track and Trace requirements shall constitute a violation of the terms of the Permit.
- (H) Fees. An annual application fee shall be paid at the time an application is submitted to the Agricultural Commissioner for initial review and prior to any annual renewal of the application. An annual Permit fee shall be paid prior to issuance of any Permit. No Permit shall issue without payment of the initial application fee or renewal fee.
 - (1) Fees prescribed by this Chapter shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the County's Master Fee Policy. Any fee prescribed by this Chapter shall be paid to the County Treasurer/Tax Collector and is non-refundable. A receipt for payment of the required fee shall be provided to the Agricultural Commissioner prior to the initial review and issuance or annual renewal of any application, permit or other program described herein where a fee has been established, including for required inspections.
- (I) Inspections by Agricultural Commissioner. All applicants shall be subject to and shall facilitate an initial on-site pre-permit inspection and all Permittees shall be subject to and facilitate at least one (1) annual on-site compliance inspection (Type 4 Permits shall be subject to two (2) on-site compliance inspections annually), with additional inspections as required by this Chapter or as deemed necessary by the Agricultural Commissioner. All inspections will be scheduled with at least twenty-four (24) hours advance notice to the applicant or Permittee, and shall be conducted during regular business hours. Cancellation of scheduled inspections without notice to the Agricultural Commissioner shall result in the Permittee being invoiced for the actual travel time and mileage incurred by the Agricultural Commissioner.
 - (1) All site inspections conducted prior to issuance of a Permit for any indoor or mixed-light cultivation Permit may include a representative from the Department of Planning and Building Services.
- (J) Intentionally Omitted.
- (K) Non-Transferability of Permits. All Permits are non-transferable to another person, except that the Permittee may transfer the Permit to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the permittee serves as a trustee, provided the trust existed on or before January 1, 2016, which transfer shall not be deemed a change in ownership for purposes of this Chapter.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 5, 8-29-2017](#))

Sec. 10A.17.080 - Permit Phases and Requirements Specific to each Phase.

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements:

- (A) Permits under the MCCO will be issued in the following three (3) phases:

- (1) Phase One: Following the effective date of the MCCO, Permits will only be issued to applicants who provide to the Agricultural Commissioner pursuant to paragraph (B)(1) of this section proof of cultivation at a cultivation site prior to January 1, 2016 ("proof of prior cultivation"), and who comply with all other applicable conditions of this Chapter and Chapter 20.242. Applications for Permits during Phase One shall only be accepted until June 30, 2018. Applicants able to provide proof of prior cultivation may apply for a Permit on a relocation site pursuant to paragraph (B)(3) of this section.
 - (2) Phase Two: Starting January 1, 2018, the Agricultural Commissioner will begin accepting applications for Type 1A and Type 2A Permits for indoor cultivation in the following zoning districts, subject to compliance with all other applicable conditions of this Chapter and Chapter 20.242: Limited Industrial (I-1), General Industrial (1-2), and Pinoleville Industrial (P-I). Proof of cultivation prior to January 1, 2016, is not required.
 - (3) Phase Three: Starting January 1, 2020, the Agricultural Commissioner will begin accepting Permit applications from any applicant in conformance with the conditions of this Chapter and Chapter 20.242. Proof of cultivation prior to January 1, 2016, is not required.
- (B) Requirements specific to Phase One Permits.
- (1) Proof of Prior Cultivation. Persons applying for a Permit during Phase One shall be required to provide to the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016, which cultivation site shall have been, or could have been, in compliance with the setback requirements of paragraph (A) of section 10A.17.040. Evidence shall include:
 - (a) Photographs of any cultivation activities that existed on the legal parcel prior to January 1, 2016, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.
 - (b) Photographs of any cultivation activities that currently exist on the legal parcel, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.
 - (c) At least one additional document demonstrating cultivation on the legal parcel prior to January 1, 2016, which evidence may be used to substitute for evidence pursuant to clause (a). The Agricultural Commissioner shall prepare a list of the types of documentation that will be accepted to meet this requirement, and may accept other similarly reliable documentary evidence showing that cannabis was cultivated for medical use prior to January 1, 2016.
 - (d) Proof of prior cultivation shall be assigned to the applicant relative to their prior cultivation site.
 - (e) Persons who participated in a permit program pursuant to the County's Chapter 9.31 in previous years may present evidence of such participation and payment of all required fees in order to provide proof of prior cultivation.
 - (2) Zoning Districts; Exceptions. Existing cultivation sites not located in zoning districts where Chapter 20.242 specifically allows cultivation may be issued a Type C, Type C-A, or Type C-B Permit, subject to the following requirements, in addition to all other applicable requirements of this Chapter:
 - (a) The zoning district is one where a dwelling unit is a principally permitted use and a dwelling unit is present.
 - (b) Sunset Provision for Residential Districts. Cultivation sites on legal parcels located in the Single-Family Residential (R-1), Two-Family Residential (R-2), Multiple-Family

Residential (R-3), Suburban Residential (S-R), Rural Community (R-C), and Rural Residential (lot sizes one (1) acre, two (2) acres and five (5) acres [legal non-conforming parcels to minimum zoning size][R-R:L-1, R-R:L-2, and R-R:L-5 {legal non-conforming to minimum zoning size}]), as well as cultivation sites in any other zoning district where a dwelling unit is a principally permitted use and the legal parcel is less than two (2) acres in size, are subject to the following requirements:

- (i) There is an occupied dwelling unit on the legal parcel with the cultivation site.
 - (ii) A Permit may be renewed and valid only until three (3) years following the effective date of the ordinance adopting this Chapter and any permits issued shall be void not later than three (3) years following said effective date.
 - (c) Cultivation sites on legal parcels located in the Rural Residential zoning district, lot size five (5) acres (conforming parcels of five (5) acres or more only)(R-R:L-5), are subject to the following additional requirement that there is an occupied dwelling unit on the legal parcel with the cultivation site.
 - (d) If a Permit is granted pursuant to this paragraph (B)(2) in these zoning districts, any future revocation or lapse in renewal of such Permit shall extinguish the ability of any person to obtain a Permit for such cultivation site.
- (3) Relocation. Persons able to show proof of prior cultivation pursuant to paragraph (B)(1) above may apply for a Permit not on the site previously cultivated (the "origin site") but on a different legal parcel (the "destination site"), subject to the following requirements:
- (a) Persons may apply to relocate their cultivation site pursuant to this paragraph (B)(3) until three (3) years after the effective date of the ordinance adopting this Chapter.
 - (b) The location and operation of the proposed cultivation site on the destination parcel complies with all requirements and development standards that apply to a new cultivation site as of January 1, 2020, pursuant to this Chapter and Chapter 20.242; provided, however:
 - (i) An existing cultivation site shall not be transferred to a legal parcel located within the Forestland or Timber Production Zone zoning districts.
 - (ii) An origin site may relocate to a destination site in the Rangeland zoning district, so long as the destination site has an existing cultivation site and no new cultivation sites would be established.
 - (c) The origin site shall be restored. The application for a Permit on a destination site shall be accompanied by a restoration plan that is consistent with the standard conditions and best management practices listed in the North Coast Regional Water Quality Control Board Order No. 2015-0023, and which shall include the following:
 - (i) Remove or repurpose buildings, greenhouses, fences, irrigation equipment, water intakes, pumps, storage tanks and other materials brought to the origin site for the purpose of cannabis cultivation;
 - (ii) Remove illegal dams, ponds or other in-stream water storage to restore material stream flows, unless such features will continue in use;
 - (iii) Remove or compost agricultural wastes;
 - (iv) Remove trash and other debris; and
 - (v) Revegetate cleared areas with native plants typical of nearby natural areas, including groundcover, shrubs and trees.
 - (d) Unless the destination site is within the Agricultural zoning district, the application shall include either a water availability analysis pursuant to paragraph (C)(1)(b) below or a will serve letter pursuant to paragraph (C)(1)(c) below.

- (e) Prior to the issuance of the Permit to cultivate cannabis for medical use at the destination parcel, the applicant shall provide the Agricultural Commissioner with an agreement, on a form approved by the Agricultural Commissioner and County Counsel, providing that the applicant releases any right to continue or resume cultivation of medical cannabis on the origin parcel.
 - (f) If a person is granted a Permit for a destination site, any claims of proof of prior cultivation on the origin site shall be effectively transferred to the destination site, and the ability to claim proof of prior cultivation at the origin site shall be extinguished.
 - (g) There shall be a two (2) acre minimum parcel size for all Type C, Type C-A or Type C-B Permits.
- (4) Multiple Permits may be applied for and granted on a single legal parcel that is owned by multiple persons residing in separate habitable dwelling units on that legal parcel. Each owner may individually apply for a Permit to cultivate cannabis for medical use, provided that each owner must provide proof of prior cultivation pursuant to paragraph (B)(1) above. Each owner shall be limited to a Type C, Type C-A or Type C-B Permit, unless that owner was previously enrolled in a permit program pursuant to the County's Chapter 9.31, or unless the cumulative total square footage of plant canopy applied for by all owners does not exceed the maximum square footage permitted on a parcel for the relevant zoning district.
- (5) Persons eligible to apply for a Permit during Phase One may apply for a different and/or larger Permit type in subsequent years, subject to all requirements of this Chapter.
- (C) Requirements specific to Phase Three Permits.
- (1) Watershed Assessment. All Permit applications, except for legal parcels located in the Agricultural (A-G) zoning district, shall demonstrate there is adequate water to serve the cultivation site.
- (a) If surface water (or groundwater influenced by surface water) will be used, applicants may demonstrate that there is adequate water by providing (i) a watershed assessment that establishes there is sufficient watershed supply to serve the proposed cultivation site and existing uses within the watershed, and (ii) a water right exists to serve the cultivation site. A watershed assessment shall consist of an established "In Stream Flow Policy" as prepared by the State Water Resources Control Board Division of Water Rights or an equivalent document approved by that agency.
 - (b) If groundwater not influenced by surface water will be used, the applicant may demonstrate that there is adequate water by providing a water availability analysis which will address the adequacy of the proposed water supply, the direct effects on adjacent and surrounding water users, and possible cumulative adverse impacts of the development on the water supply within the watershed and show there is a sustained yield to support the proposed level of use.
 - (c) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that there is adequate water by providing a will serve letter from the proposed provider.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 6, 8-29-2017](#))

Sec. 10A.17.090 - Cultivation Permit Application and Zoning Review.

Any person or entity that wishes to engage in the cultivation of cannabis for medical use shall submit an application for a Permit to the Agricultural Commissioner's Office. Applications for Permits shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the

Agricultural Commissioner's Office. The application shall be reviewed by the Agricultural Commissioner's office and other agencies as described herein and renewed annually. Any referral to or consultation with an agency other than the County of Mendocino shall state that a response must be returned within thirty (30) days of the date of the referral.

The Agricultural Commissioner's Office shall refer each application to the Department of Planning and Building Services for a determination pursuant to Chapter 20.242 as to what type of clearance or permit is required. No application for a Permit shall be approved without clearance or final permit approval as required by Chapter 20.242.

The Agricultural Commissioner's Office shall consult with the Mendocino County Air Quality Management District (MCAQMD) prior to the issuance of the Permit to determine if a permit or other approval by the MCAQMD is necessary. The applicant shall obtain all approvals and permits required by the MCAQMD pursuant to state and federal laws, MCAQMD regulations, adopted air quality plans, MCAQMD policies and other applicable statutes prior to the issuance of a Permit. The required consultation with MCAQMD may be eliminated if MCAQMD authorizes County to determine when a permit or other approval by the District is necessary based on an objective set of criteria developed by MCAQMD for such purposes.

Applicants for a Permit shall provide the following information on, or as an attachment to, the application:

- (A) The name, business and residential address, and phone number(s) of the applicant.
- (B) If the applicant is not the record title owner of the legal parcel, written consent from the owner allowing the cultivation of medical cannabis on their property by the applicant with original signature of the record title owner.
- (C) Written evidence that each person applying for the permit and any other person who will be engaged in the cultivation of cannabis for medical use is at least twenty-one (21) years of age.
- (D) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:
 - (1) Easements (access and utility and all roadways public and private);
 - (2) Streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;
 - (3) The location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis for medical use and showing that all setbacks required by section 10A.17.040 are being met;
 - (4) All areas of ground disturbance or surface water disturbance associated with cultivation of medical cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;
 - (5) All structures, which shall be clearly labeled; and
 - (6) All septic systems, leach fields and water wells.
- (E) Applications submitted for any Permit during Phase One shall include proof of prior cultivation pursuant to section 10A.17.080
- (F) A cultivation and operations plan which includes elements that meet or exceed the minimum legal standards for the following: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, the approximate date(s) of all cannabis cultivation activities that have been conducted on the legal

parcel prior to the effective date of this ordinance, and schedule of activities during each month of the growing and harvesting season.

If a generator is proposed to support any aspect of the cultivation site or related operations, the cultivation and operations plan shall identify any containment structure and dimensions necessary to contain any leak or spill that may develop or occur as a result of relying on any generator for backup power generation. The plan shall also include a maintenance plan for the generator, detailing how spent oil, used oil filters, expired batteries and other hazardous wastes generated from the operation of the generator will be handled, including fuel storage and delivery systems.

- (G) Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.
- (H) An irrigation plan and projected water usage for the proposed cultivation activities, as well as a description of legal water source, if not covered by item (G).
- (I) Copy of Notice of Intent and Monitoring Self-Certification and any other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in and compliance with (or proof of exemption from) 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.
- (J) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, show proof they have notified the California Department of Fish and Wildlife (CDFW) pursuant to section 1602 of the Fish and Game Code and provide a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- (K) If the source of water is a well, a copy of the County well permit, if available; applicant shall provide documentation showing the approximate date of installation.
- (L) A unique identifying number from a State of California Driver's License or Identification Card for each person applying for the permit and any other person who will be engaged in cultivation of cannabis for medical use.
- (M) Evidence that the applicant or any individual engaged in the management of, or employed by, the cultivator has not been convicted of a violent felony as defined in Penal Code section 667.5(c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- (N) A statement describing the proposed security measures for the facility that shall be sufficient to ensure the safety of members and employees and protect the premises from theft.
- (O) If the applicant is organized as a non-profit corporation, the applicant shall set forth the name of the corporation exactly as shown in its Articles of Incorporation, and the names and residence addresses of each of the officers and/or directors. If the applicant is organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. Copies of the Articles of Incorporation or a statement listing the members of the partnership shall be attached to the application.
- (P) Intentionally Omitted.
- (Q) A copy of a Board of Equalization Seller's Permit if applicant intends to sell directly to qualified patients or primary caregivers.
- (R) Written consent for an onsite pre-permit inspection of the legal parcel pursuant to section 10A.17.070 by County officials or other appropriate agency representatives at a prearranged date and time in consultation with the applicant prior to the approval of a permit to cultivate medical cannabis, and at least once annually thereafter.

- (S) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes. Also, provide documentation that addresses the handling of waste discharge from the grow location of items including, but not limited to nutrients, spent growing media, un-used containers and other associated hardware, supplies, and garbage.
- (T) No application shall be approved which identifies or would require the removal of tree species listed in paragraph (I) of Section 10A.17.040 after May 4, 2017, for the purpose of developing a cultivation site. For applications where trees were removed prior to May 4, 2017, applicants shall provide evidence to the Department of Agriculture that no trees were unlawfully removed to develop a cultivation site; such evidence may include, but is not limited to, a less-than-three-acre conversion exemption or timberland conversion permit issued by the California Department of Forestry and Fire Protection ("CalFire") and trees were removed prior to May 4, 2017. If during review of an application County staff determine that trees were unlawfully removed to develop a cultivation site, the County shall deny the application. Notwithstanding the foregoing, for cultivation sites created prior to May 4, 2017, through prior unauthorized conversion of timberland as defined in Public Resources Code section 4526, a Permit may be approved if the applicant provides evidence that environmental impacts of the tree removal have been mitigated to the extent feasible or otherwise resolved, as required by the resource protection agencies including CalFire, the NCRWQCB and the CDFW. County staff shall defer to the resource protection agencies referenced herein for determinations as to the unlawful removal of trees or unauthorized conversion of timberland or the sufficiency of any required remediation to address the environmental impacts. Nothing herein shall be construed to limit or condition in any way the regulatory or enforcement authority of the resource agencies listed herein.
- (U) If applicable, clearance from CalFire related to compliance with the requirements of Public Resources Code Section 4290 and any implementing regulations.
- (V) For activities that involve construction and other work in Waters of the United States, that are not otherwise exempt or excluded, including streams and wetlands, the application shall include a copy of a federal Clean Water Act (CWA) Section 404 permit obtained from the Army Corps of Engineers and a CWA Section 401 water quality certification from the NCRWQCB.
- (W) Projects that disturb one (1) or more acres of soil or projects that disturb less than one (1) acre but that are part of a larger common plan of development that in total disturbs one (1) or more acres, are required to obtain coverage under the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.
- (X) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the site is listed on the "Cortese List", the application shall include sufficient information to demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.
- (Y) If water or sewer services to the cultivation site will be provided by a community provider, a will-serve letter from the provider indicating adequate capacity to serve the cultivation site.

The Agricultural Commissioner is authorized to require in the permit application any other information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 7, 8-29-2017](#))

Sec. 10A.17.100 - Permit Review and Issuance.

- (A) The Agricultural Commissioner's Office shall issue a Permit pursuant to this Chapter only:
- (1) Following the referral to and clearance or permit approval pursuant to Chapter 20.242; and
 - (2) Following review by qualified County staff to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species on the parcel with a proposed Permit location. Upon consultation, CDFW may recommend approval of the proposed development, ask to conduct a site inspection or request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a Permit. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against and when during Phases 1 and 2 a formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the development of the policy referred to in the previous sentence, consultation with CDFW shall not be required but be performed pursuant to the policy. During Phase 3 all applications will be referred to CDFW; and
 - (3) After the Agricultural Commissioner's Office, and other County and State agency staff, as appropriate, have reviewed the application and performed a pre-permit site inspection to confirm adherence to the requirements established in the MCCO; and
 - (4) Following receipt of evidence of payment of the required permit fee, pursuant to Section 10A.17.070.
- (B) As a condition of approval for any cultivation permit, 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 owners or other third parties due to the commercial cultivation 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 of cannabis for medical use.
- (C) Discovery of any violation(s) of the Mendocino County Code during the Permit application process will be treated in a similar manner to violation(s) that are self-reported during an active amnesty program. That is, the discovered violation(s) will still need to be corrected, but any investigative and/or penalty fees associated with an after-the-fact County permit will be waived.
- (1) If the discovered violation(s) are directly related to a Phase One Permit application, and/or if it is discovered that the Permit would authorize a particular use for which a separate County permit is required but has not yet been obtained, the applicant shall be required to agree in writing to a compliance plan prior to issuance of the Permit. Failure by applicant to agree in writing to a required compliance plan shall be grounds for denial of the Permit.
 - (a) The compliance plan will identify the violation(s) and may suggest corresponding remedial action(s) that may be taken to correct the violation(s), will identify the required permit(s) based on the uses identified in the Permit application, and will include timelines for achieving code compliance for all violations and/or for submitting completed applications for each required permit.
 - (b) In no event will more time be given to correct all violations, and/or submit a complete application for each required permit, than one (1) year after the date of issuance of the Permit.
 - (c) After the applicant has signed the compliance plan, as presented by the Agricultural Department in coordination with the appropriate County department(s), the Agricultural Department may issue a Permit restricted as indicated in the compliance plan, so long as no other barrier(s) to such issuance exists. Failure to abide by the compliance plan shall be grounds for Permit termination, or non-renewal, pursuant to section 10A.17.140.

- (d) The compliance plan will be the primary mechanism to obtain code compliance from Permit applicants with respect to violations directly related to Phase One Permits applications. However, nothing in this section is intended to limit the use of any other applicable code enforcement provision or the ability of any County department with the appropriate authority from enforcing the Mendocino County Code.
- (2) If the discovered violation(s) are not directly related to a Phase One Permit application, such violation(s) will not affect the processing of the Phase One Permit application. However, any County department with appropriate enforcement authority with respect to such violation(s) may make use of any applicable code enforcement mechanism as if the violation(s) were discovered as a result of self-reporting during an active amnesty program.
- (D) Track & Trace unique identifiers will only be made available following the issuance of a Permit by the Agricultural Commissioner's Office. The Permittee will have seventy-two (72) hours to register with the County track & Trace system. Upon Track & Trace system registration, the system will provide unique identifiers. The unique identifiers shall be affixed to the individual plants within seventy-two (72) hours of being provided to the Permittee.
- (E) Permits shall remain valid for one (1) year from the date of issuance, subject to any enforcement action or other action that may result in earlier suspension or revocation.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 8, 8-29-2017](#))

Sec. 10A.17.110 - Performance Standards.

All Cultivation Permits issued by the Agricultural Commissioner's Office shall obligate the permittee to comply with the following performance standards:

- (A) Cultivation shall be located as shown on the approved application site plan and in compliance with all provisions of this Chapter and any permit issued pursuant to Chapter 20.242.
- (B) Once they become available, possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MCRSA, and regulations promulgated thereunder covering a similar cannabis activity.
- (C) A unique identifier for compliance with the County's Track & Trace system shall be affixed to each permitted medical cannabis plant cultivated in Mendocino County. It shall be the responsibility of the permittee to ensure complete and accurate entry of information into the Track & Trace system within seventy-two (72) hours of the reportable activity occurring.
- (D) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, including obtaining and complying with any applicable and approved permit, license or registration or the annual filing of a statement of diversion and use of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101.
- (E) If a generator is used to support any aspect of the permitted cultivation operations, (excluding the conditions set forth in section 10A.17.070(F)), it shall be as a secondary or back-up power source. The use of the generator is only allowed when the primary alternative power source is unable to provide its normal output and generate sufficient power to meet the needs of the cultivation operation and the legal dwelling unit. The Owner's Manual and/or Operation Manual (or operational fact sheet) providing the operational characteristics and maintenance schedule for the generator shall be on-site and available for review.

If a generator is being used pursuant to the conditions set forth in section 10A.17.070(F), the Permit shall be conditioned on the conducting of an analysis of the noise levels produced by the generator at full operational speed, performed by an accredited acoustical engineer, and such analysis shall show compliance with Mendocino County General Plan Policies DE100, 101 and 103. All generators shall be, at a minimum, equipped with the manufacturer's specified muffler; if compliance with Policies DE100, 101

and 103 requires additional measures, the generator shall be equipped with such measures, which may include a hospital-grade muffler and/or a structure to enclose the generator designed for sound suppression.

Any electrical wiring associated with the generator shall be of sufficient capacity and installed in such a way as to provide for the minimum installation and safety standards for the electrical service provided by that generator.

- (F) Establish and maintain enrollment in Tier 1, 2 or 3 with the North Coast Regional Water Quality Control Board (NCRWQB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.
- (G) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023 is required, the site shall comply with the standard conditions set forth in that Order, as well as the applicable "Best Management Practices for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects" as presented in Appendix B of the Water Board Order.
- (H) Maintain the applicable "Defensible Space" protocols and distances, as established by the California Department of Forestry and Fire Protection around structures located on the legal parcel.
- (I) Comply with the terms of any applicable Streambed Alteration Permit obtained from the California Department of Fish & Wildlife.
- (J) All weighing and measuring devices shall be type approved by the California Department of Food and Agriculture, Division of Measurement Standards and issued either a California Type Evaluation Program (CTEP) Certificate of Approval (COA) or a National Type Evaluation Program (NTEP) Certificate of Conformance (CC) before commercial use. All weighing and measuring devices shall be registered and inspected by the Agricultural Commissioner in accordance with Mendocino County Code Chapter 10A.16.
- (K) Consent to at least one (1) annual on-site compliance inspection by the Agricultural Commissioner's office, as more specifically provided for in section 10A.17.070.
- (L) Any guard dog(s) or guard animals kept at the cultivation site shall be restrained to a fixed point or contained in some manner to facilitate the inspections performed by any entity necessitating inspect as required by this Chapter. Animals considered family pets will be kept on a leash at all times and under control when any entity is performing a required inspection.
- (M) All buildings, including greenhouses, used for the cultivation of medical cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.
- (N) Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner's Office. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans, to exclude large animals that may be attracted by odors, and to ensure that they will not enter or be released into surface or ground waters.
- (O) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.
- (P) Comply with any conditions that may apply as a result of an administrative or conditional use permit approved pursuant to Chapter 20.242, or with a written remediation plan required by Section 10A.17.080(B)(3).

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 9, 8-29-2017](#))

Sec. 10A.17.120 - Certifications.

Permittees who demonstrate compliance with all of the requirements set forth in this Chapter and the additional guidelines to be established by the Agricultural Commissioner in a Mendocino Sustainably Farmed Operations Manual will be issued a "Certified Mendocino County Grown" certificate through the Agricultural Commissioner's Office. Cannabis labeled with this certification shall be produced following production standards used in the production of crops labeled as organic according to United States Department of Agriculture, National Organic Program. This certification shall be valid for one (1) year from the date of issuance and shall be renewed annually thereafter following annual inspection(s) of the registered cultivation site and continued compliance with all requirements. An annual fee shall be paid for participation in this certification program, pursuant to the provisions set forth in Section 10A.17.070(H)(1).

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.130 - Reserved.

Editor's note— [Ord. No. 4392, § 10, adopted August 29, 2017](#) , repealed § 10A.17.130, in its entirety. Former § 10A.17.130 pertained to "Third Party Inspectors," and was derived from [Ord. No. 4381, § 1, adopted April 4, 2017](#) .

Sec. 10A.17.140 - Violations and penalties respecting permitted cultivation.

- (A) If at any time the Department of Agriculture determines that a law related to a Permit is being violated, the Department of Agriculture may issue a notice of violation or an administrative citation(s) pursuant to Mendocino County Code Chapter 1.08 and notify other interested public agencies or County departments of such violations. After the violation(s) have been cured, the correction must be confirmed. Failure by the Permittee to schedule a re-inspection with the Department of Agriculture to confirm the correction will result in an unscheduled compliance inspection.
- (B) Inspection Fees. After initial substantiation of a violation related to any law related to a Permit, inspection fees shall be charged to the Permittee for any additional compliance inspection undertaken by the Department of Agriculture, beyond those regularly scheduled and enumerated in section 10A.17.070, for the purpose of determining if the cited violations have been cured. All additional inspection fees shall consist of the hourly rate for an inspector from the Department of Agriculture for the travel and inspection time plus the standard IRS mileage rate for travel distance. The fees shall be paid pursuant to the provisions set forth in section 10A.17.070(H)(1).
- (C) Notice to Terminate Permit. The Department of Agriculture may issue a Notice to Terminate Permit by personal service or by first class mail, postage prepaid and return receipt requested. If by mail, service will be deemed complete five (5) days after mailing. A Notice of Terminate Permit may be issued after:
 - (1) The Department of Agriculture discovers that the Permittee would not have otherwise qualified to obtain a permit but for false or misleading information contained in either the Permittee's application or subsequent submittals to the County pertaining to the Permittee's Permit application; or
 - (2) The Permittee has engaged in activity related to the Permit that creates an immediate threat to health or safety, or has allowed such activity to be carried out by one (1) or more of its employees or agents; or

- (3) The Permittee has engaged in activity that is specified in a separate provision of the Mendocino County Code as grounds for Permit termination, including but not limited to section 10A.17.100; or
- (4) The Department of Agriculture determines that the Permittee is in violation of one (1) or more laws related to the Permit, and that the Permittee is unlikely or unable to correct such violation(s). The Department of Agriculture may make a determination that a Permittee is unlikely to correct a violation if:
 - (a) The Permittee has failed to correct any single code violation within ten (10) days of the initial notice, or such other time period otherwise specified in the pertinent notice of violation, administrative citation, or related writing; or
 - (b) The Permittee has received three (3) or more notices of violation or administrative citations, on separate occasions, within a twelve (12) month period, which may or may not pertain to the same violation, recurring violation, or different violation; or
 - (c) The extent of, severity of, or conditions surrounding one (1) or more violations make it clear that the Permittee was not acting in good faith to abide by the laws related to the Permit.
- (D) Termination of Permit. After issuance of a Notice to Terminate Permit, the Permit shall be terminated upon a final determination after the hearing on the order to show cause affirming the determination to terminate the permit in question pursuant to section 10A.17.150. The County shall notify any state license authority, as defined by the MCRSA, whenever a Permit has been terminated.
- (E) Nothing in this section is intended to limit the applicability of any other code enforcement provision or the ability of any other agency or department from enforcing the Mendocino County Code.

([Ord. No. 4381, § 1, 4-4-2017](#) ; [Ord. No. 4392, § 11, 8-29-2017](#))

Editor's note— [Ord. No. 4392, § 11, adopted August 29, 2017](#), amended § 10A.17.140, in its entirety. Previously § 10A.17.140 was titled "Cultivation Site Inspections: Violations and Penalties."

Sec. 10A.17.150 - Administrative Order to Show Cause.

- (A) Issuance of Order to Show Cause. At the same time as issuance of a Notice to Terminate Permit, or as soon as practicable thereafter, the Agricultural Commissioner's Office shall also issue a notice and order to show cause why the permit in question should not be terminated. Issuance may be completed by personal delivery, or by first class mail, postage prepaid and return receipt requested. The notice and order to show cause shall:
 - (1) Identify the permittee and the permit in question;
 - (2) Contain a statement describing the violations that caused the issuance of a Notice to Terminate Permit;
 - (3) Contain a description of the actions required to abate the violations;
 - (4) Notify the permittee that unless the owner or occupant abates the conditions, a hearing will be held to determine whether there is any good cause why the permit in question should not be terminated, which will be heard before a Hearing Officer, the Agricultural Commissioner, or the Commissioner's authorized designee within the Agricultural Commissioner's Office who did not also issue the Notice to Terminate Permit;
 - (5) Specify the date, time and location of the hearing to be held, or state that the date, time and location of the hearing will be specified in a subsequent notice, which will not be set for a date earlier than 5

days after personal delivery, or 10 days after mailing, of the notice specifying the date, time and location of the hearing;

- (6) State that the permittee will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether there is any good cause why the permit in question should not be terminated;
- (7) Contain a statement that, unless the permittee abates the conditions causing the violations, or shows good cause why the conditions should not be abated, the permit in question shall be terminated.
- (B) Use of Hearing Officers. Whenever the Agricultural Commissioner issues an order to show cause why a permit issued pursuant to this Chapter should not be terminated, the Agricultural Commissioner is authorized to use the services of a Hearing Officer pursuant to Mendocino County Code Chapter 2.76. Such use of a Hearing Officer shall be made whenever a Hearing Officer is available, and the Agricultural Commissioner shall coordinate with County Counsel to appoint and maintain at least one Hearing Officer to the extent possible. In the event that a Hearing Officer is unavailable, the duty to hear the appeal shall remain with the Agricultural Commissioner.
- (C) Hearing Procedure.
 - (1) The Hearing Officer shall hold an administrative hearing to determine whether the violations identified in the Notice to Terminate Permit created a sufficient basis on which to terminate the permit in question. The hearing shall be held at the date, time and location indicated on the notice to permittee, which shall be no less than five (5) calendar days after personal service, or no less than ten (10) calendar days after mailing of all the notices required by this section.
 - (2) Parties may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
 - (3) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Mendocino.
 - (4) The person who issued the Notice to Terminate Permit shall first describe the acts or conditions constituting the violations identifying in the Notice to Terminate Permit and present evidence to demonstrate how the identified violations form a basis for terminating the permit in question. Thereafter, the permittee shall be given an opportunity at the hearing to present and elicit testimony and other evidence to show good cause why the permit should not be terminated.
 - (5) In the event that the permittee does not appear and present evidence at the hearing, the Hearing Officer may base his or her decision solely upon the evidence submitted by the person issuing the Notice to Terminate Permit.
- (D) Determination after Hearing. The Hearing Officer shall consider the evidence presented by the parties, and shall issue a written decision and order that either affirms or reverses the determination to terminate the permit in question. Such decision shall be delivered to the permittee by personal delivery or by first class mail, postage prepaid and return receipt requested. The decision shall become effective when signed by the Hearing Officer and on the day the decision is personally delivered to the permittee, or five (5) days after the decision is mailed to the permittee.

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.160 - Enforcement and Declaration of Public Nuisance.

- (A) All of the remedies provided for in this Chapter, or elsewhere in the law, shall be cumulative and not exclusive for violations of this Chapter. Violations of this Chapter include, but are not limited to failure to obtain and maintain in good standing any permit required by this Chapter, compliance with any required element on which a permit was issued pursuant to this Chapter, or any violation of the provisions of this Chapter where a permit is not required, such as a violation of section 10A.17.040 when a person is otherwise exempt pursuant to section 10A.17.030. The County may enforce this Chapter by using any applicable state or county law, including, but not limited to Mendocino County Code Chapters 1.08, 8.75 or 8.76, and may use either the administrative process to achieve code compliance or available civil remedies, such as injunctive relief.
- (B) The cultivation of cannabis with a valid permit pursuant to this Chapter shall not be declared a public nuisance under County Code Chapter 8.75 or 8.76. Any cultivation of cannabis in the absence of a permit issued pursuant to this Chapter is a public nuisance and may be abated by the County as a public nuisance in accordance with the provisions of either County Code Chapter 8.75 or 8.76 unless such cultivation either: is exempt pursuant to County Code section 10A.17.030; is otherwise in compliance with State Proposition 64 and all regulations adopted by the County related to cannabis for adult use pursuant to Proposition 64; or is being cultivated by an entity whose application for a permit pursuant to this Chapter has been submitted, accepted and is currently pending, and who has also submitted a sworn affidavit to the Agricultural Commissioner on a form prepared by the Agricultural Commissioner that includes, but is not limited to, an affirmation that they have met the requirements to obtain a permit or are actively in the process of fulfilling the requirements.

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.170 - Attorneys' Fees.

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this Section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Section exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.180 - Confidential nature of medical cannabis information — legislative intent.

To the fullest extent authorized by State and Federal law, all use information received by and/or generated by the operation of this Chapter or prior iterations of cannabis cultivation ordinances of the County has always been intended to be treated and held by the County as confidential information. Notwithstanding the foregoing, information provided to the county may be released as required by law, judicial order, or subpoena, and could be used in criminal prosecution.

([Ord. No. 4381, § 1, 4-4-2017](#))

Sec. 10A.17.190 - Severability.

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

([Ord. No. 4381, § 1, 4-4-2017](#))

Chapter 7.134

PERSONAL CULTIVATION OF CANNABIS FOR NONCOMMERCIAL RECREATIONAL USE

Sections:

- 7.134.010 Purpose.
- 7.134.030 Definitions.
- 7.134.050 Prohibited activities.
- 7.134.070 Restrictions related to personal cultivation of cannabis for noncommercial recreational uses.
- 7.134.090 Enforcement.

7.134.010 Purpose.

The purpose of this chapter is to provide, pursuant to California Health and Safety Code Section 11362.2, rules to regulate the noncommercial cultivation of the six living cannabis plants authorized to be grown under California Health and Safety Code Section 11362.1.

It is also the purpose of this chapter to mitigate the negative impacts and secondary effects associated with the cultivation of cannabis including, but not limited to, demands placed on law enforcement and administrative resources; neighborhood disruption; the exposure of children to cannabis; drug sales to minors and adults; robberies; burglaries; assaults; and other violent crimes.

This chapter is not intended to conflict with State law. It is the intention of the County that this chapter be interpreted to be compatible with State enactments and in furtherance of the public purposes that those enactments encompass. [Ord. 5242 § 1, 2017].

7.134.030 Definitions.

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (A) “Cannabis” means all parts of the plant *Cannabis sativa* L., as defined under the California Adult Use of Marijuana Act at Health and Safety Code Section 11018, as may be amended.
- (B) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.
- (C) “Cultivation” or “cultivate” means the planting, growing, developing, propagating, harvesting, drying, and processing of cannabis plants or any part thereof.
- (D) “Enclosure” means an area fully surrounded by a fence, wall, or other solid barrier that prevents access to cannabis. Enclosures must be equipped with a locked gate or door.
- (E) “Private residence” means a house, apartment unit, mobile home, or other similar dwelling. [Ord. 5242 § 1, 2017].

7.134.050 Prohibited activities.

It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for his or her personal, noncommercial, recreational use in violation of the provisions of this chapter. [Ord. 5242 § 1, 2017].

7.134.070 Restrictions related to personal cultivation of cannabis for noncommercial recreational uses.

The following restrictions apply to any person who cultivates cannabis for his or her personal, noncommercial, recreational use:

- (A) No more than six cannabis plants may be cultivated at any one time at a single private residence.
- (B) Cultivation may only take place inside a structure or enclosure existing on the grounds of a private residence (structure, for purposes of this chapter, includes an ancillary structure such as a prefabricated shed or greenhouse).

(C) Any structure or enclosure used for cannabis cultivation must be kept locked and secured to prevent unauthorized entry.

(D) The private residence containing the cannabis plants must be occupied by, and the cannabis plants must be cultivated by, a person 21 years of age or older.

(E) Cannabis plants must not be visible with normal unaided vision from a public place. [Ord. 5242 § 1, 2017].

7.134.090 Enforcement.

(A) The County may pursue one or more of those alternatives set forth in SCCC 19.01.030(A) to enforce this chapter. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this chapter is committed, continued or permitted.

(B) Notwithstanding the limitations on civil penalties set forth in SCCC 1.12.070(A)(2), civil penalties for violation of this chapter shall be assessed as follows:

(1) A fine not exceeding \$500.00 for a first violation.

(2) A fine not exceeding \$1,000 for a second violation of the same County Code provision within one year.

(3) A fine not exceeding \$2,500 for each additional violation of the same County Code provision within one year.

(C) Whenever the County determines that a public nuisance as defined in this chapter exists at any location within the unincorporated area of Santa Cruz County, the County is authorized to issue a Notice of Violation pursuant to SCCC 1.12.070.

(D) Nothing in this chapter shall be construed as imposing on the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis activity, nor to take any other action with regard to any unlawful cannabis activity, and the County shall not be held liable for failure to issue an order to abate any unlawful cannabis activity, nor for failure to abate any unlawful cannabis activity, nor for failure to take any other action with regard to any unlawful cannabis activity. [Ord. 5242 § 1, 2017].

MONTEREY COUNTY

Chapter 7.95 - PERSONAL MEDICAL CANNABIS PERMIT

Sections:

7.95.010 - Findings and purpose.

- A. Pursuant to Article XI, Section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.
- B. The Federal Controlled Substances Act (21 U.S.C. § 801 et seq.) prohibits, except for certain research purposes, the possession, distribution, and manufacture of cannabis, and there is no medical necessity exception to prosecution and conviction under the Controlled Substances Act.
- C. The Federal Government has issued guidelines for states and local governments that have enacted laws authorizing cannabis related conduct, requiring them to implement strong and effective regulatory and enforcement systems that will address the threat those state or local laws could pose to public safety, public health, and other law enforcement interests.
- D. California statutes specify that, except as authorized by law, the possession, cultivation, possession for sale, transportation, administration, or furnishing of cannabis are State criminal violations. State law further punishes one who maintains a place for the purpose of unlawfully selling, using or furnishing, or who knowingly makes available a place for storing, manufacturing, or distributing cannabis.
- E. On November 5, 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5, "CUA"), an initiative that exempted certain patients and their primary caregivers from criminal liability under State law for the possession and cultivation of cannabis for medical purposes. One of the stated purposes of the CUA is to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use has been recommended by a physician.
- F. On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (Health and Safety Code Sections 11362.7—11362.83, "MMP"), became law to clarify the scope of the CUA and to facilitate the prompt identification of qualified patients and their primary caregivers.
- G. The California Supreme Court in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013), held that neither the CUA nor the MMP expressly or impliedly preempt the authority of California counties or cities, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude medical cannabis cultivation.
- H. On October 9, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (Business and Professions Code Section 19300 et seq.; the "MMRSA"). The MMRSA creates a State licensing program for commercial medical cannabis activities. The MMRSA allows counties and cities to maintain local regulatory authority over medical cannabis. Recognizing that limited cultivation by a qualified patient and primary caregiver is exempt from State licensing requirements under the MMRSA, the County desires to establish minimal reasonable standards for personal medical cannabis cultivation in order to protect the public health, safety and welfare and prevent nuisance.
- I. It is the purpose and intent of this Chapter to accommodate the needs of the seriously ill and protect their health and safety and allow for cultivation of medical cannabis for personal use within reasonable limits, while protecting the health, safety, and general welfare of the residents and businesses within the unincorporated areas of Monterey County and comply with State law and Federal guidelines.

- J. It is the intent of the County of Monterey to have a strong and effective regulatory and enforcement system with regard to medical cannabis that addresses threats to public safety, health and other law enforcement interests through robust controls and procedures that are effective in practice.
- K. To address the added financial burden to the County that may result from this Chapter, including costs associated with processing applications under this Chapter as well as additional law enforcement and other costs, this Chapter requires voter passage of a County tax on commercial medical cannabis activities prior to this Chapter becoming operative.
- L. This Chapter is intended to establish an effective regulatory and enforcement system consistent with the guidance issued by the United States Department of Justice.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.020 - Applicability.

This Chapter applies in the unincorporated area of the County of Monterey.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.030 - Definitions.

The following words and phrases shall have the following meanings when used in this Chapter:

- A. "Applicant" means a person eighteen (18) years of age or older who has submitted an application for a permit or renewal of a permit issued pursuant to this Chapter.
- B. "Application" means that form provided by the Appropriate Authority in accordance with this Chapter for the purpose of seeking a personal medical cannabis permit.
- C. "Appropriate Authority" means the Director of Planning or his or her designee.
- D. "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" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.
- E. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.
- F. "County" means the County of Monterey.
- G. "Hearing Officer" means a person appointed by the County to conduct an administrative hearing under this Chapter. The appointed Hearing Officer shall be an impartial decision-maker selected by a process that eliminates risk of bias, such as:
 - 1. An administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code;
 - 2. A person selected randomly from a panel of attorneys willing to serve as a Hearing Officer; or
 - 3. An independent contractor assigned by an organization or entity which provides Hearing Officers.

- H. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- I. "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 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code. For the purposes of this Chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- J. "Permittee" means a person issued a County permit under this Chapter.
- K. "Personal medical cannabis cultivation" means cultivation by a qualified patient who cultivates one hundred (100) square feet total canopy area or less of cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person. "Personal medical cannabis cultivation" also includes cultivation by a primary caregiver who cultivates one hundred (100) square feet total canopy area or less of cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with Section 11362.765(c) of the California Health and Safety Code, as it may be amended.
- L. "Personal medical cannabis permit" means a permit issued by the County to a qualified patient or primary caregiver for personal medical cannabis cultivation under this Chapter.
- M. "Premises" means the building in which personal medical cannabis cultivation takes place, in addition, any accessory structures and appurtenant areas.
- N. "Primary caregiver" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- O. "Property owner" means the individual or entity who is the record owner of the subject property where personal medical cannabis cultivation is located or is proposed to be located.
- P. "Qualified patient" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.
- Q. "State" means the State of California.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.040 - Personal medical cannabis permit required.

- A. Any qualified patient or primary caregiver who intends to engage in personal medical cannabis cultivation shall obtain a personal medical cannabis permit for the fixed location in which personal medical cannabis cultivation is to occur.
- B. It is unlawful for any person to conduct, engage in or allow to be conducted or engaged in personal medical cannabis cultivation in the unincorporated portion of Monterey County, unless the County has issued such person a permit under this Chapter and the permit is in effect.
- C. If a qualified patient or primary caregiver proposes to cultivate more than one hundred (100) square feet total canopy area of cannabis, he or she must obtain all necessary land use entitlements as required by Titles 20 and 21 of the Monterey County Code and a commercial cannabis permit pursuant to Chapter 7.90 of the Monterey County Code.
- D. Notwithstanding the above, the permits issued under this Chapter do not provide any protection or immunity for any person from State or Federal laws, or from prosecution pursuant to any applicable State or Federal laws.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.050 - Personal medical cannabis permit application process.

- A. Each application for the establishment of a personal medical cannabis permit shall be filed with the Resource Management Agency/Planning on the form and in the manner prescribed by the Director of Planning. The Appropriate Authority shall be responsible for administering the application process as set forth in this Chapter.
- B. In all cases, the application shall contain, without limitation, the following documentation:
 - 1. The applicant's name, mailing address, and if available, e-mail address.
 - 2. A twenty-four (24) hour or nighttime contact phone number.
 - 3. Written proof that the applicant is eighteen (18) years of age or older (i.e., California driver's license, California identification card, or certified birth certificate).
 - 4. The physical address and assessor's parcel number(s) (APN or APNs) of the property upon which the proposed cultivation will be located.
 - 5. Proof of ownership of premises, or if the premises on which the cultivation is to occur is rented or leased, written permission from the property owner containing the owner's notarized signature that authorizes the tenant or lessee to cultivate medical cannabis at the site.
 - 6. A site map showing the location of the cultivation.
 - 7. Evidence demonstrating that the cultivation will take place in an area one hundred (100) square feet total canopy area or less, and will not exceed ten (10) feet in height.
 - 8. Such other information as the Director of Planning may require.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.060 - Review of application for personal medical cannabis permit.

- A. The Appropriate Authority shall review the application for a personal medical cannabis permit and associated documents and shall require, if he or she deems necessary, additional information to complete the application. The Appropriate Authority may deem the application incomplete if it does not contain all required information and documents.
- B. An application shall not be deemed complete unless all required application fees have been paid.
- C. Each personal medical cannabis permit shall be granted for a one-year period and shall expire one year after the date of its issuance.
- D. Upon review of a complete application for a personal medical cannabis permit, the Appropriate Authority shall grant the application if:
 - 1. The proposed personal medical cannabis cultivation will comply with all laws, regulations and ordinances of the State and the Monterey County Code; and
 - 2. The proposed personal medical cannabis cultivation will comply with all provisions of this Chapter, including but not limited to the personal medical cannabis cultivation requirements set forth in Section 7.95.100.
- E. Upon review of a complete application for a personal medical cannabis permit, the Appropriate Authority shall deny any application that meets any of the following criteria:
 - 1. The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application;
 - 2. The applicant is less than eighteen (18) years of age;

3. The applicant proposes to cultivate more than one hundred (100) square feet total canopy area of cannabis;
 4. The proposed personal medical cannabis cultivation does not comply with all laws, regulations and ordinances of the State and the Monterey County Code; or
 5. The proposed personal medical cannabis cultivation does not comply with the requirements of this Chapter.
- F. If the Appropriate Authority intends to deny the application, the Appropriate Authority shall specify in writing the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to Section 7.95.120 of this Chapter within ten (10) calendar days of the date of service of the Appropriate Authority's decision. Service of the decision shall be provided in accordance with the requirements set forth in Section 7.95.130 of this Chapter.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.070 - Personal medical cannabis permit renewal process and grounds for denial.

- A. Each personal medical cannabis permit shall expire one year after the date of its issuance. Any permit may be renewed by the Appropriate Authority upon the submission of a renewal application by the permittee and upon determination by the Appropriate Authority that the application meets the standards for grant of application pursuant to Section 7.95.060.
- B. Any application for renewal shall be filed with the Resource Management Agency/Planning at least thirty (30) calendar days before expiration of the personal medical cannabis permit. If any of the documentation and information supplied by the applicant pursuant to Section 7.95.050 has changed since the grant of the permit, applicant shall submit updated information and documentation with the application for renewal and shall provide such other information as the Director of Planning may require.
- C. Any application for renewal shall be denied if:
 1. The application is filed fewer than thirty (30) calendar days before its expiration;
 2. The permittee fails to conform to the criteria set forth in this Chapter; or
 3. The personal medical cannabis permit is suspended or revoked at the time of the application.
- D. If a renewal application is denied, an applicant may file a new application pursuant to this Chapter.
- E. An application shall not be deemed complete unless all required application fees have been paid.
- F. If the Appropriate Authority intends to deny the renewal, the Appropriate Authority shall specify in writing the reasons for the denial of the renewal, and notify the permittee that the decision shall become final unless the permittee seeks an appeal pursuant to Section 7.95.120 of this Chapter within ten (10) calendar days of the date of service of the Appropriate Authority's decision. Service of the decision shall be provided in accordance with the requirements set forth in Section 7.95.130 of this Chapter.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.080 - Fees.

The filing of an application for a personal medical cannabis permit, for renewal of a personal medical cannabis permit, and appeals shall be accompanied by payment of such fees as the Board of Supervisors may establish to recover the cost of administration of this Chapter. Permit applicants and permittees are responsible for the costs of inspections, investigations, and any other fee-associated activity established

pursuant to this Chapter. Fees, fines, and costs specified by this Chapter shall be as established by the Board of Supervisors and as set forth in the Monterey County Fee Resolution, pursuant to Chapter 1.40 of the Monterey County Code, as amended from time to time.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.090 - Personal medical cannabis permit nontransferable.

- A. A personal medical cannabis permit does not create any interest of value and is not transferable.
- B. A personal medical cannabis permit is issued to and covers only the qualified patient or primary caregiver identified on the permit with respect to the premises identified on the permit. The personal medical cannabis permit does not run with the land.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.100 - Personal medical cannabis cultivation requirements.

Throughout the term of the personal medical cannabis permit, each permittee shall not violate this Chapter and shall comply with all of the following:

- A. The personal medical cannabis cultivation shall not exceed one hundred (100) square feet of total canopy area and shall not exceed ten (10) feet in height.
- B. No cannabis odors shall be detectable from off site, and the use of odor prevention devices, such as a ventilation system with a carbon filter, shall be utilized if necessary.
- C. No medical cannabis or medical cannabis products shall be visible from the exterior of the premises.
- D. Unless fully enclosed within an accessory structure, all personal medical cannabis cultivation shall be contained within a fully enclosed locked fence area and shall maintain the following minimum setbacks from property lines:
 - 1. Front: fifty (50) feet or behind the main structure;
 - 2. Side: thirty (30) feet; and
 - 3. Rear: thirty (30) feet.
- E. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.
- F. In no case shall any hazardous, flammable, or explosive substances be used in conjunction with medical cannabis on the premises.
- G. Grow lights in a residence or a detached accessory building shall not exceed twelve hundred (1200) watts total.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.110 - Suspension or revocation of personal medical cannabis permit.

Any of the following shall be grounds for suspension or revocation of a personal medical cannabis permit, based on substantial evidence and following notice and public hearing pursuant to Section 7.95.120 of this Chapter.

- A. The personal medical cannabis permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant;

- B. Any act or omission by a permittee in contravention of the provisions of this Chapter;
- C. Any act or omission by a permittee in contravention of State law or the Monterey County Code;
- D. Conduct of the permittee in a manner that constitutes a nuisance, where the permittee has failed to comply with reasonable conditions to abate the nuisance; or
- E. Failure to comply with one or more of the terms and conditions of the personal medical cannabis permit.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.120 - Procedure for suspension or revocation.

- A. If the Appropriate Authority determines that grounds for suspension or revocation of the personal medical cannabis permit exists pursuant to Section 7.95.110 of this Chapter, the Appropriate Authority shall issue a written notice of intention to revoke or suspend the permit, as the case may be. The notice of intention shall be served on the permittee, as reported on the permit. The notice of intention shall be served in accordance with the requirements set forth in Section 7.95.130 of this Chapter. The notice of intention shall describe the property, the intention to revoke or suspend the permit, the grounds for revocation or suspension, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The notice of intention shall notify the permittee of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the permit should not be suspended or revoked, and shall notify them of the ten (10) day deadline to submit a written request for a hearing.
- B. The permittee shall have ten (10) calendar days from the service of the notice of intention to submit a written request for a hearing before the Hearing Officer. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the personal medical cannabis permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Appropriate Authority may suspend or revoke the permit in accordance with the notice of intention.
- C. Upon receipt of a timely written request for a hearing, the Appropriate Authority shall set a date for a hearing to be held within sixty (60) days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served in accordance with the requirements set forth in Section 7.95.130 of this Chapter.
- D. Hearing by the Hearing Officer:
 - 1. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the personal medical cannabis permit.
 - 2. In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.
 - 3. All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross examine opposing witnesses on any matter relevant to the issues.
 - 4. The Hearing Officer may postpone the hearing date upon good cause shown, continue the hearing during the course of the hearing, and make such other procedural orders and rulings as he or she deems appropriate during the course of the hearing.

5. Within thirty (30) calendar days after the close of the hearing, the Hearing Officer shall issue a written decision, including a statement of the basis for the decision. The Hearing Officer's written decision shall constitute the final administrative decision of the County.
- E. In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the County's total costs of enforcement, including reasonable attorney fees.
- F. If neither permittee nor their authorized representatives appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.130 - Service requirements.

Wherever this Chapter requires the County to serve notice to an applicant or permittee, such notice shall be given by the Appropriate Authority, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice may be posted at the physical address of the premises on the date of the mailing of notice.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.140 - Enforcement and penalties.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- A. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.
- B. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for penalty pursuant to Chapters 1.20 and 1.22 of the Monterey County Code, and any other action authorized by law.
- C. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Monterey County Code or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Chapter shall be subject to injunctive relief, disgorgement of any payment to the County of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The County may also pursue any and all remedies and actions available and applicable under State and local laws for any violations committed by the commercial medical cannabis activity or persons related thereto, or associated with, the commercial medical cannabis activity.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.150 - Operative date.

This Chapter shall become operative only if the ordinance amending Title 21 relating to medical cannabis uses becomes operative and only if the Board of Supervisors submits a County tax on commercial medical cannabis activity to the voters, the voters approve the tax, and the tax is certified by

the County pursuant to Section 15372 of the California Elections Code. If this Chapter becomes operative, the operative date shall be the date the County elections official submits the certified statement of the results of the vote on the tax to the Board of Supervisors.

(Ord. No. 5273, § 1, 7-19-2016)

7.95.160 - Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(Ord. No. 5273, § 1, 7-19-2016)

SHASTA COUNTY

17.88.320 - Medical marijuana cultivation.

A. Legislative Findings. The board of supervisors finds as follows:

1. In 1996, the voters of the state of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, and entitled "The Compassionate Use Act of 1996" ("the Compassionate Use Act" or CUA).
2. The intent of the Compassionate Use Act was to enable seriously ill Californians to obtain marijuana for appropriate medical purposes and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes. The Compassionate Use Act further provides that "nothing in this Section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting the Compassionate Use Act expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."
3. On January 1, 2004, Senate Bill 420, codified as Health and Safety Code Section 11362.7 et seq. and entitled "The Medical Marijuana Program (MMP) Act," and as subsequently amended, became effective to clarify the scope of the Compassionate Use Act, and to provide qualified patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes.
4. The county of Shasta has adopted a zoning plan identified as Title 17 (Zoning) of the Shasta County Code.
5. The county's unique geographic and climate conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the county, provide conditions that are favorable to marijuana cultivation. Cultivation has occurred in the rural and also in more residential and town center areas of unincorporated portions of the county. Marijuana growers can achieve a high per-plant yield with high economic value because of the county's favorable growing conditions.
6. Shasta County and other public entities have reported adverse impacts from medical marijuana cultivation, including, but not limited to, disagreeable odors, negative effects on the environment, unsanitary conditions, negative effects on physical, mental and community health, violation of building codes, increased risk of burglary and other property crimes, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.
7. The creation of persistent strong odors as marijuana plants mature and flower is offensive to many people, results in complaints of respiratory problems, and creates an attractive nuisance, alerting persons to the location of valuable marijuana plants and creating an increased risk of crime.
8. Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children, including schools, parks, churches, and other similar locations. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that children will be involved or endangered.
9. The indoor cultivation of substantial amounts of marijuana within a residence presents potential health and safety risks to those living in the residence, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes targeting the residence.
10. Comprehensive restriction of premises used for marijuana cultivation is proper and necessary to address the risks and adverse impacts as stated herein, that are especially significant if the

amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.

11. The county of Shasta may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
12. Preemption of the county of Shasta's authority will not be implied when the legislative scheme of the law, including the Medical Marijuana Program Act and the Compassionate Use Act, either permits or recognizes local regulation.
13. The Medical Marijuana Program Act, at Health and Safety Code Section 11362.768, authorizes the county of Shasta to adopt an ordinance restricting the location and establishment of medical marijuana cooperatives, collectives, dispensaries, operators, establishments, and providers.
14. The Medical Marijuana Program Act, at Health and Safety Code Section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with the Medical Marijuana Program Act, and additionally authorizes the county of Shasta to adopt an ordinance regulating the location, operation, and establishment of medical marijuana cooperatives and collectives.
15. In *Browne v. County of Tehama*, 213 Cal. App. 4th 704 (2013), the California Court of Appeal stated that "Neither the Compassionate Use Act nor the Medical Marijuana Program grants... anyone... an unfettered right to cultivate marijuana for medical purposes. Accordingly, the regulation of cultivation of medical marijuana does not conflict with either statute." Similarly, in *City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.*, 56 Cal. 4th 729 (2013), the California Supreme Court concurred that "Nothing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land..."
16. On December 13, 2011, the board of supervisors adopted Ordinance No. SCC 2011-05 to regulate medical marijuana cultivation. The provisions of Ordinance No. SCC 2011-05 have proven to be inadequate to control the negative impacts of marijuana cultivation. Since the adoption of Ordinance No. SCC 2011-05, there has been increased marijuana cultivation throughout the unincorporated areas of the county in violation of the provisions of that ordinance. In addition, the graduated areas for cultivation, based on parcel size, have proven cumbersome and problematic to administer and enforce. For example, the original limits were based on square feet of total cultivation area, leading to uncertainty in measurement when the plants were not cultivated in a defined contiguous area, and the need for multiple inspections throughout the grow season. The revised provisions contained in this section are intended to address the aforementioned concerns, and simplify the regulations to be more readily understood by those affected, to expedite the code enforcement process and to more effectively control the adverse impacts associated with marijuana cultivation as stated herein, while considering the desires of qualified patients and their primary caregivers.

B. Intent.

1. The Shasta County board of supervisors hereby intends to restrict the cultivation of medical marijuana, including without limitation, restrictions as to location of cultivation, the number of marijuana plants, and the use of screening and security structures, to more effectively control the adverse impacts associated with marijuana cultivation as stated herein, while considering the desires of qualified patients and their primary caregivers, in furtherance of the public necessity, health, safety, convenience, and general welfare. Nothing in this section shall be construed to authorize any use, possession, cultivation, or distribution of marijuana for non-medical purposes or that is in violation of state or federal law.
2. This section is established to restrict medical marijuana cultivation in a manner that mitigates potential impacts on properties and persons, and that is in conformance with the provisions of California Health and Safety Code Sections 11362.5 through 11362.83.
3. All references to statutes and ordinances in this section refer to statutes and ordinances as they currently exist and as they may be amended.

- C. Definitions. Except where the context otherwise requires, the following definitions shall govern the construction of this section:
1. "Child care center" means any licensed child care center, "day care center" as defined in Shasta County Code Section 17.02.165, "large day care home" as defined in Shasta County Code Section 17.02.170, "small day care home" as defined in Shasta County Code Section 17.02.175, childcare home, or any preschool.
 2. "Church" is defined in Shasta County Code Section 17.02.145.
 3. "Cultivation" or "cultivate" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
 4. "Enforcing officer" is defined in Shasta County Code Section 17.94.060(C)(1).
 5. "Greenhouse" as used in this section means an accessory structure to a residence located on the same premises, legally established with all required permits approved, constructed primarily of translucent glass or glass-like material (or other similar material approved by the director of resource management), completely enclosed with one or more secure locking doors as the only means of ingress and egress, where plants are grown.
 6. "Fence" is defined in Shasta County Code Section 17.02.222 and is further defined as a wall or a barrier connected by boards, masonry, rails, panels, or other materials approved by the director of resource management for the purpose of enclosing space or separating parcels of real property. For purposes of this section, the term "fence" does not include retaining walls, tarpaulins, bamboo, or similar screening or scrap material.
 7. "Indoor" or "indoors" means within a fully enclosed and secure accessory structure to a residence located on the same premises that complies with Title 16 (Buildings and Construction) of the Shasta County Code with all required permits approved, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
 8. "Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with section 66410) of Title 7 of the Government Code) or is otherwise established by law.
 9. "Marijuana" shall have the same meaning as that set forth in Health and Safety Code Section 11018. Marijuana, medical marijuana, and the cultivation thereof, as defined in this section and in Section 17.88.310 of the Shasta County Code, shall not be considered agriculture or agricultural processing as defined in Sections 17.02.055 and 17.02.057, respectively, of the Shasta County Code.
 10. "Marijuana plant" means any mature or immature marijuana plant, or any marijuana seedling.
 11. "Medical marijuana" shall mean marijuana recommended by a licensed physician, in accordance with California Health and Safety Code Section 11362.5 through Section 11362.83, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program Act.
 12. "Outdoor" or "outdoors" means any location that is not "indoor" or is not in a "greenhouse" as defined herein.
 13. "Parcel" means a "legal parcel" as defined herein.
 14. "Premises" means a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single premises for purposes of this section.

15. "Primary caregiver" shall have the same definition as Health and Safety Code Section 11362.7(d).
16. "Public library" means a public facility in which literary, musical, artistic, or reference materials are kept for reading, reference or lending.
17. "Public park" means land that is publicly owned or controlled for the purpose of providing recreation and/or open space for public use.
18. "Qualified patient" shall have the same definition as Health and Safety Code Section 11362.7(c) and (f).
19. "Residence" shall mean a fully enclosed structure, legally established with all required permits approved, used for human occupancy, and shall have the same meaning as "domicile."
20. "Residential accessory building" is defined in Shasta County Code Section 17.02.125, and as used herein includes the terms "residential accessory structure" and "accessory structure."
21. "School" is defined at Shasta County Code Section 17.02.500.
22. "School bus stop" means any location designated in accordance with California Code of Regulations, Title 13, Section 1238, to receive school buses, as defined in California Vehicle Code Section 233, or school pupil activity buses, as defined in Vehicle Code Section 546.
23. "School evacuation site" means any location designated by formal action of the governing body, superintendent, or principal of any school as a location to which juveniles are to be evacuated, or are to assemble, in the event of an emergency or other incident at the school.
24. "Sheriff" or "sheriff's office" means the Shasta County sheriff's office or the authorized representatives thereof.
25. "Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a child care center.

D. Nuisance Declared; Cultivation Restrictions.

1. The cultivation of marijuana plants, indoors, outdoors, in a greenhouse, or combined, on any parcel or premises, not in conformance with the provisions of this section is hereby declared to be a public nuisance that may be abated in accordance with Chapter 8.28 (Nuisances) of the Shasta County Code, Shasta County Code Section 17.94.060, and by any other means available by law. The provisions of Chapter 17.90 (Nonconforming Uses) of the Shasta County Code shall not apply to the cultivation of marijuana plants hereby declared to be a public nuisance.
2. Cultivation within a residence or any other structure used or intended for human occupancy is prohibited.
3. Outdoor cultivation on any premises is prohibited.
4. Cultivation may only occur on a premises within a detached residential accessory structure affixed to the real property (a) that meets the definition of "indoor" or "greenhouse," (b) that is located on the same premises as the residence of a qualified patient(s) or a primary caregiver(s), and (c) that complies with all of the provisions of the Shasta County Code relating to accessory structures, including, but not limited to, the county's general development standards in Chapter 17.84, and Section 17.88.140 of the Shasta County Code. Where the provisions of this section are more restrictive than Shasta County Code Chapter 17.84 and Section 17.88.140, the provisions of this section shall govern.
5. Accessory structures used for cultivation shall meet all of the following criteria:

- a. The accessory structure shall be legally constructed with all applicable permits, including, but not limited to, grading, structural, electrical, mechanical, and plumbing approved by the applicable authorities prior to any cultivation activity. The conversion of any existing accessory structure, or portion thereof, for cultivation shall be subject to these same permit requirements and must be inspected for compliance by the applicable authorities prior to any cultivation.
 - b. The accessory structure shall not be located in the front yard setback area of the parcel and shall maintain a minimum building setback of twelve feet from all side and rear property lines. Distance shall be measured in a straight line from either:
 - i. The nearest exterior wall of the indoor cultivation structure; or
 - ii. The nearest fence surrounding the greenhouse cultivation structure, as applicable, to the nearest property line.
 - c. The maximum electrical panel for the cultivation area shall be fifty amps. Except for temporary use in case of emergency power loss, the use of generators to supply power to any system or activity associated with cultivation is prohibited.
 - d. Light systems associated with indoor cultivation shall not exceed two thousand watts total and shall be shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure. Lighting systems shall conform to all applicable building and electrical codes. Grow light systems within a greenhouse are prohibited.
 - e. The accessory structure shall be equipped with odor control filtration and ventilation system(s) adequate to prevent an odor, humidity, or mold problem on the premises or adjacent parcels.
 - f. The accessory structure shall have locking doors and a working security system which shall consist of a standard audible residential alarm of at least ninety dBA, but not exceeding one hundred ten dBA.
 - g. If the accessory structure is a greenhouse, for security and visual screening purposes, it shall additionally be surrounded by a secure solid minimum six-foot high fence located within ten feet of the greenhouse, and equipped with a lockable gate.
6. Cultivation of more than twelve marijuana plants on any premises is prohibited. The foregoing limitation shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this limitation shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.
7. Cultivation of marijuana is prohibited on any premises located within the following areas:
 - a. Within one thousand feet of a school, school bus stop, school evacuation site, child care center, public park, public library, church, or youth-oriented facility. Distance shall be measured in a straight line from either:
 - i. The nearest exterior wall of the indoor cultivation structure; or
 - ii. The nearest fence surrounding the greenhouse cultivation structure or from the nearest exterior wall of the greenhouse cultivation structure, whichever is closer, as applicable, to the nearest property line of the nearest school, child care center, public park, public library, church, or youth-oriented facility.
 - b. In any location where the marijuana would be visible from any public right-of-way or publicly traveled private roads at any stage of their growth.
8. All persons and entities engaging in the cultivation of marijuana shall:
 - a. Have a legal water source on the premises;

- b. Not engage in unlawful or unpermitted surface drawing of water for such cultivation; and
 - c. Not permit illegal discharges of water from the premises.
9. Marijuana cultivation shall not adversely affect the environment or the public health, safety, or general welfare by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of plant or animal poisons, or hazardous materials, processes, products or wastes, or by any other way.
 10. No person owning, leasing, occupying, or having charge or possession of any parcel or premises within the county shall cause, allow, suffer, or permit such premises to be used for the cultivation of marijuana in violation of the Shasta County Code.
 11. Unless the person(s) cultivating marijuana on any parcel is/are the sole legal owner(s) of the parcel, such person(s) shall obtain a notarized letter(s) from all of the legal owner(s) indicating that all of the legal owner(s):
 - a. Has/have reviewed and understand(s) Section 17.88.320 of the Shasta County Code related to medical marijuana cultivation; and
 - b. Consent(s) to the cultivation of marijuana on the parcel.

A copy of the notarized letter(s) must be kept available to immediately present to enforcing officers and law enforcement officers upon request. The department may prescribe forms for such letters. Cultivation in the absence of such notarized written consent is prohibited.

12. The name and contact information of each qualified patient and primary caregiver residing on the premises where medical marijuana cultivation is located shall be immediately available at the premises and provided to enforcing officers and law enforcement officers upon request.
 13. The name and contact information of the physician or physicians recommending medical marijuana to the qualified patient or state-issued medical marijuana identification card (as defined in Health and Safety Code Section 113627.(g)) shall be immediately available on the premises and provided to enforcing officers and law enforcement officers upon request.
 14. Cultivation shall be subject to the following permitting requirements:
 - a. Cultivation shall only occur after the issuance of a zoning permit, in accordance with Shasta County Code section 17.92.060. Cultivation without a valid zoning permit is prohibited.
 - b. The term of any zoning permit issued for cultivation pursuant to this subsection shall be two (2) years. The permit may be renewed for two (2) additional two-year terms (for a total of six (6) years) provided that for each renewal an application shall be made prior to expiration of the permit, which shall include:
 - i. Payment of a renewal and/or special inspection fee as set by the board of supervisors; and
 - ii. Verification that the cultivation is in full compliance with all applicable standards and regulations. The cultivation shall cease at the end of the term or any applicable renewal term, but a new zoning permit may be granted in accordance with Shasta County Code section 17.92.060 and this section.
- E. Enforcement. Marijuana cultivation shall be subject to Chapter 8.28 (Nuisances) of the Shasta County Code and Shasta County Code Chapter 17.94. Furthermore, in the performance of his or her functions, the enforcing officer is authorized to request and inspect any evidence that serves to confirm compliance with any or all provisions of this Section 17.88.320 of the Shasta County Code, including, but not limited to, the following:
1. Original documents or other evidence establishing the qualified patient or primary caregiver status of the person or persons involved in the cultivation;
 2. The legal residence of the person or persons involved in the cultivation;

3. Verification of the place of residence for all qualified patients for whom a primary caregiver is cultivating, pursuant to Health and Safety Code Section 11362.7(d).
- F. Non-Exclusive Remedy. This section is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances or to enforce the provisions of the Shasta County Code.
- G. Liability. The provisions of this section shall not be construed to protect qualified patients, primary caregivers, or any other person from prosecution pursuant to any laws that may prohibit the cultivation, sale, distribution, possession, and/or use of controlled substances, or to authorize conduct that is unlawful under state or federal law. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this section and this section is not intended to, and does not authorize conduct or acts that violate federal law and does not protect any of the above-described persons from arrest or prosecution under those federal laws. Qualified patients, primary caregivers, and any other persons assume any and all risk and any and all liability that may arise or result under state and federal laws from the cultivation, sale, possession, distribution, and/or use of medical marijuana. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the county of Shasta or Shasta County itself shall not become a personal liability of such person or a liability of the county.
- H. Misdemeanor Penalty. Any person or entity violating any provision of this Section 17.88.320 of the Shasta County Code shall be guilty of a misdemeanor.

(Ord. No. 2011-05, § I, 12-13-2011; Ord. No. 2014-02, § I, 1-28-2014; Ord. No. [2016-01](#), § II, 2-2-2016)

SANTA CLARA COUNTY

Division B26.5 - MEDICINAL MARIJUANA CULTIVATION^[1]

Footnotes:

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Editor's note— [Ord. No. NS-300.913](#), adopted Sept. 26, 2017, amended Div. B26.5 in its entirety to read as herein set out. Former Div. B26.5 pertained to the same subject matter, consisted of §§ B26.5-1—B26.5-12, and derived from [Ord. No. NS-300.884](#), adopted Oct. 20, 2015.

Cross reference— Medicinal Marijuana Dispensaries, Div. B26.

Sec. B26.5-1. - Findings and purpose.

- A. In 1996, the voters of the State of California approved Proposition 215, which was codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996."
- B. The intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to legally obtain and use it under limited, specified circumstances without fear of criminal prosecution. Proposition 215 further provides that "[n]othing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes." (Health & Safety Code, § 11362.5, subd. (b)(2).) The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow 'unlimited quantities of marijuana to be grown anywhere.'" (Rebuttal to Argument Against Proposition 215, available at: <http://vigarchive.sos.ca.gov/1996/general/pamphlet/215norbt.htm>.)
- C. In 2003, the California Legislature passed Senate Bill 420 (codified as California Health and Safety Code § 11362.7 et seq.) to clarify the scope of Proposition 215 and expressly allow cities and counties to adopt and enforce ordinances that are consistent with SB 420.
- D. In November 2016, California voters approved Proposition 64, which enacted the Control, Regulate, and Tax Adult Use of Marijuana Act. Proposition 64 makes it legal under state law for anyone 21 years of age or older to possess, plant, cultivate, harvest, dry, and process up to six cannabis plants per private residence for personal use. (Health & Safety Code, §§ 11362.2 and 11362.3 (as amended by Sen. Bill No. 94 §§ 130 & 131).) Proposition 64 also explicitly provides for local control over personal use cultivation, enabling cities and counties to "enact and enforce reasonable regulations to regulate" indoor cultivation of cannabis for personal use and to prohibit all outdoor cultivation of cannabis for personal use on the grounds of a private residence. (Health & Safety Code, § 11362.2, subds. (b)(1) and (b)(3) (as amended by Sen. Bill No. 94 § 130).)
- E. On June 27, 2017, the Governor approved Senate Bill 94, which repealed the Medical Marijuana Regulation and Safety Act (MMRSA) and includes certain provisions of MMRSA in the licensing provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act. Senate Bill 94, which seeks to align the regulatory frameworks for medical and nonmedical cannabis, amended, repealed, or added code sections in the following California Codes: Business and Professions, Fish and Game, Food and Agriculture, Health and Safety, Revenue and Taxation, and Water. SB 94 also consistently replaced the term "marijuana" with "cannabis" in state law, although the definition remains the same. For consistency with state law as revised by SB 94, the County adopted the term "cannabis" in place of "marijuana" in this Ordinance. The adoption of the term "cannabis" herein, however, shall not

invalidate references to "marijuana" in any County ordinance, policy, or regulation. The two terms share the same meaning and are used interchangeably in the County Code of Ordinances.

- F. The Federal Controlled Substances Act (21 U.S.C. § 801 et seq.) classifies cannabis as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with the intent to manufacture, distribute, or dispense, cannabis. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes or for personal use permitted by state law.
- G. On October 20, 2015, the Board of Supervisors adopted [Ordinance No. NS-300.884](#), adding Division B26.5 to Title B of the County of Santa Clara Ordinance Code, to regulate medicinal cannabis cultivation by qualified patients and primary caregivers and prohibit all other cultivation. Now, after the passage of Proposition 64, the County intends to regulate the cultivation of cannabis for personal use permitted under Proposition 64.
- H. Santa Clara County's geography and climate, which include dense vegetated areas that are remote and sparsely populated, provide conditions that are favorable to outdoor cannabis cultivation. Outdoor cannabis growers can achieve a high per-plant yield because of the county's favorable growing conditions. Additionally, Santa Clara County's remote rural areas and hillsides, such as in the Santa Cruz Mountains, provide ideal locations to conceal illicit cultivation operations. These factors, coupled with Santa Clara County's close proximity to vibrant legal and illegal cannabis markets and a perception of no cultivation regulations, make unincorporated Santa Clara County attractive to illegal cultivation operations.
- I. The unregulated cultivation of cannabis in the unincorporated areas of Santa Clara County can adversely affect the health, safety, and well-being of the county's residents and environment. Regulating the cultivation of cannabis is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, offensive odor, and fire hazards that may result from unregulated cannabis cultivation. From 2011 to 2013, the County has:
 - Prosecuted 118 illegal indoor cannabis grows, including five cases involving fires caused by illegally wired electrical systems;
 - Removed 355,005 cannabis plants from illegal outdoor grows;
 - Seized 1,838 pounds of processed cannabis bud from outdoor grows;
 - Charged environmental crimes in 21 separate illegal outdoor growing investigations;
 - Eradicated 11 outdoor grows on public land or open space;
 - Conducted 36 illegal cannabis investigations involving firearms, including one investigation that resulted in an officer-involved shooting after a suspect pointed a loaded rifle at a Fish and Wildlife warden;
 - Charged illegal cultivators with additional serious or violent felony crimes in eight instances, ranging from burglary and robbery to assault with a deadly weapon;
 - Documented eight illegal cultivation operations involving drug cartels and/or criminal street gangs; and
 - Investigated ten illegal cannabis grows where children were present.

In 2016, the County has:

- Removed 100,147 cannabis plants from illegal outdoor grows;
- Seized 1,006 pounds of processed cannabis bud from outdoor grows; and
- Made 22 arrests, including six arrests involving illegal possession of weapons.

- J. The County of Santa Clara and other public agencies have reported adverse impacts from cultivation, including, but not limited to, disagreeable odors; negative effects on the environment; unsanitary conditions; negative effects on physical, mental, and community health; violation of building codes and other land development codes; increased risk of burglary and other property crimes; and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.
- K. The creation of persistent strong odors as cannabis plants mature and flower is offensive to many people, results in complaints of respiratory problems, and generally creates an attractive nuisance by alerting persons, including children, to the location of valuable cannabis plants and creating an increased risk of crime.
- L. Children are particularly vulnerable to the effects of cannabis use, and the presence of cannabis plants is an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including schools, parks, and other similar locations. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that children will be involved or endangered.
- M. The indoor cultivation of substantial amounts of cannabis within a residence presents potential health and safety risks to those living in the residence, especially children, including, but not limited to, increased risk of fire from grow light systems; potential adverse effects on the structural integrity of a building; exposure to fertilizers, pesticides, and anti-fungus/mold agents; and exposure to potential property crimes targeting the residence.
- N. The production of concentrated cannabis and extraction of compounds from cannabis using alcohol or flammable liquids or gases has caused numerous fires and explosions throughout California, including a 2014 fire in Gilroy and several other fires throughout Santa Clara County. At least one city in Santa Clara County has reported a rise in illegal laboratories. The City of Mountain View Police Department arrested suspects during eight drug lab investigations from 2012 to 2016. Seven of the eight lab investigations involved Butane Honey Oil (BHO) extraction, which is closely associated to cannabis cultivation as the leftover cannabis plant cuttings are primarily used in BHO labs. The Mountain View Police Department had not encountered any illicit drug labs in the city prior to 2012.
- O. The right of qualified patients and their primary caregivers under state law to cultivate cannabis plants for medical purposes does not confer upon them the right to create or maintain a public nuisance. By limiting the cultivation area for indoor medical cannabis cultivation to a single space no larger than 50 square feet in a single room and limiting cannabis plants to a single layer, and by limiting outdoor medical cannabis cultivation to 12 plants, the County anticipates a reduction in the negative secondary effects of unfettered growing such as odor, fire, crime, and pollution.
- P. Limiting the area of indoor cultivation to 50 square feet is necessary because the lights and electricity required by cultivation areas larger than 50 square feet are likely to exceed the wattage supported by a typical household light and receptacle circuit, thereby creating an unreasonable risk to public health, safety, and welfare and a public nuisance through the hazard of fire and overloading of circuits.
- Q. Limiting the number of medicinal cannabis plants cultivated outdoors is necessary because cultivating medicinal cannabis plants in excess of 12 would create an unreasonable risk of causing a public nuisance due to odors, attracting criminal activity, including theft and burglaries, and creating an attractive nuisance for children. Prohibiting the outdoor cultivation of cannabis for personal use is necessary because outdoor personal cannabis cultivation would create an unreasonable risk of causing a public nuisance. Permitting outdoor personal cannabis cultivation would expand outdoor cultivation to a broader population of cultivators, potentially leading to more widespread outdoor cultivation and exacerbating the adverse impacts of cultivation experienced by the County and other agencies. The potential for proliferation would be more pronounced if cultivation were to be permitted for persons growing for personal recreational use, as opposed to the relatively small numbers of qualified patients and primary caregivers allowed to cultivate medical cannabis outdoors.

- R. Limiting the number of medicinal cannabis plants or medicinal cannabis cultivation space available to a qualified patient or primary caregiver is not intended to preclude a qualified patient or primary caregiver from obtaining through dispensaries, collectives, or other legal means additional medicinal cannabis that the qualified patient needs for his or her reasonable medical use.
- S. Limiting the number of personal cannabis plants cultivated indoors for personal use and the total wattage of lights used for cultivation is necessary because cultivating cannabis plants in excess of six plants and with unlimited total wattage would create an unreasonable risk of fire danger caused by high-wattage grow lights and excessive use of electricity.
- T. Requiring indoor cultivation to be secured in a locked space increases the possibility that cannabis grown for purposes that are legal under state law remains secure and will not be distributed to minors or in illicit markets.
- U. The County has established a uniform setback from adjacent property lines for cannabis cultivation in order to reduce the potential for nuisances to neighboring property owners. The setback standards include a provision for reduced setbacks on narrow parcels smaller than 10,000 square feet.
- V. The right of qualified patients and their primary caregivers under state law to cultivate cannabis plants for medical purposes does not confer upon them the right to cultivate or possess an amount of cannabis in excess of the amount reasonably necessary to treat the qualified patient's condition or to create a public nuisance as a result of illegal diversion. An analysis of 427 felony cannabis investigations conducted by the County of Santa Clara Office of the District Attorney between January 2014 and October 2015 found that the risk of additional crimes and diversion through illegal sales increase as individuals possess larger amounts of cannabis:
- Of 427 felony cannabis investigations, 223 involved eight ounces or more of cannabis;
 - Virtually all investigations included evidence of illegal sales - 98 percent of cases involving less than eight ounces of cannabis, 100 percent of cases involving between half a pound and a pound, and 98.2 percent of cases involving a pound or more;
 - Firearms or other weapons were found in 33.1 percent of investigations involving a pound or more of cannabis, compared with 19.1 percent of investigations involving less than half a pound;
 - Gang or drug cartel activity was found in 13.3 percent of investigations involving a pound or more, compared with 3.4 percent of investigations involving less than half a pound;
 - Violent crimes occurred in 21.1 percent of cases involving more than a pound, compared with 10.8 percent of cases involving less than eight ounces; and
 - Child endangerment occurred in 8.4 percent of cases involving more than a pound, compared with 3.4 percent of cases involving less than eight ounces.

Additionally, while only one percent of cases involving eight ounces or less also indicated illegal cultivation, 39.2 percent of cases involving a pound or more indicated illegal cultivation. Of the 65 illegal cultivation cases involving more than pound:

- 26 involved theft of electricity;
- 43 occurred at rental properties; and
- 31 included vandalism to the property.

By limiting the amount of medicinal cannabis that a qualified patient or primary caregiver may possess to up to eight ounces, or the amount that is reasonably related to the qualified patient's current medical needs, the County seeks to reduce the harms that come with possession of larger amounts, including illegal sales, accompanying crimes, and illegal cultivation practices.

- W. Regulation of parcels used for cannabis cultivation is proper and necessary to address the risks and adverse impacts as stated herein, and as further documented in research on file with the Office of the County Executive, that are especially significant if the amount of cannabis cultivated on any legal

parcel is not regulated and substantial amounts of cannabis are thereby allowed to be concentrated in one place.

- X. It is the purpose and intent of this division to implement state law by providing a means for regulating the cultivation of medicinal and personal use cannabis in a manner that is consistent with state law and which balances the needs of medical patients and their caregivers and the interests of personal use cultivators, while promoting the health, safety, and welfare of the residents and businesses within the unincorporated area of Santa Clara County. This division is intended to prohibit the cultivation of cannabis by anyone for any purpose other than by a qualified patient, primary caregiver, or personal use cultivator cultivating in strict compliance with this division, and applicable state law. This division is not intended to prohibit persons from exercising any right otherwise granted by state law, including but not limited to Proposition 215, Senate Bill 420, Proposition 64, and Senate Bill 94. Rather, the intent and purpose of this division is to establish reasonable regulations upon the manner in which cannabis for medicinal or personal purposes may be cultivated, including restrictions on the amount of cannabis that may be cultivated in any location or premises, in order to protect the public health, safety, and environment in Santa Clara County.
- Y. The limited right of qualified patients and their primary caregivers and personal use cultivators under state law to cultivate cannabis plants for medicinal purposes or personal use does not confer the right to create or maintain a public nuisance. By adopting the regulations in this division, the County will achieve a significant reduction in the aforementioned harms caused or threatened by unregulated cultivation of cannabis in the unincorporated area of Santa Clara County.
- Z. Nothing in this division shall be construed to allow the cultivation of cannabis for purposes other than medicinal and personal use, or allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state law.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-2. - Definitions.

As used in this chapter, the following terms and phrases shall be defined as follows:

- A. *Cultivation* means the planting, growing, harvesting, drying, curing, grading, or trimming of one or more cannabis plants or any part thereof.
- B. *Indoor* means within a fully enclosed and secure structure, including any attached or detached accessory structure, that complies with the California Building Code, as adopted by the County of Santa Clara. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors and may be constructed of any approved building materials.
- C. *Legal parcel* means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Cal. Govt. Code § 66410 et seq.) and the Santa Clara County Subdivision Ordinance.
- D. *Cannabis* shall have the same meaning as in California Health and Safety Code section 11018, as amended by Senate Bill 94 and as may be further amended. Cannabis, medicinal cannabis, and the cultivation thereof, as defined in this division shall not be considered an agricultural activity, operation or facility under Cal. Civil Code section 3482.5 or Division B29, Chapter I of the Ordinance Code, or Agriculture, Agricultural Processing, Agricultural Research, or Agricultural Sales as defined in Section 2.10.040 of the Zoning Ordinance of the County of Santa Clara.
- E. *Medicinal cannabis* means cannabis used for medical purposes in accordance with Health and Safety Code sections 11362.7, 11362.71, 11362.715, 11362.765, 11362.768, 11362.77, 11362.78, 11362.785, 11362.79, and 11362.795, as amended by Senate Bill 94 section 20.

- F. *Outdoor* means any location that is not indoor within a fully enclosed and secure structure and includes shade structures.
- G. *Park* means any playground, hiking or riding trail, recreation area, community center, or historic structure, that is owned, managed, operated, or controlled by any public entity.
- H. *Personal cultivation* means the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, done or performed by an adult for non-medical, personal, non-commercial purposes, pursuant to Health and Safety Code section 11362.2 (as amended by Senate Bill 94 section 130).
- I. *Personal use cannabis* means cannabis used by an adult 21 years of age or older for purposes in accordance with Cal. Health and Safety Code sections 11362.1, 11362.2, 11362.3, 11362.4, and 11362.45 (as amended by Senate Bill 94 sections 129—133).
- J. *Primary caregiver* means a primary caregiver as defined in Cal. Health and Safety Code section 11362.7, subdivision (d) (as amended by Senate Bill 94 section 134).
- K. *Qualified patient* means a qualified patient as defined in Cal. Health and Safety Code section 11362.7, subdivision (f) (as amended by Senate Bill 94 section 134).
- L. *Residence* means the place where an individual has his or her true, fixed, permanent home and principal establishment, and to which place he or she has, whenever absent, the intention of returning.
- M. *School Bus Stop* means any location designated in accordance with California Code of Regulations, title 13, section 1238, to receive school buses, as defined in Cal. Vehicle Code section 233 or Cal. Vehicle Code section 545, or school pupil buses, as defined in Cal. Vehicle Code section 546.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-3. - Cannabis cultivation—Prohibited.

- A. Outdoor cultivation of cannabis is prohibited in the unincorporated area of the county.
- B. Indoor cultivation of cannabis is prohibited in the unincorporated area of the county.
- C. Exemption for medicinal cannabis cultivation. This section shall not apply to cultivation of medicinal cannabis by a qualified patient or primary caregiver at any residence on a legal parcel where the qualified patient or primary caregiver resides, provided that the cultivation is performed in strict compliance with the regulations of this division and applicable state law.
- D. Exemption for indoor personal cultivation. This section shall not apply to indoor cultivation of cannabis for personal use at any residence on a legal parcel where the personal use cultivator resides, provided that the cultivation is performed in strict compliance with the regulations of this division and applicable state law.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-4. - Medicinal cannabis cultivation—Regulations.

- A. Medicinal cannabis cultivation by a qualified patient or primary caregiver at any residence on a legal parcel where the qualified patient or primary caregiver resides is limited to one of the following:
 - 1. Indoor cultivation, provided that the cultivation is performed in strict compliance with Section B26.5-6.
 - 2. Outdoor cultivation, provided that the cultivation is performed in strict compliance with Section B26.5-7.

- B. No evidence of cultivation of medicinal cannabis shall be visible or detectable from any property or public right-of-way. Evidence of cultivation of medicinal cannabis includes, but is not limited to, dust, glare, light, heat, gases, odors, smoke, or vibrations caused by any activity associated with the cultivation of medicinal cannabis.
- C. No medicinal cannabis cultivated under this chapter shall be distributed to any person other than the qualified patient cultivating the medicinal cannabis or the qualified patient of a primary caregiver cultivating the medicinal cannabis.
- D. All electrical systems and fuel storage involved in cultivation of medicinal cannabis shall be permitted, used, and installed pursuant to all applicable ordinances, laws, and regulations. The total wattage for all lights used for cultivation shall not exceed 1,200 watts per circuit. All lights used for cultivation shall be plugged directly into a wall outlet. The number and wattage of lights used must not exceed the design capacity of the electrical system's circuits.
- E. All water used in cultivation of medicinal cannabis shall be permitted and obtained from a legal source and shall be applied in accordance with all applicable ordinances, laws, and regulations.
- F. Any individual cultivating medicinal cannabis on a legal parcel for which the individual is not the legal owner must obtain and post written permission from the legal owner(s) or landlord consenting to the cultivation of medicinal cannabis on the property.
- G. The primary caregiver or qualified patient may store or possess on a legal parcel no more than eight ounces or the amount that is reasonably related to the qualified patient's current medical needs. All storage of dried and/or processed cannabis must be secured in a locked space, in a manner that will prevent unauthorized access by children.
- H. The extraction of chemical compounds from cannabis by way of a solvent-based extraction method utilizing compressed flammable gases or alcohol is prohibited.
- I. Any modifications, alterations, or improvements made to the residence or property where medicinal cannabis cultivation occurs shall be permitted and performed pursuant to all applicable ordinances, laws, and regulations.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-5. - Personal use cannabis cultivation—Regulations.

- A. Personal use cannabis cultivation is allowed at any private residence on a legal parcel where the personal use cultivator resides and is limited to indoor cultivation performed in strict compliance with Section B26.5-6 and applicable state law.
- B. No evidence of indoor personal use cannabis cultivation shall be visible by normal unaided vision from a public place. No odors caused by any activity associated with the cultivation of indoor personal use cannabis shall be detectable from a public place.
- C. No personal use cannabis cultivated under this chapter shall be distributed to any person other than the personal use cultivator. This provision shall not apply to the following transactions made lawful under Health and Safety Code section 11362.1 (as amended by Senate Bill 94 section 129):
 - 1. Individuals who are 21 years of age or older may give away to persons 21 years of age or older, without any compensation whatsoever, not more than 28.5 grams of cannabis, provided that the cannabis is not in the form of concentrated cannabis.
 - 2. Individuals who are 21 years of age or older may give away to persons 21 years of age or older, without any compensation whatsoever, not more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products.
- D. All electrical systems and fuel storage involved in personal use cannabis cultivation shall be permitted, used, and installed pursuant to all applicable ordinances, laws, and regulations. The total wattage for all lights used for cultivation shall not exceed 1,200 watts per circuit. All lights used for

cultivation shall be plugged directly into a wall outlet. The number and wattage of lights used must not exceed the design capacity of the electrical system's circuits.

- E. All water used in the cultivation of personal use cannabis shall be permitted and obtained from a legal source and shall be applied in accordance with all applicable ordinances, laws, and regulations.
- F. Any individual cultivating personal use cannabis on a legal parcel for which the individual is not the legal owner must obtain and post written permission from the legal owner(s) or landlord consenting to the cultivation of cannabis on the property.
- G. A personal use cultivator may cultivate not more than six living plants at one time. The living plants and any cannabis produced by the plants in excess of 28.5 grams must be secured in a locked space.
- H. The extraction of chemical compounds from cannabis by way of a solvent-based extraction method utilizing compressed flammable gases or alcohol is prohibited.
- I. Any modifications, alterations, or improvements made to the residence or property where cultivation of personal use cannabis occurs shall be permitted and performed pursuant to all applicable ordinances, laws, and regulations.
- J. No personal use cannabis may be cultivated outdoors.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-6. - Additional regulations for indoor cultivation.

In addition to the regulations specified in Section B26.5-4 and Section B26.5-5, the following regulations shall apply to any qualified patient, primary caregiver, or cultivator of personal use cannabis performing indoor cultivation:

- A. Cultivation shall be limited to a single space in a single room. The single space in the single room shall be no larger than 50 square feet. All cannabis plants cultivated indoors shall be arranged in a single layer. This limit shall apply notwithstanding the number of qualified patients, primary caregivers, and/or personal use cultivators residing at the residence.
- B. Indoor cultivation shall be secured in a locked space, in a manner that will prevent unauthorized access by children. Doors shall be operable from inside the space at all times whether the doors are locked or unlocked.
- C. The drying, processing, and/or storage of medicinal or personal use cannabis shall be limited to a single room within the residence where the cultivation occurs and must be secured in a locked space, in a manner that will prevent unauthorized access by children. Doors shall be operable from inside the space at all times whether the doors are locked or unlocked.
- D. Exits, including emergency egress windows or doors, required by the California Building Code and/or the California Residential Code, shall not be obstructed.
- E. Any lighting used shall be designated for residential use in accordance with requirements of the California Electrical Code.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-7. - Additional regulations for outdoor cultivation.

In addition to the regulations specified in Section B26.5-4, the following regulations shall apply to any qualified patient or primary caregiver performing outdoor cultivation:

- A. Cultivation is prohibited as follows:

1. For parcels 10,000 square feet or larger:
 - a. Within 1,000 feet of any park.
 - b. Within 1,000 feet of any school bus stop, school, day care center, college, or university.
 - c. Within 25 feet of any property line.
 - d. In the front yard of any parcel.
 2. For parcels smaller than 10,000 square feet:
 - a. Within 1,000 feet of any park.
 - b. Within 1,000 feet of any school bus stop, school, day care center, college, or university.
 - c. Within 25 feet from any property line, or within 30 percent of the average lot width from any property line, whichever is smaller.
 - d. In the front yard of any parcel.
- B. Cultivation shall be limited to a total of 12 cannabis plants at the legal parcel of the qualified patient's or primary caregiver's residence. This limit shall apply notwithstanding the number of qualified patients and/or primary caregivers residing at the legal parcel.
- C. Cultivation shall be enclosed by a fence with a locking gate and shall at no time exceed the height of the fence. Any such fence shall be permitted and constructed in compliance with all zoning, planning, and building ordinances.
- D. The drying, processing, and/or storage of medicinal cannabis cultivated outdoors shall be limited to a single room at the residence where the outdoor cultivation occurs and must be secured in a locked space, in a manner that will prevent unauthorized access by children.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-8. - Enforcement.

- A. This division may be enforced in any manner consistent with this division by any peace officer, or by any employee, agent, or officer of any of the following County departments or agencies:
1. Office of the Sheriff.
 2. Department of Planning and Development.
 3. Office of the County Counsel.
 4. Office of the District Attorney.
 5. Consumer and Environmental Protection Agency.
 6. Office of the Fire Marshal.
- B. Enforcement under this section shall be at the discretion of the enforcing agency, pursuant to the following:
1. If a peace officer, or any employee, agent, or officer of an enforcing agency determines that the cannabis plants or a condition or use associated with cannabis plants constitute a violation of the ordinance, the enforcing agency shall be authorized to summarily abate the condition or use through the seizure and confiscation of cannabis plants pursuant Division A1, Chapter III, of the County Ordinance Code.
 2. If the cannabis cultivation is, or can be immediately brought into compliance with the allowable number and locations of cannabis plants set forth in Sections B26.5-4 and B26.5-5 (cultivation

regulations), Section B26.5-6 (indoor cultivation) or Section B26.5-7 (outdoor cultivation) and the cultivation is not a health, safety, or environmental hazard, then a peace officer, or any employee, agent, or officer of an enforcing agency may elect to issue a notice to abate in lieu of seizure and confiscation. The notice to abate will specify the violations and the allowable time for the property owner to remedy the violation until further enforcement action is taken. Failure to abate violations within the specified time shall be grounds for the seizure and confiscation of cannabis plants, including dried and/or processed cannabis, pursuant to Division A1, Chapter III, of the County Ordinance Code.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-9. - Public nuisance.

Any violation of this division is hereby declared a public nuisance and may be abated by the County pursuant to Chapter III of Division A1 of this code.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-10. - Separate offense for each day.

Any person who violates any provision of this division shall be guilty of a separate offense for each and every day during any portion of which any person commits, continues to permit, or causes a violation thereof, and shall be penalized accordingly.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-11. - Criminal penalties.

Any violation of any provision of this division shall be deemed a misdemeanor.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-12. - Administrative remedies.

In addition to the civil remedies and criminal penalties set forth above, any violation of this division may be subject to administrative remedies, as set forth by Division A37.

([Ord. No. NS-300.913, 9-26-17](#))

Sec. B26.5-13. - Other ordinance code provisions.

Notwithstanding this division, the County, its employees, agents, and officers have the authority to pursue any and all applicable remedies for any other violations of any local, state, or federal law.

([Ord. No. NS-300.913, 9-26-17](#))

Chapter 17.48

MARIJUANA ACTIVITIES REGULATIONS

Sections:

- 17.48.010 Definitions.
- 17.48.020 Medical marijuana dispensaries prohibited.
- 17.48.030 Marijuana/cannabis cultivation prohibited.
- 17.48.035 Commercial cannabis activities prohibited.
- 17.48.040 Marijuana cultivation and processing for personal use.
- 17.48.050 Public nuisance.

17.48.010 Definitions.

The definitions set forth in CMC 8.30.010 shall apply to this chapter. (Ord. 730 § 4(1), 2017).

17.48.020 Medical marijuana dispensaries prohibited.

Medical marijuana dispensaries, as defined in Chapter 8.30 CMC, are prohibited uses in all zoning districts within the City of Calistoga. (Ord. 730 § 4(2), 2017; Ord. 721 § 3, 2016. Formerly 17.48.010).

17.48.030 Marijuana/cannabis cultivation prohibited.

The cultivation of marijuana/cannabis is prohibited in all zoning districts within the City of Calistoga, except as provided in CMC 17.48.040. (Ord. 730 § 4(3), 2017; Ord. 721 § 3, 2016. Formerly 17.48.020).

17.48.035 Commercial cannabis activities prohibited.¹

Commercial cannabis activities, as defined in Chapter 8.30 CMC, are prohibited in all zoning districts within the City of Calistoga. (Ord. 721 § 3, 2016. Formerly 17.48.030).

17.48.040 Marijuana cultivation and processing for personal use.

The cultivation of marijuana and the manufacture of marijuana products/by-products for personal use is allowed, subject to the following regulations.

A. Maximum Number of Plants. No more than six marijuana plants per dwelling unit may be planted, cultivated, harvested, dried and processed. This limit shall apply regardless of how many individuals reside at the dwelling unit.

B. Indoor Cultivation.

1. Plants may be cultivated within:

- a. A dwelling unit; or
- b. A structure that is accessory to a dwelling unit located upon the same parcel, and that is located at least 10 feet from any property line.

2. Marijuana cultivation in a garage associated with a residence shall not prevent compliance with the minimum parking standards required by this title.

C. Outdoor Cultivation. Marijuana may be cultivated outdoors in compliance with all of the following regulations.

1. Outdoor cultivation may occur only within the following zoning districts:

- Rural Residential (RR)
- Rural Residential-Hillside (RR-H)
- One-Family Residential (R-1 and R-1-10)
- Planned Development District (PD)

2. Outdoor cultivation is allowed only on a parcel that is occupied by one or more dwelling units.
3. Outdoor cultivation of up to two plants is allowed per qualified parcel.
4. Outdoor cultivation is prohibited on a parcel that is within 300 feet of a school, religious facility, park, child care facility, recreation center or youth-oriented facility. The distance shall be measured in a straight line, without regard to intervening structures, from the closest property line of the parcel on which the outdoor cultivation is occurring.
5. Outdoor cultivation must be enclosed by a solid fence at least six feet in height.
6. Marijuana plants may not be visible from a public right-of-way or neighboring property at ground level.

D. Off-Site Impacts. Odor, vibration and/or light associated with cultivation that causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area are prohibited.

Any structure used for marijuana cultivation must have a ventilation and filtration system that prevents odors from exiting the interior of the structure and that complies with the California Building Standards Code as adopted and amended by CMC Title 15.

E. Hazardous Materials and Processes.

1. The use of ozone generators and supplemental carbon dioxide to cultivate marijuana is prohibited.
2. The use of compressed, flammable gas as a solvent in the extraction of tetrahydrocannabinol (THC) or other cannabinoids to cultivate marijuana is prohibited. (Ord. 730 § 4(4), 2017).

17.48.050 Public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to the procedures set forth in Chapter 1.12 CMC. (Ord. 730 § 4(5), 2017).

[†] Ord. 730, Section 4 renumbered Section 17.48.020 as 17.48.030. This section has been editorially renumbered to avoid duplication of numbering.

CHAPTER 10.15

MEDICAL MARIJUANA

10.15.010 Purpose.

The purpose of this chapter is to promote the public health, safety and welfare by:

- A. Protecting citizens from the secondary impacts associated with medical marijuana dispensaries and commercial cannabis activity, including, but not limited to, increased public consumption of marijuana and the potential for increased marijuana DUIs, illegal resale of marijuana obtained at low cost from dispensaries, loitering, fraud in obtaining or use of medical marijuana identification cards, robbery, assaults, and other crimes.
- B. Protecting citizens from secondary impacts associated with commercial cannabis activity such as medical marijuana cultivation, including, but not limited to, electrical fires and ignition of chemical substances utilized in the cultivation process, crimes occurring at grow sites, and neighborhood concerns regarding odors, late night traffic, and related nuisances.
- C. Protecting citizens from secondary impacts of medical marijuana delivery, including, but not limited to, delivery for recreational use, delivery of quantities of marijuana exceeding the reasonable requirements of qualified patients and primary caregivers, delivery during nighttime hours, and delivery by minors.
- D. Preventing increased demands for police response resulting from activities at medical marijuana dispensaries and cultivation sites, commercial cannabis activity and medical marijuana delivery and thereby avoiding reduction in the ability of the city's public safety officers to respond to other calls for service.

(Ord. 2563 NCS §1 (part), 2016; Ord. 2269 NCS §2 (part), 2007.)

10.15.020 Definitions.

"Commercial cannabis activity" means cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in California Business and Professions Code Section 19319, related to qualifying patients and primary caregivers, in accordance with the definition in California Business and Professions Code Section 19300.5, subdivision (k), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, in accordance with the definition in California Business and Professions Code Section 19300.5, subdivision (l), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

"Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary up to an amount determined by the Bureau of Medical Marijuana Regulation to a primary caregiver or a qualified patient as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory, in accordance with the definition in California Business and Professions Code Section 19300.5, subdivision (m), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

"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, in accordance with the definition in California Business and Professions Code Section 19300.5, subdivision (n), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute. Dispensary does not include the following uses, so long as the location of such uses is otherwise regulated by and strictly complies with this code and other applicable law, including California Health and Safety Code Sections 11362.5 and 11362.7, et seq., as such sections may be amended from time to time:

- A. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
- B. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
- C. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
- D. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
- E. The delivery, administration or provision of medical marijuana by a designated primary caregiver to the qualified patient of the primary caregiver or to the person with an identification card who has designated the individual as a primary caregiver at the primary residence of the qualified patient or person with an identification card who has designated the individual as a primary caregiver.

"Fully enclosed and secure structure" means a code compliant space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more locking doors.

"Mature plant" means a plant that has flowers, or is more than twelve inches wide, or more than twelve inches tall.

"Primary caregiver" shall have the same definition as set forth in California Health and Safety Code Section 11362.7, as it may be amended or superseded by any successor statute, and as interpreted by the California courts, including but not limited to the California Supreme Court case of *People v. Mentch* (2008) 45 Cal. 4th 274.

"Qualified patient" shall have the same definition as set forth in California Health and Safety Code Section 11362.7, as it may be amended or superseded by any successor statute, and as interpreted by the California courts.

"Residence" means a legal dwelling unit and all detached structures such as garages, sheds, greenhouses, and other structures on the same legal parcel(s) as the dwelling unit. (Ord. 2563 NCS §1 (part), 2016: Ord. 2269 NCS §2 (part), 2007.)

10.15.030 Prohibition of medical marijuana dispensaries and commercial cannabis activity.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, the operation of a dispensary or commercial cannabis activity except as otherwise expressly provided in this chapter. (Ord. 2563 NCS §1 (part), 2016: Ord. 2269 NCS §2 (part), 2007.)

10.15.040 Prohibition of medical marijuana cultivation.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, the cultivation of marijuana other than:

- A. Indoor cultivation that is solely for the personal use of one qualified patient and that at all times remains an accessory use to the primary residence of either the qualified patient or his or her primary caregiver; where the cultivation area does not exceed fifty percent or one hundred square feet of the nonliving or garage area of the residence, or a lesser amount in accordance with subsection B of this section, whichever is less; that does not displace any required on-site parking; that is within a fully enclosed and secure structure with no visual or olfactory evidence of cultivation detectable from the public right-of-way or other private property; that does not utilize lighting that exceeds one thousand two hundred watts; that does not require the use of an electric generator; and that does not use gas products (CO₂, butane, etc.); and
- B. Outdoor cultivation that is solely for the personal use of one qualified patient that at all times remains an accessory use to the primary residence of either the qualified patient or his or her primary caregiver; where the cultivation area does not exceed one hundred square feet, or a lesser amount so that the total cultivation area pursuant to this section including indoor and outdoor cultivation at the residence does not exceed a combined total of one hundred square feet; that does not exceed three mature plants, with no visual or olfactory evidence of cultivation detectable from the public right-of-way or other private property; that does not utilize lighting that

exceeds one thousand two hundred watts; that does not require the use of an electric generator; and that does not use gas products (CO₂, butane, etc.).

(Ord. 2563 NCS §1 (part), 2016.)

10.15.050 Prohibition of medical marijuana delivery.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, the delivery of medical marijuana, except for delivery of medical marijuana:

From a dispensary outside the city that is operating in accordance with applicable state and local law to a qualified patient or primary caregiver within the city in accordance with the requirements of Health and Safety Code Section 19340, any successor statute, and any regulations promulgated under California Health and Safety Code Section 19340 or any successor statute, where:

- A. Persons delivering medical marijuana in the city possess no more than one pound of medical marijuana at any time while making medical marijuana deliveries in the city; and
- B. The delivery is carried out by a person at least eighteen years of age; and
- C. The delivery occurs between the hours of eight a.m. and eight p.m.

(Ord. 2563 NCS §1 (part), 2016.)

10.15.060 Prohibition of medical marijuana entitlements.

No medical marijuana dispensary, commercial cannabis activity, medical marijuana cultivation operation, or medical marijuana delivery operation, however described by the applicant, will eligible for or be issued any entitlement, license or permit to operate in the city, or have any such entitlement renewed, including, but not limited to, any business license or home occupation permit, and any such application shall be denied citing this section.

(Ord. 2563 NCS §1 (part), 2016.)

10.15.070 Public nuisance.

Any medical marijuana dispensary, commercial cannabis activity, cultivation, delivery or other use or activity caused or permitted to exist in the city in violation of any provision of this chapter shall be and is hereby declared a public nuisance. Violations of this chapter may be enforced by any applicable laws or ordinances, including, but not limited to, Chapter 1.10. (Ord. 2563 NCS §1 (part), 2016.)

Santa Rosa City Code[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[No Frames](#)[Title 20 ZONING](#)[Division 4 Standards for Specific Land Uses](#)**Chapter 20-46 MEDICAL CANNABIS CULTIVATION****20-46.010 Purpose.**

The purpose of this Chapter is to retain local control over the commercial cultivation of cannabis, pending further legislative action by the state and a pending a comprehensive effort by the City to prepare local regulations.

(Ord. 4060 § 2, 2016)

20-46.020 Definitions.

For the purpose of this Chapter, the following words and phrases shall mean:

- A. “Cannabis” shall have the same meaning as set forth in subpart (f) of Business and Professional Code Section 19300.5, and as may be amended.
- B. “Marijuana” shall mean Cannabis.
- C. “Qualified Patient” shall have the same meaning as set forth in [Health and Safety Code](#) Section 11362.7, and as may be amended.
- D. “Primary Caregiver” shall have the same meaning as set forth in [Health and Safety Code](#) Section 11362.7, and as may be amended.
- E. “Commercial Cannabis Activity” shall have the same meaning as that set forth in subpart (k) of Business and Professional Code Section 19300.5, and as may be amended.
- F. “Commercial Cultivation of Medical Cannabis” shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of 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 at Section 11362.5 of the [Health and Safety Code](#).

(Ord. 4060 § 2, 2016)

20-46.030 Commercial Cultivation of Medical Cannabis.

- A. Commercial Cultivation of Medical Cannabis shall be allowed to occur with a Conditional Use Permit or Minor Use Permit, as set forth below, in the following Zoning Districts: Light Industrial (IL), General Industrial (IG), and Limited Light Industrial (LIL) Zoning Districts.
 - 1. Commercial cultivation operations up to 10,000 square feet in size shall be allowed with a Minor Use Permit. For the duration of this interim ordinance, all applications for a Minor Use Permit under this section shall be referred to the Planning Commission for hearing and decision pursuant to Section [20-50.020\(A\)\(1\)](#).
 - 2. Commercial cultivation operations over 10,000 square feet in size shall be allowed only with a Conditional Use Permit.

B. No Conditional Use Permit or Minor Use Permit for commercial cultivation of medical cannabis shall be granted unless the review authority first makes all of the required findings set forth in Section [20-52.050](#) (Conditional Use Permits and Minor Conditional Use Permits).

C. Cultivation of Medical Cannabis for non-commercial, personal purposes by a Qualified Patient or Primary Caregiver, subject to the limitation, and requirements of subsection (g) of [Health and Safety Code](#), Section 11362.777, is not a prohibited use in any City land use district.

D. Commercial Cultivation operators issued a Conditional Use Permit or Minor Use Permit pursuant to this interim ordinance shall be required to comply with such additional operational conditions or performance measures adopted by subsequent ordinance(s) of the City to comprehensively regulate medical cannabis.

E. Commercial Cultivation operators shall also be required to obtain a state license and shall comply with any applicable state licensing requirements, such as operational standards and locational criteria.

(Ord. 4060 § 2, 2016)

20-46.040 Public nuisance.

Any use or condition caused or permitted to exist in violation of any provision of this Chapter shall be and hereby is declared a public nuisance and may be summarily abated by the City pursuant to [Code of Civil Procedure](#), Section 731 or any other remedy available to the City.

(Ord. 4060 § 2, 2016)

20-46.050 Civil penalties.

In addition to any other enforcement permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to the provisions of this Code against any person or entity that violates this Chapter.

(Ord. 4060 § 2, 2016)

20-46.060 Expiration of Chapter.

This Chapter shall expire of its own accord upon the completion and effective date of the City's comprehensive policy effort to regulate medical cannabis.

(Ord. 4060 § 2, 2016)

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ORDINANCE NO. ORD-2017-025

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ENACTING COMPREHENSIVE REGULATIONS FOR CANNABIS THROUGH THE AMENDMENT OF SANTA ROSA CITY CODE SECTIONS 20-23.030, TABLE 2-2 (ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS), TABLE 2-6 (ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR COMMERCIAL ZONING DISTRICTS), SECTION 20-24.030, TABLE 2-10 (ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR INDUSTRIAL DISTRICTS), SECTION 20-36.040, TABLE 3-4 (AUTOMOBILE AND BICYCLE PARKING REQUIREMENTS BY LAND USE TYPE), SECTION 20-70.020 (DEFINITIONS), THE REPEAL AND REPLACEMENT OF CHAPTER 20-46 (MEDICAL CANNABIS CULTIVATION) WITH CHAPTER 20-46 (CANNABIS), THE REPEAL OF CHAPTER 10-40 (MEDICAL CANNABIS DISPENSARIES) AND THE ADOPTION OF EXEMPTION FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT – FILE NUMBER REZ17-002

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that:

A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.

B. The City has previously adopted ordinances governing medical cannabis dispensaries and cultivation within the City, and the Zoning Administrator has previously issued a Zoning Interpretation concerning medical cannabis support uses in the City which addresses medical cannabis manufacturing, testing laboratories, and distribution.

C. The City wishes to establish a uniform regulatory structure for all cannabis uses in the City in accordance with state law.

D. The proposed zoning amendments contained herein are consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed zoning amendments are internally consistent with other applicable provisions of Title 20 of the Code in that the entirety of the Code will apply to medical and adult use cannabis as a new land use classification, such as identifying where the use is allowed, under what permit authority, development and parking standards and locational and operating requirements. The proposed zoning changes will result in land uses in residentially, commercially and industrially zoned areas that are compatible with existing and future uses and will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

E. Chapter 20-46 of the Code is a permissive ordinance and, except as otherwise expressly provided, the amendments adopted herein do not confer any additional rights or permits related to medical use or adult use cannabis activities.

Section 2. Amend Section 20-23.030, Table 2-2, to read and provide as follows:

TABLE 2-2 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP	Minor Conditional Use Permit required					
	CUP	Conditional Use Permit required					
	S	See Specific Use Regulations for permit requirement					
	—	Use not allowed					
	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
LAND USE (1)	RR	R-1	R-2	R-3	MH	TV-R	
AGRICULTURAL & OPEN SPACE USES							
Agricultural accessory structure	P	—	—	—	—	—	
Animal keeping—Livestock, including aviaries	S	—	—	—	—	—	20-42.040
Crop production, horticulture, orchard, vineyard	P	MUP	—	—	—	—	
Initial crop processing	MUP	MUP	—	—	—	—	
Plant nursery	CUP	—	—	—	—	—	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES							
Community garden (5)	P	P	P	P	P	P	
Equestrian facility	CUP	—	—	—	—	—	
Golf course/country club, public or quasi-public	CUP	CUP	—	—	—	—	
Health/fitness facility—Quasi-public	MUP	MUP	MUP	MUP	MUP	MUP	
Library/museum	MUP	MUP	MUP	MUP	MUP	P	
Meeting facility, public or private	MUP	MUP	MUP	MUP	MUP	MUP	
Park/playground, public or quasi-public	MUP	MUP	MUP	MUP	MUP	P	
Private residential recreation facility	MUP	MUP	MUP	MUP	MUP	MUP	
School, public or private	MUP	MUP	MUP	MUP	MUP	MUP	
Studio—Art, dance, martial arts, music, etc.	—	—	—	—	—	MUP	
RESIDENTIAL USES (See Section 20-28.080, Senior Housing (-SH) combining district, for specific requirements regarding proposed senior housing developments)							
Agricultural employee housing—6 or fewer residents	P	P	P	P	P	P	
Agricultural employee housing—7 or more residents	MUP	MUP	MUP	MUP	MUP	MUP	
Animal keeping—Domestic, exotic	S	S	S	S	S	S	20-42.040
Cannabis - personal cultivation	P	P	P	P	P	P	20-46
Community care facility—6 or fewer clients	P	P	P	P	P	P	20-42.060
Community care facility—7 or more clients	MUP	MUP	MUP	MUP	MUP	MUP	20-42.060
Emergency shelter	CUP	CUP	CUP	CUP	CUP	CUP	
Home occupation	S	S	S	S	S	S	20-42.070
Live/work	—	—	—	—	—	P(3)	20-42.080
Mobile home park	CUP	CUP	CUP	CUP	CUP	—	20-42.100
Mobile home/manufactured housing unit	P	P	P	P	P	P	20-42.094
Multi-family dwellings	MUP	MUP	P	P	—	P	
Organizational house (dormitory, sorority, monastery, etc.)	MUP	MUP	CUP	CUP	—	CUP	
Residential accessory structures and uses	P	P	P	P	P	P	20-42.030

TABLE 2-2 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P MUP CUP S —	Permitted Use, Zoning Clearance required Minor Conditional Use Permit required Conditional Use Permit required See Specific Use Regulations for permit requirement Use not allowed					
	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
LAND USE (1)	RR	R-1	R-2	R-3	MH	TV-R	
Residential component of a mixed use project	MUP	MUP	MUP	MUP	MUP	P	20-42.090
Rooming or boarding house	P	P	P	P	—	P	
Rooming or boarding, accessory	P	P	P	P	—	P	
Second dwelling unit	S	S	S	S	—	S	20-42.130
Single-family dwelling	P	P	P(2)	P(2)	—	P(2)	
Small lot residential project	—	CUP	CUP(2)	CUP(2)	—	CUP(2)	20-42.140
Supportive housing	P(4)	P(4)	P	P	P	P	
Transitional housing	P(4)	P(4)	P	P	P	P	
Work/live	—	—	—	—	—	MUP	20-42.060

RETAIL TRADE

Accessory retail uses	—	—	—	—	MUP	P	20-42.024
Alcoholic beverage sales	—	—	—	—	—	CUP	20-42.034
Artisan shop	—	—	—	—	—	MUP	
General retail—up to 20,000 sf of floor area	—	—	—	—	—	P	
Specialty food store—10,000 sf or less	—	—	—	—	—	P	
Neighborhood center	MUP	MUP	MUP	MUP	MUP	P	
Outdoor display and sales	—	—	—	—	—	MUP	20-42.110
Pharmacy	—	—	—	—	—	P	
Produce stand	MUP	—	—	—	—	MUP	
Restaurant, café, coffee shop—Counter ordering	—	—	—	—	—	P	
Restaurant, café, coffee shop—Outdoor dining	—	—	—	—	—	MUP	20-42.110, 20-42.160
Restaurant, café, coffee shop—Serving alcohol (no bar)	—	—	—	—	—	MUP	
Restaurant, café, coffee shop—Table service	—	—	—	—	—	P	
Second hand store	—	—	—	—	—	MUP	

SERVICES—BUSINESS, FINANCIAL, PROFESSIONAL

ATM	—	—	—	—	—	P	20-42.044
Medical service—Health care facility—6 or fewer patients	P	P	P	P	P	P	20-42.060
Medical service—Health care facility—7 or more patients	MUP	MUP	MUP	MUP	MUP	MUP	20-42.060
Medical service—Integrated medical health center	—	—	MUP	MUP	—	MUP	

SERVICES—GENERAL

Accessory service uses	—	—	—	—	MUP	MUP	20-42.024
Adult day care	MUP	MUP	MUP	MUP	MUP	MUP	
Child day care—Large family day care home	MUP	MUP	MUP	MUP	CUP	MUP	20-42.050
Child day care—Small family day care home	P	P	P	P	P	P	
Child day care center (15 or more clients)	CUP	CUP	CUP	CUP	—	MUP	20-42.050
Extended hours of operation (11:00 p.m. to 6:00 a.m.)	—	—	—	—	—	CUP	
Lodging—Bed & breakfast inn (B&B)	MUP	MUP	—	—	—	—	
Personal services	—	—	—	—	—	MUP	
Public safety facility	MUP	MUP	MUP	MUP	MUP	MUP	

TABLE 2-2 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP	Minor Conditional Use Permit required					
	CUP	Conditional Use Permit required					
	S	See Specific Use Regulations for permit requirement					
	—	Use not allowed					
	PERMIT REQUIRED BY DISTRICT						
LAND USE (1)	RR	R-1	R-2	R-3	MH	TV-R	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE							
Telecommunications antenna	S	S	S	S	S	S	20-44
Utility facility	CUP	CUP	CUP	CUP	CUP	CUP	
Utility infrastructure	P	P	P	P	P	P	

Key to Zoning District Symbols

RR	Rural Residential	R-3	Multi-Family Residential
R-1	Single-Family Residential	MH	Mobile Home Park
R-2	Medium Density Multi-Family Residential	TV-R	Transit Village-Residential

Notes:

- (1) See Division 7 for land use definitions.
- (2) Single-family dwellings allowed only as attached units.
- (3) A building permit is required to verify occupancy standards.
- (4) A Minor Use Permit is required for the construction of new multi-family supportive and transitional housing units in an RR or R-1-6 Zoning District, similar to construction of a new traditional multi-family unit in an RR or R-1-6 Zone. A new supportive or transitional housing use occupying an existing multi-family residence in an RR or R-1-6 Zoning District is a permitted use requiring only a Zoning Clearance.
- (5) A community garden is allowed on the same property as an existing permitted meeting facility provided that the establishment of the garden does not trigger a grading permit or affect the operation and design of the meeting facility.

Section 3. Amend Section 20-23.030, Table 2-6, to read and provide as follows:

TABLE Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	2-6				Permitted Use, Zoning Clearance required			
	P	MUP	CUP	S	Minor Conditional Use Permit required			
	CUP	S	—	Conditional Use Permit required				
					See Specific Use Regulations for permit requirement			
					Use not allowed			
PERMIT REQUIRED BY DISTRICT								
LAND USE (1)	CO	CN (7)	CG	CV	CD (3)	CSC (2)	TV-M	Specific Use Regulations
INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING								
Artisan/craft product manufacturing	—	MUP	P	—	—	P	—	
Brewery—Brew pub	—	MUP	MUP	—	MUP	MUP	MUP	
Cannabis—Testing laboratory	MUP	—	—	—	—	—	—	20-46
Laboratory—Medical, analytical	MUP	—	—	—	—	—	—	
Printing and publishing	—	—	—	—	MUP	—	—	
Recycling—Reverse vending machines	—	P	P	—	—	P	—	20-42.120
Recycling—Small collection facilities	—	—	MUP	—	—	MUP	—	20-42.120
Storage—Accessory	P	P	P	P	P	P	P	
Storage—Personal storage facility (mini-storage)	—	—	MUP	—	—	—	—	20-42.180
Winery—Boutique	—	—	MUP	—	MUP	MUP	MUP	
Winery—Production	—	—	CUP	—	CUP	—	CUP	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES								
Adult entertainment business	S	S	S	S	S	S	S	20-40
Commercial recreation facility—Indoor	—	—	MUP	—	MUP	MUP	MUP	
Community garden (6)	P	P	P	P	P	P	P	
Conference/convention facility	—	—	CUP	—	CUP	—	CUP	
Health/fitness facility—Commercial	—	MUP	P	—	P	P	MUP	
Health/fitness facility—Quasi-public	—	MUP	P	—	P	P	MUP	
Library, museum	P	P	P	MUP	P	P	P	
Meeting facility, public or private	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Park, playground	P	P	P	MUP	P	P	P	
School, public or private	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Sports and entertainment assembly facility	—	—	CUP	—	CUP	—	—	
Studio—Art, dance, martial arts, music, etc.	MUP	P	P	—	P	P	MUP	
Theater, auditorium	—	—	CUP	—	CUP	CUP	MUP	
RESIDENTIAL USES (See Section 20-28.080, Senior Housing (-SH) combining district, for specific requirements regarding proposed senior housing developments)								
Animal keeping—Domestic and exotic	S	S	S	—	S	S	S	20-42.040
Community care facility—6 or fewer clients	P	P	P	—	P	P	P	20-42.060
Community care facility—7 or more clients	MUP	MUP	MUP	—	MUP	MUP	MUP	20-42.060
Emergency shelter—50 or fewer beds	CUP	CUP	P	CUP	CUP	CUP	CUP	20-42.190
Emergency shelter—51 or more beds	CUP	CUP	CUP	CUP	CUP	CUP	CUP	20-42.190
Home occupation	S	S	S	—	S	S	S	20-42.070
Live/work	MUP	MUP	MUP	—	MUP	MUP	MUP	20-42.080
Multi-family dwelling	CUP	P	MUP	—	MUP	P	P(5)	
Residential accessory uses and structures	P	P	P	—	P	P	P	20-42.030
Residential component of a mixed use project	MUP	P	MUP	—	MUP	P	P(5)	20-42.090
Single-family dwelling—Attached only	CUP	P	CUP	—	MUP	P	P(5)	
Single room occupancy facility			CUP		CUP	CUP	—	20-42.164
Transitional housing	CUP	CUP	CUP	CUP	CUP	—	CUP	
Work/live	MUP	MUP	MUP	MUP	MUP	MUP	MUP	20-42.060
RETAIL TRADE								
Accessory retail uses	P	P	P	P	P	P	P	20-42.024
Alcoholic beverage sales	—	CUP	CUP	—	CUP	CUP	CUP	20-42.034
Artisan shop	—	P	P	—	P	P	P	
Auto and vehicle sales and rental	—	—	MUP	P	—	—	—	

TABLE Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	2-6			P	Permitted Use, Zoning Clearance required			
				MUP	Minor Conditional Use Permit required			
				CUP	Conditional Use Permit required			
			S	See Specific Use Regulations for permit requirement				
			—	Use not allowed				
			PERMIT REQUIRED BY DISTRICT					
LAND USE (1)	CO	CN (7)	CG	CV	CD (3)	CSC (2)	TV-M	Specific Use Regulations
Auto parts sales (no installation services)	—	—	P	P	—	P	—	
Bar/tavern	—	CUP	CUP	—	CUP	CUP	CUP	20-42.034
Building and landscape materials sales—Indoor	—	—	P	—	—	P	—	
Building and landscape materials sales—Outdoor	—	—	MUP	—	—	MUP	—	20-42.100
Construction and heavy equipment sales and rental	—	—	—	MUP	—	—	—	
Cannabis—Retail (dispensary) and delivery	CUP(10)	CUP(10)	CUP(10)	—	—	CUP(10)	—	20-46
Drive-through retail sales	—	CUP	CUP	—	—	CUP	—	20-42.064
Farm supply and feed store	—	—	MUP	—	—	MUP	—	
Fuel dealer (propane for home and farm use, etc.)	—	—	—	CUP	—	—	—	
Furniture, furnishings, appliance/equipment store	—	—	P	—	P	P	MUP	
Gas station	CUP	CUP	CUP	CUP	CUP	CUP	—	20-42.150
General retail—Up to 20,000 sf of floor area	—	P	P	—	P	P	P	
General retail—More than 20,000 sf, up to 50,000 sf	—	MUP	P	—	P	P	MUP	
General retail—More than 50,000 sf of floor area	—	—	CUP	—	—	P	—	
Grocery store, small—Less than 20,000 sf	—	P	P	—	P	P	P	
Grocery store, large—20,000 sf and greater	—	CUP	CUP	—	P	P	CUP	20-42.200
Mobile food vending	—	—	MUP(9)	—	—	—	—	20-42.210
Mobile home, boat, or RV sales	—	—	MUP	P	—	—	—	
Neighborhood center	MUP	P	P	CUP	P	P	MUP	
Night club	—	—	MUP	—	MUP	MUP	MUP	
Office—Supporting retail	MUP	P	P	—	P	P	P	
Outdoor display and sales	—	MUP	MUP	—	CUP	CUP	CUP	20-42.110
Pharmacy	MUP	P	P	—	P	P	MUP	
Restaurant, café, coffee shop—Counter ordering	MUP	P	P	—	P	P	P	
Restaurant, café, coffee shop—Outdoor dining	P(8)	P(8)	P(8)	—	P(8)	P(8)	P(8)	20-42.110 , 20-42.160
Restaurant, café, coffee shop—Serving alcohol (no bar)	P	P	P	—	P	P	P	
Restaurant, café, coffee shop—Table service	MUP	P	P	—	P	P	P	
Second hand store	—	MUP	MUP	—	MUP	MUP	MUP	
Shopping center	—	—	P	—	P	P	—	
Tasting room	—	MUP	P	—	P	P	P	
Tobacco or smoke shop	—	—	MUP	—	MUP	MUP	—	
Warehouse retail	—	—	CUP	—	—	CUP	—	

SERVICES—BUSINESS, FINANCIAL, PROFESSIONAL

ATM	P	P	P	P	P	P	P	20-42.044
Bank, financial services	MUP	P	P	—	P	P	P(5)	
Business support service	MUP	MUP	P	—	P	P	P	
Medical service—Clinic, urgent care	P	MUP	P	—	P	P	MUP	
Medical service—Doctor office	P	P	P	—	P	P	P(5)	
Medical service—Health care facility	MUP	—	MUP	—	—	—	—	20-42.060
Medical service—Hospital	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Medical service—Integrated medical health center	P	MUP	P	—	P	P	MUP	
Medical service—Lab	P	—	P	—	—	MUP	—	
Medical service—Veterinary clinic, animal hospital	MUP	—	MUP	—	—	MUP	—	
Office—Accessory	P	P	P	P	P	P	P	
Office—Business/service	P	P	P	—	P	P	P(5)	
Office—Government	P	MUP	MUP	MUP	P	MUP	MUP	
Office—Processing	MUP	—	MUP	—	MUP	—	MUP	

TABLE Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	2-6							
	P	Permitted Use, Zoning Clearance required						
	MUP	Minor Conditional Use Permit required						
	CUP	Conditional Use Permit required						
	S	See Specific Use Regulations for permit requirement						
	—	Use not allowed						
	PERMIT REQUIRED BY DISTRICT							
LAND USE (1)	CO	CN (7)	CG	CV	CD (3)	CSC (2)	TV- M	Specific Use Regulations
Office—Professional	P	MUP	P	—	P	—	P(5)	
SERVICES—GENERAL								
Accessory services	P	P	P	P	P	P	P	20-42.030
Adult day care	—	P	MUP	—	MUP	P	MUP	
Catering service	—	—	P	—	—	—	—	
Child day care—Large family day care home	MUP	MUP	MUP	—	MUP	MUP	MUP	20-42.050
Child day care—Small family day care home	P	P	P	—	P	P	P	20-42.050
Child day care center	MUP	MUP	MUP	—	MUP	MUP	MUP	20-42.050
Drive-through service	—	CUP	CUP	—	—	CUP	—	20-42.064
Equipment rental	—	—	P(4)	—	—	—	—	
Extended hours of operation (11:00 p.m. to 6:00 a.m.)	—	MUP	MUP	—	P	MUP	MUP	
Lodging—Bed & breakfast inn (B&B)	—	—	MUP	—	P	—	MUP	
Lodging—Hotel or motel	—	—	MUP	—	P(4)	—	P	
Mortuary, funeral home	—	—	CUP	—	—	—	—	
Personal services	P	P(2)	P	—	P	P	P	
Personal services—Restricted	—	—	MUP	—	MUP	MUP	—	
Public safety facility	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Repair service—Equipment, large appliances, etc.	—	—	MUP	—	—	—	—	
Social service organization	MUP	—	MUP	—	MUP	—	—	
Vehicle services—Major repair/body work	—	—	—	P(4)	—	—	—	
Vehicle services—Minor maintenance/repair	—	—	MUP	P(4)	—	MUP	—	

TRANSPORTATION, COMMUNICATION & INFRASTRUCTURE

Broadcasting studio	P	—	P	—	P	P	P	
Parking facility, public or commercial	MUP	—	MUP	—	P(4)	—	MUP	
Telecommunications facilities	S	S	S	S	S	S	S	20-44
Transit station or terminal	MUP	MUP	MUP	MUP	MUP	MUP	MUP	
Utility facility	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Utility infrastructure	P	P	P	P	P	P	P	

Key to Zoning District Symbols

CO	Office Commercial	CV	Motor Vehicle Sales	TV-M	Transit Village—Mixed
CN	Neighborhood Commercial	CD	Downtown Commercial		
CG	General Commercial	CSC	Community Shopping Center		

Notes:

- (1) See Division 7 for land use definitions.
- (2) Each new development or project involving significant additions or reconstruction is required to be a mixed use project with a residential component in compliance with the residential density requirements for the CSC zoning district as described in Sections 20-23.040 and 20-23.080.
- (3) Each new development on a site shown in Figure 2-1, 20-23.060.C shall be a mixed use project, and each new development within the Courthouse Square Sub-Area of the Downtown Station Area Specific Plan shall provide activity-generating uses at the ground floor along all public streets.
- (4) Minor Conditional Use Permit required when site abuts residential zoning district or parcel with residential use.

- (5) Uses permitted on upper stories of building, Minor Use Permit required when proposed on ground floor.
- (6) A community garden is allowed on the same property as an existing permitted meeting facility provided that the establishment of the garden does not trigger a grading permit or affect the operation and design of the meeting facility.
- (7) Residential uses are encouraged as part of new development on sites zoned CN, as described in Section 20-23.050.
- (8) Administrative Design Review is required when a project is not part of a building permit application.
- (9) Mobile food vending is permitted on private property, with the approval of a Minor Use Permit, only on sites located within the CG zoning district that have street frontage on Sebastopol Road, between Stony Point Road and Olive Street, as described in Section 20-42.210.
- (10) Subject to a 600 feet minimum setback requirement to a “school,” as defined by the Health & Safety Code Section 11362.768. In addition, a Cannabis Retail use shall not be established within 600 feet of any other Cannabis Retail use established within and permitted by the City of Santa Rosa.

Section 4. Amend Section 20-24.030, Table 2-10, to read and provide as follows:

TABLE Allowed Land Uses and Permit Requirements for Industrial Districts	2-10			
	P	Permitted Use, Zoning Clearance required		
	MUP	Minor Conditional Use Permit required		
	CUP	Conditional Use Permit required		
	S	See Specific Use Regulations for requirement		
—	Use not allowed			
LAND USE (1)	PERMIT REQUIRED BY ZONE (2)			Specific Use Regulations
	BP	IL	IG	
INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALE				
Agricultural product processing	—	—	P(3)	
Artisan/craft product manufacturing	P	P	P	
Brewery—Brew pub	P	CUP	—	
Brewery—Production	P	P	P	
Cannabis—Commercial cultivation—up to 5,000 sq ft	—	MUP	MUP	20-46
Cannabis—Commercial cultivation—5,001 sq ft or greater	—	CUP	CUP	20-46
Cannabis—Distribution	MUP(4)	P(3)	P(3)	20-46
Cannabis—Manufacturing level 1 (non-volatile)	P(3)	P(3)	P(3)	20-46
Cannabis—Manufacturing level 2 (volatile)	—	CUP	CUP	20-46
Cannabis—Microbusiness	—	CUP	CUP	20-46
Cannabis—Testing laboratory	P	P	P	20-46
Community care facilities—6 or fewer clients	P	P	P	
Community care facilities—7 or more clients	MUP	MUP	MUP	
Furniture/fixtures manufacturing, cabinet shops	—	P(3)	P(3)	
Laboratory—Medical, analytical	P	P	—	
Laundry, dry cleaning plant	—	MUP	P	
Manufacturing/processing—Heavy	—	—	MUP	
Manufacturing/processing—Light	P(3)	P(3)	P(3)	
Manufacturing/processing—Medium	—	MUP	MUP	
Media production—Indoor only	P	P(3)	P(3)	
Media production—With outdoor uses	MUP	P(3)	P(3)	
Petroleum product storage and distribution	—	—	MUP	
Printing and publishing	P(3)	P(3)	P	
Recycling—Large collection facility	—	—	MUP	20-42.120
Recycling—Processing facility	—	—	MUP	20-42.120
Recycling—Reverse vending machines	P	P	P(3)	20-42.120
Recycling—Scrap or dismantling yard	—	—	MUP	20-42.120
Recycling—Small collection facility	MUP	MUP	MUP	20-42.120
Research and development	P	P	MUP	
Storage—Accessory	P	P	P(3)	
Storage—Contractor’s yard	—	MUP	MUP	
Storage—Open during extended or transitional hours	—	MUP	MUP	
Storage—Outdoor	—	MUP	MUP	20-42.170
Storage—Personal storage facility (mini-storage)	—	P(3)	P(3)	20-42.180
Warehouse, wholesaling and distribution	MUP (4)	P(3)	P(3)	
Winery—Boutique	P	P	P	
Winery—Production	P	P	P	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES				
Adult entertainment business	S	S	S	20-40
Commercial recreation facility—Indoor	MUP	P	P	
Commercial recreation facility—Outdoor	—	MUP	—	
Community garden (6)	P	P	P	
Conference/convention facility	MUP (4)	MUP	—	
Health/fitness facility—Commercial	MUP	MUP	—	
Health/fitness facility—Quasi-public	MUP	MUP	—	

TABLE Allowed Land Uses and Permit Requirements for Industrial Districts	2-10			
	P	Permitted Use, Zoning Clearance required		
	MUP	Minor Conditional Use Permit required		
	CUP	Conditional Use Permit required		
	S	See Specific Use Regulations for requirement		
	—	Use not allowed		
LAND USE (1)	PERMIT REQUIRED BY ZONE (2)			Specific Use Regulations
	BP	IL	IG	
Meeting facility, public or private	MUP	MUP	—	
School, public or private	MUP	MUP	MUP	
Sports and entertainment assembly facility	—	CUP	—	
Studio—Art, dance, martial arts, music, etc.	MUP	MUP	—	
Theater, auditorium	—	CUP	—	

RESIDENTIAL USES (See Section 20-28.080, Senior Housing (-SH) combining district, for specific requirements regarding proposed senior housing developments)

Animal keeping—Domestic/exotic	S	S	S	20-42.040
Caretaker unit	MUP(4)	MUP(4)	MUP(4)	
Emergency shelter	CUP	CUP	CUP	
Home occupation	S	—	—	20-42.070
Live/work unit	MUP	—	—	20-42.080
Mixed use project	MUP	—	—	
Mobile home/manufactured housing	CUP(4)	—	—	20-42.094
Multi-family dwellings	CUP(4)	—	—	
Organizational house	CUP(4)	—	—	
Residential accessory uses and structures	P(4)	—	—	
Second dwelling unit	P(4)	—	—	20-42.130
Single-family dwelling	CUP(4)	—	—	
Transitional housing	CUP	CUP	CUP	
Work/live unit	MUP	MUP	MUP	20-42.080

RETAIL TRADE

Accessory retail uses	P(4)	P	P	20-42.024
Alcoholic beverage sales	—	CUP	—	20-42.034
Auto and vehicle sales and rental	—	MUP	—	
Bar/tavern	—	CUP	—	
Building and landscape materials sales—Indoor	—	P	MUP	
Building and landscape materials sales—Outdoor	—	MUP	MUP	
Cannabis—Retail (dispensary) and delivery	CUP(7)	CUP(7)	CUP(7)	20-46
Construction and heavy equipment sales and rental	—	MUP	MUP	
Farm supply and feed store	—	P	MUP	
Fuel dealer (propane for home and farm use, etc.)	—	—	MUP	
Gas station	—	CUP	CUP	20-42.150
Neighborhood center	MUP(5)	MUP(5)	CUP(5)	
Night club	—	CUP	—	
Office supporting retail	P	—	—	
Restaurant, café, coffee shop—Counter ordering	P(4)	P	CUP	
Restaurant, café, coffee shop—Outdoor dining	MUP(4)	MUP	CUP	
Restaurant, café, coffee shop—Serving alcohol (no bar)	P(4)	P	CUP	
Restaurant, café, coffee shop—Table service	P(4)	P	CUP	
Warehouse retail	CUP(4)	CUP	CUP	
SERVICES—BUSINESS, FINANCIAL, PROFESSIONAL				
ATM	P	P	—	20-42.044
Bank, financial services	P	—	—	
Business support service	P	P	MUP	
Medical service—Clinic, urgent care	P	MUP	—	
Medical service—Doctor office	P	—	—	
Medical service—Health care facility	MUP	—	—	20-42.060
Medical service—Integrated medical health center	P	MUP	—	

TABLE Allowed Land Uses and Permit Requirements for Industrial Districts	2-10		P	Permitted Use, Zoning Clearance required	
			MUP	Minor Conditional Use Permit required	
			CUP	Conditional Use Permit required	
			S	See Specific Use Regulations for requirement	
			—	Use not allowed	
LAND USE (1)		PERMIT REQUIRED BY ZONE (2)			Specific Use Regulations
		BP	IL	IG	
Medical service—Lab		P	MUP	—	
Medical service—Veterinary clinic, animal hospital		—	MUP	MUP	
Office—Accessory		P	P	P(3)	
Office—Business/service		P	—	—	
Office—Government		P	—	—	
Office—Processing		MUP	—	—	
Office—Professional		P	—	—	
SERVICES—GENERAL					
Accessory services		P(4)	P	MUP	20-42.024
Catering service		—	P	P	
Child day care center		MUP	MUP	—	20-42.050
Equipment rental		—	P(3)	P(3)	
Extended hours of operation (11:00 p.m. to 6:00 a.m.)		MUP	MUP	MUP	
Kennel, animal boarding		—	MUP	MUP	
Lodging—Hotel or motel		CUP(4)	—	—	
Maintenance service—Client site services		MUP	P	P	
Personal services		P	MUP	—	
Public safety facility		MUP(2)	MUP	MUP	
Repair service—Equipment, large appliances, etc.		—	MUP	P(3)	
Vehicle services—Major repair/body work		—	MUP	P(3)	
Vehicle services—Minor maintenance/repair		—	P	P(3)	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE					
Broadcasting studio		P	P	P	
Parking facility, public or commercial		—	—	MUP	
Taxi or limousine dispatch facility		—	MUP	MUP(3)	
Telecommunications facilities		S	S	S	20-44
Truck or freight terminal		—	MUP	MUP(3)	
Utility facility		—	P(3)	P(3)	
Utility infrastructure		P(3)	P(3)	P(3)	
Vehicle storage		—	MUP	P(3)	

Key to Zoning District Symbols

BP	Business Park	IG	General Industrial
IL	Light Industrial		

Notes:

- (1) See Division 7 for land use definitions.
- (2) The reoccupancy of a building with an allowable use that is similar to or less intense than the former use may be permitted without MUP or CUP approval. See Section 20-24.030.B.
- (3) MUP required if the use, specific suite, or its associated operations abuts a residential zoning district or parcel with a residential use.
- (4) Use only allowed if ancillary and related to a primary or dominant use.
- (5) Allowed in any industrial district where the review authority first determines that a need exists, and that the proposed business will be economically viable.

(6) A community garden is allowed on the same property as an existing permitted meeting facility provided that the establishment of the garden does not trigger a grading permit or affect the operation and design of the meeting facility.

(7) Subject to a 600 feet minimum setback requirement to a “school,” as defined by the Health & Safety Code Section 11362.768. In addition, a Cannabis Retail use shall not be established within 600 feet of any other Cannabis Retail use established within and permitted by the City of Santa Rosa.

Section 5. Amend Section 20-36.040, Table 3-4, to read and provide as follows:

TABLE 3-4—AUTOMOBILE AND BICYCLE PARKING REQUIREMENTS BY LAND USE TYPE

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Agricultural and Open Space Uses (1)		
Agricultural activities, including crop production, horticulture, orchard, vineyard, and animal keeping	None.	
Plant nursery	1.25 spaces per employee.	None.
Wildlife or botanical preserve or sanctuary	Determined by Conditional Use Permit.	

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Industry, Manufacturing and Processing, Wholesaling		
Industrial and manufacturing, except the uses listed below:		
Less than 50,000 sf.	1 space for each 350 sf. or as determined by CUP. The gross floor area may include accessory office space comprising less than 5% of the total gross floor area.	1 space per 7,000 sf. or as determined by CUP.
Equal to or greater than 50,000 sf.	1 space for each 700 sf. or as determined by CUP. The gross floor area may include accessory office space comprising less than 5% of the total gross floor area.	1 space per 14,000 sf. or as determined by CUP.
Cannabis - cultivation	1 space per 1,000 sf or as determined by CUP.	1 space per 14,000 sf. or as determined by CUP.
Cannabis - distribution	1 space for each 1,000 sf. or as determined by CUP. The gross floor area may include accessory office space comprising less than 5% of the total gross floor area.	1 space per 14,000 sf.
Cannabis - manufacturing:		
Less than 50,000 sf.	1 space for each 350 sf. or as determined by CUP. The gross floor area may include accessory office space comprising less than 5% of the total gross floor area.	1 space per 7,000 sf. or as determined by CUP.
Equal to or greater than 50,000 sf.	1 space for each 700 sf. or as determined by CUP. The gross floor area may include accessory office space comprising less than 5% of the total gross floor area.	1 space per 14,000 sf. or as determined by CUP.
Cannabis - testing laboratory	1 space for each 300 sf., plus 1 space for each company vehicle.	1 space per 6,000 sf.
Laboratory	1 space for each 300 sf., plus 1 space for each company vehicle.	1 space per 6,000 sf.

Recycling facility	1 space for each 1,000 sf. or as determined by CUP. The gross floor area may include incidental office space comprising less than 5% of the total gross floor area.	1 space per 14,000 sf.
Research and development	1 space for each 300 sf., plus 1 space for each company vehicle.	1 space per 6,000 sf.
Self storage (personal storage and mini warehouse facilities)	2 spaces for manager or caretaker unit, 1 of which must be covered, and a minimum of 5 customer parking spaces located adjacent or in close proximity to the manager's unit.	None required.
Warehouse, wholesaling, distribution, and storage (not including mini-storage for personal use)	1 space for each 1,000 sf. or as determined by CUP. The gross floor area may include accessory office space comprising less than 5% of the total gross floor area.	1 space per 14,000 sf.

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Recreation, Education, and Public Assembly		
Adult entertainment	As determined by CUP.	
Commercial recreation facility—Indoor	1 space for each 250 sf.	1 space per 5,000 sf.
Commercial recreation facility—Outdoor	As determined by MUP.	
Conference, convention facility	1 space for each 4 fixed seats or 1 space for every 50 sf. of assembly area or meeting rooms, whichever is greater.	1 space per 5,000 sf.
Golf courses/country club, public or quasi-public	8 spaces for each hole.	None required.
Equestrian facility	As determined by CUP.	
Health club/fitness facility	1 space for each 250 sf., not including that area devoted to athletic courts located within the building, plus 2 spaces per athletic court.	1 space per 4,000 sf.
Library, museum	1 space for each 300 sf., plus 1 space for each official vehicle.	1 space per 6,000 sf.
Meeting facility, public or private	1 space for each 4 fixed seats or 1 space for every 50 sf. of assembly area or meeting rooms, whichever is greater.	1 space per 4,000 sf.
Park/playground, public or quasi-public	As determined by review authority.	

School, public or private		
Elementary/middle school	1.5 spaces for each classroom, plus 1 space for every 200 sf. of assembly area in an auditorium.	1 space per 4,000 sf. of assembly area in an auditorium.
High school	0.33 spaces for each student, plus 1 space for each employee.	1 space per 4,000 sf. of assembly area in an auditorium.
College	0.5 spaces for each student, plus 1 space for each employee.	1 space per 1,000 sf. of assembly area in an auditorium.
Trade and business schools	1 space for each student.	1 space per 10 students.
Sports and entertainment assembly facility	1 space for each 4 fixed seats or 1 space for every 50 sf. of assembly area, whichever is greater.	1 space per 4,000 sf.
Studio: art, dance, martial arts, music, etc.	1 space for each 200 sf.	1 space per 4,000 sf.
Theater, auditorium	1 space for each 4 fixed seats or 1 space for every 50 sf. of assembly area or meeting rooms, whichever is greater.	1 space per 4,000 sf.

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Downtown residential units (in CD zone)	1 space per unit.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
Duplex, multifamily dwelling, rowhouse, condominium and other attached multifamily and single-family dwellings, and including multifamily in a small-lot subdivision	Studio and 1-bedroom units—1 covered space plus 0.5 visitor spaces per unit. Visitor spaces may be in tandem with spaces for the unit; or on-street abutting the site, except on a street identified by the General Plan as a regional street.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
	2 or more bedroom units—1 covered space plus 1.5 visitor spaces per unit. Visitor spaces may be in tandem with spaces for the unit; or on-street abutting the site, except on a street identified by the General Plan as a regional street.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
Emergency shelter	1 space for every 10 beds provided, plus 1 space for each staff person on duty.	
Group quarters (including boarding/rooming houses, dormitories, organizational houses)	1.5 spaces for each sleeping room or 1 space for each 100 sf. of common sleeping area.	1 space per room.
Live/work and work/live units	2 spaces for each unit. The review authority may modify this requirement for the re-use of an existing structure with limited parking.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
Mixed-use projects	See Section 20-36.050.A (Shared parking for mixed uses).	

Mobile home parks	1.75 spaces for each unit, which may be in tandem, one of which must be covered. At least one-third of the total spaces required shall be distributed throughout the mobile home park and available for guest parking.	0.5 spaces per unit.
Multifamily affordable housing project	Studio/1 bedroom unit—1 space per unit.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
	2 or more bedrooms—2 spaces per unit.	
Second dwelling units	1 space in addition to that required for a single-family unit; the space may be uncovered, compact, or tandem, and within the front yard setback when located in the driveway. If not located in driveway, parking shall be located outside any setback (See Section 20-42.130).	None required.
Senior housing project (with occupancy for persons 55 or older, as set forth in and which complies with Section 20-28.080)	1 space per unit with 0.5 of the spaces covered, plus 1 guest parking for each 10 units.	1 space per 8 units if units do not have a private garage or private storage space for bike storage.
Senior affordable housing project (with occupancy for persons 55 or older, as set forth in and which complies with Section 20-28.080)	1 space per unit.	1 space per 8 units if units do not have a private garage or private storage space for bike storage.
Single-family dwellings—Detached (see duplexes, etc., above for attached units)	Standard lot—4 spaces per unit, 1 of which must be on-site, covered and outside setbacks. The remaining 3 spaces may be on-site (in the driveway and tandem) or on a public or private street when directly fronting the lot.	None required.
	Flag lot—2 spaces per unit, 1 of which must be covered, both of which must be located outside the required setback area plus 2 on-site, paved guest spaces located outside the required setbacks and which may be tandem.	None required.
Single room occupancy facilities	0.5 spaces per unit.	
Supportive housing	Subject to the same parking requirements as other residential uses.	
Transitional housing	Subject to the same parking requirements as other residential uses.	

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Retail Trade		
All business, financial, and professional service uses, except those listed below	1 space for each 250 sf.	1 space per 5,000 sf.
Cannabis - retail (dispensary) and delivery	1 space for each 250 sf.	1 space per 5,000 sf.
ATM	2 spaces per machine. See also Section 20-42.044.	None required.
Medical service		
Clinic, lab, urgent care	1 space for each 300 sf.	1 space per 6,000 sf.
Doctor's office	1 space for each 200 sf.	1 space per 4,000 sf.
Health care facility	As determined by MUP.	
Hospital	As determined by CUP.	
Integrated medical health center	1 space for each 250 sf. of recreation and fitness area, not including that area devoted to athletic courts located within the building, plus 2 spaces per athletic court, plus 1 space per 300 sf. of medical clinic/office use.	1 space per 4,000 sf.
Veterinary clinic, arrival hospital	As determined by MUP.	

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Services—General		
All service uses, except those listed below	1 space for each 250 sf.	1 space per 5,000 sf.
Catering service	1 space per employee, plus 1 space per company vehicle.	None required.
Cemetery, mausoleum, columbarium	1 space for each 4 seats of chapel capacity, and 1 space per employee.	1 space per 5,000 sf.
Day care		
Adult day care	1 space per employee, plus 1 space per 10 clients, plus adequate loading space as required by review authority.	As determined by MUP or CUP.
Child day care—Center	1 space per employee, plus 1 space per 10 children, plus adequate loading space as required by review authority.	As determined by MUP or CUP.
Child day care—Large family day care home	3 spaces, no more than 1 of which may be provided in a garage or carport. Parking may be on-street if contiguous to the site. May include spaces already provided to meet residential parking requirements.	As determined by MUP or CUP.
Child day care—Small day care home	As required by State license.	None required.
Community care facility—6 or fewer clients	1 space for each 3 beds.	None required.
Community care facility—7 or more clients	1 space for each 3 beds.	As determined by MUP or CUP.
Drive-through service	As required by MUP or CUP. See Section 20-42.064.	

Equipment rental	1 space for each 350 sf. of floor area; none required for outdoor rental yard.	1 per 10 full time employees.
Kennel, animal boarding	1 space for each 500 sf., plus 1 space for each 1,000 sf. of boarding area.	1 per 10 full time employees.
Lodging—Bed & breakfast inn (B&B), hotels, and motels	1 space for each guest room, plus required spaces for accessory uses such as restaurants and conference space.	1 space plus 1 per 10 guest rooms.
Mortuary, funeral home	1 space for each 4 seats of chapel capacity and 1 space per employee.	1 per 10 full time employees.
Personal services	2 spaces per customer chair, or 1 space for 250 sf., whichever is greater.	1 space per 4,000 sf.
Personal services—Restricted	2 spaces per customer chair, or 1 space for 250 sf., whichever is greater.	1 space per 4,000 sf.
Public safety facility	As determined by MUP.	
Repair service—Equipment, large appliances, etc.	1 space for each 375 sf.	1 space per 7,500 sf.
Vehicle services—Minor, and major repair/body work	1 space for each service bay, plus 1 space per employee.	1 space per 10 full time employees.

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Transportation, Communications & Infrastructure		
All uses, except the following	As required by MUP or CUP.	
Broadcasting studio	1 space per 200 sf.	1 space per 4,000 sf.
Medical cannabis transporter	As required by MUP.	

Land Use Type:	Number of Parking Spaces Required	
	Vehicle	Bicycle
Downtown Station Area Specific Plan—Attached Multifamily Residential Uses		
Courthouse Square and Railroad subareas	1 reserved space per unit	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
Railroad Corridor subarea	1.5 reserved spaces per unit, except that only 1 reserved space per unit is required for residential uses on properties along the Wilson Street corridor between 6th Street and 9th Street, as shown in Figure 3-11.	
Parks and gardens subarea	1.5 reserved spaces per unit.	
Residential, historic residential and Imwalle Gardens subareas	1 reserved, covered space plus 0.5 shared visitor spaces per unit. Visitor spaces may be in tandem with spaces for the unit; or on-street abutting the site, except on a street identified by the general plan as a regional street.	

Land Use Type: Downtown Station Area Specific Plan—Detached Single-Family Residential Uses	Number of Parking Spaces Required	
	Vehicle	Bicycle
Residential, historic residential and Imwalle Gardens subareas	2 spaces per unit, one of which must be reserved, on-site, covered and outside of setbacks. The remaining space may be shared, on-site (in the driveway and tandem) or on a public or private street when directly fronting the lot.	None required.

Land Use Type: Downtown Station Area Specific Plan—Affordable Residential Uses	Number of Parking Spaces Required	
	Vehicle	Bicycle
All subareas	1 reserved space per unit.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.

Land Use Type: Downtown Station Area Specific Plan—Senior Housing Project (occupancy restricted to persons 55 or older)	Number of Parking Spaces Required	
	Vehicle	Bicycle
All subareas	0.5 reserved space per unit.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.

Land Use Type: Downtown Station Area Specific Plan—Nonresidential Uses	Number of Parking Spaces Required	
	Vehicle	Bicycle
Courthouse Square subarea	None, except 600 shared parking spaces shall be provided for the City Hall-Performing Arts Center. Any <i>new</i> on-street spaces created by a development shall count toward meeting the shared parking requirement.	1 space per 5,000 sf.
Railroad Square subarea	1 shared space for each 500 sf. of <i>new</i> floor area, no additional parking is required for new uses occupying existing buildings. Any <i>new</i> on-street spaces created by a development shall count toward meeting the shared parking requirement.	

	Required parking in the Railroad Square subarea may be provided on-site or within a nearby parking facility. Use of shared spaces in another parking facility shall not create a parking shortage for the business associated with that facility.	
Railroad Corridor subarea	1 shared space for each 300 sf. Any <i>new</i> on-street spaces created by a development shall count toward meeting the shared parking requirement.	
Parks and Gardens subarea	1 shared space for each 300 sf. Any <i>new</i> on-street spaces created by a development shall count toward meeting the shared parking requirement.	

Land Use Type: North Santa Rosa Station Area Specific Plan	Number of Parking Spaces Required	
	Vehicle	Bicycle
Multifamily attached residential	1.5 spaces per unit minimum.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
Affordable multifamily attached residential	1 space per unit minimum.	1 space per 4 units if units do not have a private garage or private storage space for bike storage.
Senior multifamily attached residential	0.5 spaces per unit minimum.	1 space per 8 units if units do not have a private garage or private storage space for bike storage.
Nonresidential	2.5 spaces for each 1,000 sf. minimum.	1 space per 5,000 sf.

Notes:

- (1) Properties located within the boundaries of the Downtown Station Area Specific Plan and the North Santa Rosa Station Area Specific Plan shall use the land use type “Station Area Plan” to determine the number of parking spaces required.
- (2) Properties located within the boundaries of the Downtown Station Area Specific Plan (the area bounded by College Avenue to the north, E Street to the east, Sebastopol Road and Highway 12 to the south, and Dutton Avenue and Imwalle Gardens to the west) shall use the land use type “Station Area Plan” to determine the number of parking spaces required.

Section 6. Repeal Chapter 20-46 in its entirety and replace with the following:

**Chapter 20-46
Cannabis**

Sections:

20-46.010	Purpose
20-46.020	Limitation on Use
20-46.030	Personal Cannabis Cultivation
20-46.040	Cannabis Businesses
20-46.050	General Operating Requirements
20-46.060	Cannabis Commercial Cultivation
20-46.070	Cannabis Manufacturing
20-46.080	Cannabis Retail (Dispensary) and Delivery
20-46.090	Cannabis Special Events
20-46.100	Grounds for Permit Revocation or Modification

20-46.010 Purpose.

This Chapter provides the location and operating standards for Personal Cannabis Cultivation and for Cannabis Businesses (Medical and Adult Use) to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

20-46.020 Limitations on Use.

- A. Compliance with City Code. Personal Cannabis Cultivation and Cannabis Businesses shall only be allowed in compliance with this Chapter and all applicable regulations set forth in the City Code, including but not limited to, the cannabis business tax ordinance and all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.
- B. Compliance with State laws and regulations. All Cannabis Businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over Cannabis and/or Cannabis Businesses. All Cannabis Businesses shall comply with the rules and regulations for Cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.
- C. Compliance with local and regional laws and regulations. All Cannabis Businesses shall comply with all applicable Sonoma County and other local and regional agency regulations, including, but not limited to, regulations issued by the Regional Water Quality Control Board, the Sonoma County Agricultural Commission, and the Sonoma County Department of Public Health.

- D. Cannabis Businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

20-46.030 Personal Cannabis Cultivation.

Personal Cannabis Cultivation for medical or adult use shall be permitted only in compliance with the provisions of Division 2 (Zoning Districts and Allowable Uses) and shall be subject to the following standards and limitations.

- A. Medical and Adult Use Cannabis Maximum Limitation. The personal cultivation of medical and/or adult use cannabis is limited no more six (6) mature plants per a primary residence, regardless of the number of residents and regardless of the presence of an accessory or junior accessory dwelling unit.
- B. Residency requirement. Cultivation of cannabis for personal use may occur only on parcels with an existing legal residence occupied by a full-time resident responsible for the cultivation.
- C. The following operating requirements are applicable to outdoor cultivation for personal use:
1. Maximum Limitation. Outdoor cultivation for personal use is limited no more than two (2) mature plants.
 2. Cannabis plants shall not be located in a front or street side yard, unless fully screened from public view.
 3. Outdoor cultivation for personal use is prohibited on parcels located adjacent to a school property; "School" as defined by the Health & Safety Code Section 11362.768.
- D. The following operating requirements are applicable to personal cannabis cultivation:
1. Visibility. No visible markers or evidence indicating that cannabis is being cultivated on the site shall be visible from the public right of way at street level, or from school property.
 2. Security. All enclosures and structures used for cannabis cultivation shall have security measures sufficient to prevent access by children or other unauthorized persons.
 3. Prohibition of Volatile Solvents. The manufacture of cannabis products for personal non-commercial consumption shall be limited to processes that are solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug and Cosmetic Act. The use of volatile solvents to manufacture cannabis products for personal consumption is prohibited.
 4. All structures used for Personal Cannabis Cultivation (including accessory structures, greenhouses, and garages) must be legally constructed with all applicable Building and

Fire permits (including grading, building, electrical, mechanical and plumbing) and shall adhere to the development standards within the base zone.

5. Odor Control. All structures used for cultivation shall be equipped with odor control filtration and ventilation systems such that the odors of cannabis cannot be detected from outside of the structure.
6. Lighting. Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards:
 - i. Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant and comply with Section 20-30.080 (Outdoor Lighting.)
 - ii. Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.
7. Noise. Use of air conditioning and ventilation equipment shall comply with the Chapter 17-16 (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.
8. All personal cannabis cultivation shall comply with the Best Management Practices for Cannabis Cultivation issued by the Sonoma County Agricultural Commission for management of waste, water, erosion control and management of fertilizers and pesticides.

20-46.040 Cannabis Businesses.

Cannabis Businesses (Medical and Adult Use) shall be permitted only in compliance with the provisions of Division 2 (Zoning Districts and Allowable Uses) and shall be subject to the following standards and limitations.

- A. Land use. For purposes of this Chapter, Cannabis Businesses shall include the following land use classifications, all of which are further defined in Chapter 20-70 (Definitions):
 1. Cannabis – Commercial Cultivation up to 5,000 sf
 2. Cannabis – Commercial Cultivation 5,001 sf or greater
 3. Cannabis – Retail (Dispensary) and Delivery
 4. Cannabis – Distribution
 5. Cannabis – Manufacturing – Level 1 (non-volatile)
 6. Cannabis – Manufacturing – Level 2 (volatile)
 7. Cannabis – Microbusiness
 8. Cannabis – Testing Laboratory

- B. Where allowed. Cannabis Businesses (Medical and Adult Use) shall be located in compliance with the requirements of Division 2 (Zoning Districts and Allowable Uses) and as designated on Tables 2-6 and 2-10 of the Zoning Code. With regard to required setbacks of a cannabis business to another land use, the City asserts its right to establish different radius requirements than what is provided by Business and Professions Code Section 26054 (b).
- C. Land use permit requirements. The uses that are subject to the standards in this Chapter shall not be established or maintained except as authorized by the land use permit required by Division 2.
- D. Development standards. The standards for specific uses in this Chapter supplement and are required in addition to those in Division 2 and Division 3 (Site Planning and General Development Regulations), and the City Code. In the event of any conflict between the requirements of this Chapter and those of Division 2 or 3 or other applicable provisions of this Code, the requirements of this Chapter shall control.

20-46.050 General Operating Requirements.

The following general operating requirements are applicable to all Cannabis Businesses. In addition, requirements specific to each Cannabis Business subtype are set forth in subsections 20-46.60 (Cannabis Cultivation), 20-46.70 (Cannabis Support Uses) and 20-46.80 (Cannabis Retail and Delivery).

- A. Dual licensing. The City recognizes that state law requires dual licensing at the state and local level for all Cannabis Businesses (Medical and Adult Use). All Cannabis Operators shall therefore be required to diligently pursue and obtain a state cannabis license at such time as the state begins issuing such licenses, and shall comply at all times with all applicable state licensing requirements and conditions, including, but not limited to, operational standards such as, by way of illustration but not limitation, background checks, prior felony convictions, restrictions on multiple licenses and license types, and locational criteria.
 - 1. Operators in good standing. Cannabis Businesses which have received land use permit approval pursuant to this Chapter prior to or within 10 months of date the state begins issuing state licenses shall be considered “operators in good standing”. Operators in good standing shall be allowed to obtain building occupancy permits and commence operations in compliance with City permit approvals while diligently pursuing all necessary state licenses and subject to any deadlines established by the state. Operators in good standing shall demonstrate to the City that complete applications for all necessary state licenses and agency permits have been filed and are being pursued by the applicant in compliance with deadlines established by the state.
 - 2. New operators. Cannabis Businesses which have received land use permit approval pursuant to this Chapter after the state begins issuing state licenses and after the 10-month transition period noted in subsection A.1 above, shall not be allowed to commence operations until the Cannabis Business can demonstrate that all necessary

state licenses and agency permits have been obtained in compliance with any deadlines established by the state.

3. Existing permitted operators. Cannabis Businesses which have received land use permit approval prior to the adoption of this Chapter shall be required to comply with all operational requirements set forth in this Chapter. In addition, a Cannabis Business that has obtained a valid land use permit for medical use issued prior to the adoption of this Chapter may incorporate adult use into their land use permit upon issuance of a Zoning Clearance by the Department. The Zoning Clearance shall, as a condition of issuance, require compliance with all operational provisions of this Chapter. The Zoning Clearance to incorporate adult use in addition to or in place of medical use shall not authorize any physical or operational expansion of the facility unless determined in compliance with this Chapter.
 4. Grounds for Revocation. Once state licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this Chapter and within any deadlines established by state law shall be grounds for revocation of City approval. Revocation of a local permit and/or a state license shall terminate the ability of the Cannabis Business to operate until a new permit and/or state license is obtained.
- B. Minors. Medical Cannabis Businesses shall only allow on the premises a person who is 18 years of age or older and who possesses a valid government-issued photo identification card. Adult Use Cannabis Businesses shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card.
- C. Inventory and tracking. Cannabis Operators shall at all times operate in a manner to prevent diversion of Cannabis and shall promptly comply with any track and trace program established by the state.
- D. Multiple permits per site. Multiple Cannabis Businesses proposed on any one site or parcel shall be granted permit approval only if all of the proposed Cannabis Businesses and their co-location are authorized by both local and state law. Cannabis Operators issued permits for multiple license types at the same physical address shall maintain clear separation between license types unless otherwise authorized by local and state law.
- E. Building and fire permits. Cannabis Operators shall meet the following requirements prior to commencing operations:
1. The Cannabis Operator shall obtain a building permit to confirm with the appropriate occupancy classification and compliance with Chapter 18 of the City Code.
 2. The Cannabis Operator shall obtain all annual operating fire permits with inspections prior to operation.
 3. The Cannabis Operator shall comply with all applicable H&SC and California Fire Code requirements related to the storage, use and handling of hazardous materials and the generation of hazardous waste. Cannabis Operators shall also obtain all required Certified Unified Program Agency (CUPA) permits including completing a California

Environmental Reporting System (CERS) submission for hazardous materials inventory that meet or exceed State thresholds and any waste generation for accountability.

4. Access with a Fire Department lock box for keys to gates and doors shall be provided.
- F. Transfer of ownership or operator. A permittee shall not transfer ownership or operational control of a Cannabis Business or transfer a permit for a Cannabis Business to another person unless and until the transferee obtains a zoning clearance from the Department stating that the transferee is now the permittee. The zoning clearance shall commit the transferee to compliance with each of the conditions of the original permit.
- G. Security. Cannabis Businesses shall provide adequate security on the premises, including lighting and alarms, to insure the public safety and the safety of persons within the facility and to protect the premises from theft. Applications for a Cannabis Business shall include a security plan that includes the following minimum security plan requirements:
1. Security cameras. Security surveillance video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour basis of all internal and exterior areas where Cannabis is cultivated, weighed, manufactured, packaged, stored, transferred, and dispensed. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. Cameras shall remain active at all times and shall be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for sixty (60) days.
 2. Alarm system. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. Section 6-68.130 of the City Code requires that an alarm permit be obtained by the Santa Rosa Police Department prior to installing an alarm system. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. Cannabis Operators shall keep the name and contact information of the alarm system installation and monitoring company as part of the Cannabis Business's onsite books and records. Cannabis Operators shall identify a local site contact person who will be responsible for the use and shall provide and keep current full contact information to the Santa Rosa Police Department dispatch database as part of the alarm permitting process.
 3. Secure storage and waste. Cannabis Products and associated product waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.
 4. Transportation. Cannabis Businesses shall implement procedures for safe and secure transportation and delivery of Cannabis, Cannabis Products and currency in accordance with state law.
 5. Locks. All points of ingress and egress to a Cannabis Business shall be secured with Building Code compliant commercial-grade, non-residential door locks or window locks.

6. Emergency access. Security measures shall be designed to ensure emergency access in compliance the California Fire Code and Santa Rosa Fire Department standards.
- H. Odor control. Cannabis Businesses shall incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be detected from outside of the structure in which the Business operates. Applications for Cannabis Businesses shall include an odor mitigation plan certified by a licensed professional engineer that includes the following:
1. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system remains functional;
 2. Staff training procedures; and
 3. Engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.
- I. Lighting. Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards:
1. Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant and comply with Section 20-30.080 (Outdoor Lighting.)
 2. Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.
- J. Noise. Use of air conditioning and ventilation equipment shall comply with the Chapter 17-16 (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.

20-46.060 Cannabis Commercial Cultivation

In addition to the General Operating Requirements set forth in Section 20-46.50, this section provides additional requirements for Cannabis Commercial Cultivation.

- A. Outdoor commercial cultivation prohibited. The cultivation of Cannabis for commercial use may only be cultivated within a fully enclosed space.
- B. Conditional use. Depending on the size of the facility, and in accordance with Table 2-10, a Conditional Use Permit or Minor Conditional Use Permit shall be required for Cannabis Commercial Cultivation. For purposes of determining the facility size, and thus the

appropriate permit, square footage shall be defined by calculating the gross square footage of the structure or portion of the structure occupied by the Cannabis Business, not the canopy area.

- C. Microbusiness. In addition to compliance with permit and operating requirements set forth in this Chapter for Cannabis Cultivation, a Cannabis Microbusiness which includes cultivation, manufacturing distribution and/or retail within one state license shall comply with all permit and operating requirements set forth in this Chapter for Cannabis Manufacturing, Distribution, and/or Retail (Dispensary) and Delivery as applicable to the combination of uses within the license.
- D. Pesticides. The cultivation of Cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).

20-46.070 Cannabis Manufacturing

In addition to the General Operating Requirements set forth in Section 20-46.50, this section provides additional operational requirements for Cannabis Manufacturing.

- A. Extraction processes. Cannabis Manufacturers shall utilize only extraction processes that are (a) solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act, and/or (b) use solvents exclusively within a closed loop system that meets the requirements of the federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a California licensed engineer.
- B. Loop systems. No closed loop systems shall be utilized without prior inspection and approval of the City's Building Official and Fire Code Official.
- C. Standard of equipment. Extraction equipment used by the Cannabis Manufacturer must be listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City's Building Official and Fire Code Official.
- D. Annual re-certification required. Extraction equipment used by the Cannabis Manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on-site.
- E. Food handler certification. All owners, employees, volunteers or other individuals that participate in the production of edible Cannabis Products must be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the Cannabis Manufacturer's facility where that individual participates in the production of edible Medical Cannabis Products.

- F. Edible product manufacturing. Cannabis Businesses that sell or manufacture edible medical cannabis products shall obtain a Sonoma County Health Permit. Permit holders shall comply with Health and Safety Code Section 13700 *et seq.* and Sonoma County Health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

20-46.080 Cannabis Retail (Dispensary) and Delivery.

In addition to the General Operating Requirements set forth in Section 20-46.50, this section provides location and operating requirements for Cannabis Retail (Dispensary) and Delivery.

- A. Conditional use. A Conditional Use Permit shall be required to operate Cannabis Retail (Dispensary) and Delivery in accordance with Tables 2-6 and 2-10. The use permit application shall clearly specify if the use is for medical and/or for adult use retail.
- B. Delivery Services. In addition to the requirements established in this Chapter for Cannabis Retail, the delivery of Cannabis and Cannabis Products shall be subject to the following requirements:
1. Commercial delivery to patients at locations outside a permitted Cannabis Retail facility shall only be permitted in conjunction with a permitted Cannabis Retail facility that has a physical location and a retail storefront open to the public.
 2. A Cannabis Retail facility shall not conduct sales exclusively by delivery.
 3. Conditional Use Permit applications for Cannabis Retail shall include a statement as to whether the use will include delivery of Cannabis and Cannabis Products to patients located outside the Cannabis Retail facility.
 4. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this Chapter and state law.
- C. Drive through Services. Drive-through or walk-up window services in conjunction with Cannabis Retail are prohibited.
- D. Location requirements. In addition to the requirements established in Tables 2-6 and 2-10, Cannabis Retail shall be subject to the following location requirements:
1. Overconcentration. To avoid overconcentration, a Cannabis Retail use shall not be established within 600 feet of any other Cannabis Retail use established within and permitted by the City of Santa Rosa.
 2. Setback to schools. Cannabis Retail shall be subject to a 600 foot minimum setback from any K-12 “school”, as defined by the Health and Safety Code Section 11362.768.

3. Measurement of distance. The distance between Cannabis Retail and a school shall be made in a straight line from the boundary line of the property on which the Cannabis Retail is located to the closest boundary line of the property on which a school is located.
 4. Location of a new school after permit issued. Establishment of a school within the required setback of a Cannabis Retail facility after such facility has obtained a Conditional Use Permit for the site shall render the Cannabis Retail facility legal non-conforming and subject to the protections and provisions of Chapter 20-61 (Non-Conforming Uses, Structures and Parcels).
 5. Visibility of entrance. The storefront entrance of a Cannabis Retail facility shall be in a visible location that provides an unobstructed view from the public right of way.
- E. Edible products. Cannabis Businesses that sell or manufacture edible medical cannabis products shall obtain a Sonoma County Health Permit. Permit holders shall comply with Health and Safety Code Section 13700 et seq. and Sonoma County Health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.
- F. Operational requirements. In addition to project specific conditions of approval, Cannabis Retail shall comply with the following operational requirements:
1. Employees. The Cannabis Retail Operator shall maintain a current register of the names of all employees employed by the Cannabis Retailer, and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.
 2. Recordkeeping. The Cannabis Retail Operator shall maintain patient and sales records in accordance with state law.
 3. Protocols and requirements for patients and persons entering the site. No person shall be permitted to enter a Cannabis Retail facility without government issued photo identification. Cannabis Businesses shall not provide Cannabis or Cannabis Products to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government-issued photo identification card and a valid physician's recommendation under Section 11362.712 of the Health and Safety Code.
 4. Hours of operation. Cannabis Retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to seven (7) days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit.
 5. Secured access. A Cannabis Retail facility shall be designed to prevent unauthorized entrance into areas containing Cannabis or Cannabis Products. Limited access areas accessible to only authorized personnel shall be established.

6. Secured products. Cannabis and Cannabis Products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
 7. Sale and display of cannabis paraphernalia. No dispensary shall sell or display any cannabis related paraphernalia or any implement that may be used to administer Cannabis or Cannabis Products unless specifically described and authorized in the Conditional Use Permit. The sale of such products must comply with the City's zoning code and any other applicable state regulations.
 8. Onsite physician restriction. Cannabis Retail shall not have an on-site or on-staff physician to evaluate patients and provide a recommendation for Cannabis.
 9. Site management. The Cannabis Retail Operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.
 10. Advertising and signs. A Cannabis Retail facility shall not advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.
 11. Display of permit. Cannabis Retail shall maintain a copy of its permit on display during business hours and in a conspicuous place so that the same may be readily seen by all persons entering the facility.
- F. On-site consumption. In addition to the requirements established in this Chapter for Cannabis Retail, the consumption of Cannabis and Cannabis Products shall be subject to the following requirements:
1. Patients or Customers. Neither patients nor customers shall not be permitted to consume cannabis on the site of a Cannabis Retail facility except as permitted in accordance with Chapter 9-20 (Smoking Regulations), in compliance with state law and as follows:
 - i. Conditional Use Permit applications for Cannabis Retail shall include a statement as to whether the use will include on-site consumption by patients or customers of Cannabis and Cannabis Products.
 - ii. If on-site consumption will be included, the application shall describe the operational plan and specific extent of such provision, security protocols, and how the consumption will comply with the requirements set forth in this Chapter and state law.

2. Employees. Employees of a Cannabis Retail facility who are qualified patients may consume medical Cannabis or Cannabis Products on-site within designated spaces not visible by members of the public, provided that such consumption is in compliance with Chapter 9-20 (Smoking Regulations) and state law.
3. Signs regarding public consumption. The entrance to a Cannabis Retail facility shall be clearly and legibly posted with a notice indicating that smoking and vaping of Cannabis is prohibited on site or in the vicinity of the site except as permitted in accordance with Chapter 9-20 (Smoking Regulations) and state law.

20.46-090 Cannabis Special Events

- A. Dual licensing. The City recognizes that state law requires Cannabis Businesses to obtain dual licensing at the state and local level for temporary special events that involve on-site cannabis sales to, and consumption by patients. Such events shall not be allowed to commence until the Cannabis Business can demonstrate that all necessary local permits, state temporary event licenses, and agency permits have been obtained in compliance with any regulations and deadlines established by the City and the state.
- B. Conditional use. Applications for a cannabis special event shall be filed in a timely manner in accordance with Section 20-52.040 (Temporary Use Permit) or Chapter 11-40 (Special Events) depending on the location of the event.

20.46-100 Grounds for Permit Revocation or Modification

In addition to the grounds in Section 20-54.100 (Permit Revocation or Modification), the review authority may require modification, discontinuance or revocation of a Cannabis Business permit if the review authority finds that the use is operated or maintained in a manner that it:

- A. Adversely affects the health, peace or safety of persons living or working in the surrounding area;
- B. Contributes to a public nuisance; or
- C. Has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, diversion of Cannabis or Cannabis Products, public intoxication, smoking in public, harassment of passerby, littering, or obstruction of any street, sidewalk or public way; or
- D. Violates any provision of the City Code or condition imposed by a City issued permit, or violates any provision of any other local, state, regulation, or order, including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws.

Section 7. Add the following definitions, in alphabetical order, to Section 20-70.020 to read and provide as follows:

“Ancillary” means a use that is related but subordinate to the primary or dominant use on the site.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972, and amended by the California Control, Regulate and Tax Adult Use of Marijuana Initiative, and as defined by other applicable state law. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

“Cannabis” or “Cannabis Product” means cannabis or a cannabis product, respectfully, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medical cannabis patient in California who possesses a physician’s recommendation; or pursuant to the Adult Use of Marijuana Act (Proposition 64), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).

“Cannabis Business” means an entity engaged in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

“Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Medical or Adult Use Cannabis. Includes cannabis nurseries.

“Cannabis Distribution” means the procurement, sale, and transport of Medical or Adult Use Cannabis and Medical or Adult Use Cannabis Products between Cannabis Businesses.

“Cannabis Manufacturing” means the production, preparation, propagation, or compounding of medical or adult use cannabis or medical or adult use cannabis products either directly or indirectly or by extraction methods, or independently by mean of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical or adult use cannabis or medical or adult use cannabis products or labels or relabels its container.

“Cannabis Manufacturing - Level 1” means the processing or manufacturing of medical or adult use cannabis products using nonvolatile solvents, or no solvents. The use of post-extraction ethanol “winterization” is allowed within Cannabis Manufacturing Level 1 only to the extent such use is permitted by the state in a Type 6 license.

“Cannabis Manufacturing - Level 2” means the processing or manufacturing of medical or adult use cannabis products using volatile solvents. For purposes of this section, “volatile solvents” shall include solvents described in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, or as such section may be amended.

“Cannabis Microbusiness” means a medical or adult use cannabis cultivation business of less than 10,000 square feet in combination with cannabis distribution, cannabis manufacturing – level 1, and/or cannabis retail (dispensary) and delivery, combined within one state license.

“Cannabis Operator” or **“Operator”** means the person or entity that is engaged in the conduct of any commercial medical or adult use Cannabis Business.

“Cannabis Retail” means a facility where Medical or Adult Use Cannabis or Medical or Adult Use Cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers Cannabis or Cannabis Products as part of a retail sale. Also known as a cannabis “dispensary”.

“Cannabis Testing Laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of medical or adult use cannabis or medical or adult use cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- (2) Licensed by the Bureau of Cannabis Control.

“Delivery of Cannabis” means the commercial transfer of Cannabis or Cannabis Products to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code as Medical Cannabis; or as defined pursuant to the Adult Use of Marijuana Act (Proposition 64), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). “Delivery” also includes the use of any technology platform owned and controlled by a Cannabis Business Operator that enables qualified patients or primary caregivers or adult use customers to arrange for or facilitate the commercial transfer by a permitted Cannabis Retail facility.

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

“Greenhouse” means a permanent enclosed structure for the propagation and growing of plants, constructed with a translucent roof and/or walls.

“Marijuana” See “Cannabis”.

Section 8. Environmental Determination. The Council finds and determines that the adoption and implementation of this ordinance is exempt from the following provisions of the California Environmental Quality Act in that:

- i. Under section 15061(b)(3) (general rule) in that as a general policy making activity and/or administrative activity there is no possibility that the implementation of this ordinance will have significant effects on the environment; and
- ii. Under section 15183 (projects consistent with a community plan, general plan, or zoning) in that the proposed zoning amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses consistent with land use tables, development standards and other applicable provisions of Title 20 of the Code such as allowing cannabis testing laboratory uses where non-cannabis testing laboratory uses are allowed; and
- iii. Under section 15301 (existing facilities) in that proposed zoning amendments will allow commercial cannabis businesses to re-tenant existing commercial and industrial facilities designed to support such occupancies; and
- iv. Under SB 94 which provides that until July 1, 2019, the adoption of a specified ordinance, rule, or regulation by a local jurisdiction shall be exempt from CEQA if the ordinance requires discretionary review and approval of permits, license, or other authorizations to engage in commercial cannabis activity, and in that the subject ordinance does require zoning clearances and conditional use permits prior to engaging in commercial cannabis activity;
- v. Provisions of which each can provide a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

Section 9. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 10. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

IN COUNCIL DULY PASSED this 19th day of December, 2017.

AYES: (7) Mayor Coursey, Vice Mayor Rogers, Council Members Combs, Olivares, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney

ORDINANCE O2017-__

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AMENDING THE NAPA MUNICIPAL CODE BY ADDING SECTION 17.52.275: MEDICINAL AND ADULT-USE CANNABIS REGULATIONS AND SAFETY ORDINANCE; AMENDING SECTIONS 17.12.020 AND 17.14.020 IDENTIFYING MEDICINAL CANNABIS RETAILERS AS SUBJECT TO A CANNABIS ESTABLISHMENT CLEARANCE IN THE OM, IL, AND IP-C DISTRICTS; AMENDING SECTION 17.14.020 IDENTIFYING SMALL CANNABIS MANUFACTURERS AS SUBJECT TO A CANNABIS ESTABLISHMENT CLEARANCE IN THE IP-A, IP-B AND IP-C DISTRICTS; AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EXEMPT FROM CEQA

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (CSA), 21 U.S.C. Section 801 et seq., which, among other things, makes it illegal to import, manufacture, distribute, possess or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana use; and

WHEREAS, in 1996, California voters enacted Proposition 215, which was entitled the Compassionate Use Act (the "CUA") of 1996, and was codified in California Health and Safety Code Section 11362.5; and

WHEREAS, the CUA decriminalized the possession and cultivation of medical marijuana for limited personal medical purposes; and

WHEREAS, California courts have held that the CUA created a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, in 2004, the California legislature enacted Senate Bill 420, the Medical Marijuana Program (the "MMP"), which, as codified in California Health and Safety Code Section 11362.7 et seq., was intended to clarify the CUA's scope and immunize from criminal prosecution, under specified state laws, certain activities and conduct related to the provision of medical marijuana to qualified patients; and

WHEREAS, the California Supreme Court ruled unanimously in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, that the CUA and the MMP do not preempt local ordinances that completely and permanently ban medical marijuana dispensaries, collectives, and cooperatives; and

ATTACHMENT 1

WHEREAS, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Third District Court of Appeal held, based on *Inland Empire*, that there was no right to cultivate medical marijuana and that a city could implement and enforce a complete ban on this activity, including a ban on personal cultivation; and

WHEREAS, on October 9, 2015, Assembly Bills 243 and 266 and Senate Bill 643 (collectively, the “Medical Cannabis Regulation and Safety Act” or “MCRSA”) were enacted to create a state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, the manufacturing of medical marijuana products, and physician recommendations for medical marijuana; and

WHEREAS, MCRSA expressly preserved local control over medical marijuana facilities and land uses, including the authority to prohibit medical marijuana facilities and cultivation completely; and

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, entitled the “Control, Regulate and Tax Adult Use of Marijuana Act” (the “AUMA”), which legalizes and regulates the adult use of non-medical marijuana (commonly referred to as “recreational marijuana”) in California; and

WHEREAS, the AUMA requires adult-use cannabis businesses, including cultivators, manufacturers, distributors, transporters, retailers, and testing laboratories, to obtain a state license in order to operate lawfully; and

WHEREAS, on June 27, 2017, the Governor signed Senate Bill 94, which repealed MCRSA and included certain provisions from MCRSA regarding medical marijuana in the AUMA; and

WHEREAS, Senate Bill 94 renamed the AUMA as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, in addition to consolidating state laws regarding medical marijuana and adult-use marijuana, Senate Bill 94 introduced more uniform terminology; and

WHEREAS, Senate Bill 94 revised references in existing law to “marijuana” or “medical marijuana” to instead refer to “cannabis” or “medicinal cannabis”, and revised references to “nonmedical” to “adult-use;” and

WHEREAS, California Business and Professions Code Section 26200, which is part of MAUCRSA, expressly recognizes the ability of cities to completely prohibit all adult-use cannabis businesses or to regulate such businesses; and

WHEREAS, under MAUCRSA, individuals may possess and use specified amounts of cannabis and may cultivate up to six cannabis plants per private residence; and

ATTACHMENT 1

WHEREAS, under MAUCRSA, cities may ban private outdoor cannabis cultivation, but they may not completely ban private indoor cultivation of six cannabis plants or less; and

WHEREAS, MAUCRSA retained the local control provision set forth in California Business and Professions Code Section 26200(a); and

WHEREAS, Article XI, Section 7 of the California Constitution provides a city may make and enforce within its limits all police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, local control over cannabis-related land uses has been an issue of significant public importance in the City of Napa since the Act and MMP; and

WHEREAS, in 2009 and 2010, the City conducted extensive community outreach and many public meetings regarding the potential establishment of a local ordinance regulating the collective and cooperative cultivation and distribution of medicinal cannabis; and

WHEREAS, on July 6, 2010, the City Council adopted Ordinance No. O2010-12, which was intended to establish regulations for the land use formerly identified as “medical marijuana dispensaries” in a manner that would mitigate the otherwise current and immediate threats to the public health, safety, and welfare resulting from unregulated cannabis distribution facilities; and

WHEREAS, on or about October 4, 2011, the Second District Court of Appeal ruled in *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070, that federal law preempted a City of Long Beach ordinance that established a comprehensive regulatory scheme governing the operation and permitting of medicinal cannabis facilities; and

WHEREAS, the City Council concluded that the Court’s analysis in *Pack* raised substantial questions regarding the effectiveness and validity of Ordinance No. O2010-12; and

WHEREAS, in response to *Pack*, the City Council initially adopted a moratorium that temporarily suspended Ordinance No. O2010-12 and ultimately adopted Ordinance No. O2013-9, which repealed Ordinance No. O2010-12 in its entirety and deleted references in the Napa Municipal Code to medicinal cannabis dispensaries, facilities, and permits; and

WHEREAS, cannabis-related land uses are currently prohibited under Ordinance No. O2013-9, Napa Municipal Code Section 17.04.030(B), and principles of permissive zoning (*City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, 431-433); and

WHEREAS, the City has received information from cities and counties throughout California that have experienced serious adverse impacts associated with and resulting from unpermitted and/or unregulated cannabis facilities and land uses, including

burglaries, robberies, violence, illegal diversion of cannabis to minors, hazardous construction and electrical wiring, and noxious odors and fumes affecting neighboring properties and businesses, including: a 2009 white paper from the California Police Chiefs Association, a 2014 memorandum from the Santa Clara County District Attorney's Office ("Issues Surrounding Marijuana in Santa Clara County"), and a 2014 memorandum from the Santa Clara County Public Defender ("Substance-Related Suspensions in the East Side Union High School District"), and previous public reports to City Council on the potential establishment of a local ordinance regulating the collective and cooperative cultivation and distribution of medicinal cannabis, all of which are available for review in the office of the City Clerk; and

WHEREAS, it is reasonable to conclude that similar adverse impacts on the public health, safety and welfare will likely also occur in the City of Napa if medicinal and adult-use cannabis facilities and private cannabis cultivation are left unregulated; and

WHEREAS, the City Council has determined that, following the State's enactment of MCRSA and the voter's approval of the AUMA, as well as the State's enactment of MAUCRSA and the State's anticipated adoption of licensing regulations for the more detailed implementation of MAUCRSA, there are and will be sufficiently robust statewide regulatory systems in place to avoid the risks of adverse impacts described above, which will allow the City to establish the local regulation of medicinal and adult-use of cannabis, as set forth in this ordinance, in order to serve the public within the City by providing clear guidelines regarding the scope of prohibited conduct and minimize the potential for confusion regarding the City's policies; and

WHEREAS, an ordinance prohibiting medicinal and adult-use cannabis facilities, while providing a limited Municipal Code immunity to medicinal cannabis retailers and small cannabis manufacturers that operate in strict compliance with state laws and local requirements, is necessary and appropriate to maintain and protect the public health, safety and welfare of the citizens of Napa; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including the foregoing recitals, any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Napa as follows:

SECTION 1: Section 17.52.275 of Chapter 17.52 of Title 17 of the Napa Municipal Code is hereby added as follows:

17.52.275 Medicinal and Adult-Use Cannabis Regulation and Safety Ordinance

A. Purpose, Scope, and Findings

The purpose and intent of this section is to prohibit all commercial cannabis activities. However, medicinal cannabis retailers and small cannabis manufacturers that hold a valid Cannabis Establishment Clearance in accordance with this section are immune from enforcement of the prohibition of all commercial cannabis activities. It is also the purpose and intent of this section to regulate private cannabis cultivation in manner that is consistent with state law and that protects the public health, safety, and welfare. The City Council finds that, in the absence of the regulations set forth in this section, the adverse impacts directly associated with the cultivation, manufacture, sale, and distribution of cannabis will pose a substantial threat to the public health, safety, and welfare of residents and businesses within the City. This section is not intended to, and does not, authorize the violation of state or Federal law.

B. Definitions

“Business owner” shall have the meaning set forth in California Business and Professions Code Section 26001(a), which includes, for each applicable commercial cannabis activity (whether a medicinal cannabis retailer or small cannabis manufacturer), all of the following: (1) a person with an aggregating ownership interest of 20 percent or more, (2) the chief executive officer, (3) a member of the board of directors, and (4) a person who will be participating in the direction, control, or management of the commercial cannabis activity.

“Cannabis” shall have the meaning set forth in California Business and Professions Code Section 26001(f), which includes 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” also means the separated resin, whether crude or purified, obtained from cannabis. “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. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by California Health and Safety Code Section 11018.5.

“Cannabis Establishment Clearance” shall have the meaning set forth in subsections (D)(2) through (D)(5), below.

“Commercial cannabis activity” shall have the meaning set forth in California Business and Professions Code Section 26001(k), which includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products as provided in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA,” California Business and Professions Code Sections 26000 *et seq.*) and for which a state license or nonprofit license is required.

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“Cultivation” shall have the meaning set forth in California Business and Professions Code Section 26001(l), which includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products from a medicinal cannabis retailer located within the City or a state-licensed cannabis retailer located outside the City, in accordance with State Cannabis Laws, to a primary caregiver, qualified patient, or person with an identification card located inside the City.

“Director” means the Community Development Director, or a designee of the Community Development Director or City Manager.

“Medicinal cannabis” or “medicinal cannabis product” shall have the meaning set forth in California Business and Professions Code Section 26001(ai), which includes cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Medicinal cannabis retailer” means any commercial cannabis activity that is a retailer of medicinal cannabis or medicinal cannabis products.

“Person with an identification card” shall have the meaning set forth in California Health and Safety Code Section 11362.7(c), which is an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Division 10, Chapter 6, Article 2.5 of the California Health and Safety Code.

“Primary caregiver” shall have the meaning set forth in California Health and Safety Code Sections 11362.5(e) and 11362.7(d), which includes an individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient.

“Qualified patient” shall have the meaning set forth in California Health and Safety Code Section 11362.7(f), which includes a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued pursuant to Division 10, Chapter 6, Article 2.5 of the California Health and Safety Code.

“Retail sale” means any transaction whereby, for any consideration, title or possession to cannabis or cannabis products is transferred from one person to another.

“Retailer” shall have the meaning set forth in California Business and Professions Code Section 26070(a)(1), which includes the retail sale and delivery of cannabis or cannabis products to customers, and which requires the retailer to have a state licensed premises which is a physical location from which commercial cannabis activities are conducted.

“Small cannabis manufacturer” means: (a) a “manufacturer,” as that term is used in California Business and Professions Code Section 26001(ah); that (b) operates as an ancillary use to a food manufacturer or processing business (that does not sell alcoholic beverages or tobacco products) as defined by Section 17.14.020(A) of this code.

“State Cannabis Laws” means and includes California Health and Safety Code Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program); California Business and Professions Code Sections 26000, *et seq.* (Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”)); all state laws enacted or amended pursuant to SB-94, Chapter 27, Statutes of 2017; the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all state regulations adopted pursuant to MAUCRSA; any license issued pursuant to MAUCRSA; and all other applicable laws of the State of California.

“Youth oriented property” means any property on which any of the following uses are located: (1) a child day care facility (as defined by California Health and Safety Code Section 1596.750, which includes a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis; and includes day care centers, employer-sponsored child care centers, and family day care homes); (2) a day care center (as defined by California Health and Safety Code Section 1596.76, including any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers); (3) a youth center (as defined by California Health and Safety Code Section 11353.1, which includes any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities); (4) a public park or playground; or (5) a school (including any private or public educational facility providing instruction in kindergarten or grades 1 through 12).

C. Commercial cannabis activities prohibited.

1. Commercial cannabis activities are prohibited in all zones in the City and shall not be established or operated anywhere in the City.

2. No person may own, establish, open, operate, conduct, or manage a facility or property at which a commercial cannabis activity occurs in the City, or be the lessor of a facility or property where a commercial cannabis activity occurs.

D. Limited Immunity for Medicinal Cannabis Retailers and Small Cannabis Manufacturers

1. Notwithstanding the activities prohibited by this section, and notwithstanding that commercial cannabis activities are not and shall not become a permitted use in the City for so long as this section remains in effect, any medicinal cannabis retailer or small cannabis manufacturer that complies with all of the requirements set forth in this section and all applicable State Cannabis Laws shall receive a limited immunity from enforcement by the City of any prohibition of commercial cannabis activities under any remedies available to the City under chapters 1.16 through 1.26 of this code.

2. No person shall receive the immunity provided by subsection (D)(1), above, unless: (i) the Director issues a Cannabis Establishment Clearance, and the person continues to hold a valid Cannabis Establishment Clearance, in accordance with subsections (D)(2) through (D)(5); and (ii) the person is operating in accordance with a valid license issued by the state in accordance with MAUCRSA and State Cannabis Laws. A person may request a Cannabis Establishment Clearance ("Clearance Request") by submitting the information set forth in this subsection (D)(2) to the Director, on a form approved by the Director, accompanied by the payment of an administrative processing fee in an amount to be determined by City Council resolution, signed by the authorized representative of the business and the owner of the real property on which the medicinal cannabis retailer or small cannabis manufacturer are proposed to operate. The Clearance Request shall include the following information:

- (a) The name of the proposed medicinal cannabis retailer or small cannabis manufacturer, including, if applicable, the name on file with the California Secretary of State and any fictitious business names and/or DBA's.
- (b) Whether the proposed business, establishment, or facility is a medicinal cannabis retailer or small cannabis manufacturer.
- (c) The proposed location of the medicinal cannabis retailer or small cannabis manufacturer (must comply with the zoning and location restrictions set forth in this section).
- (d) The names, addresses, and contact information for each business owner of the proposed medicinal cannabis retailer or small cannabis manufacturer.
- (e) If the proposed medicinal cannabis retailer or small cannabis manufacturer is incorporated, the names, titles, addresses, and contact information of each corporate officer, the name, address, and contact information of the agent for service of process, a certified copy of the articles of incorporation, and a certified copy of the bylaws.
- (f) If the proposed medicinal cannabis retailer or small cannabis manufacturer is a partnership, the names, addresses, and contact information for each partner and the agent for service of process.

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(g) The name and contact information for each manager of a proposed medicinal cannabis retailer or small cannabis manufacturer. If such information is not available at the time the Clearance Request is submitted, the medicinal cannabis retailer or small cannabis manufacturer shall submit such information to the Director as soon as it becomes available.

(h) For each business owner, a criminal history ("LiveScan") prepared not more than two weeks prior to the date of submitting the Clearance Request demonstrating that there are no pending charges or convictions for a felony, a felony or misdemeanor involving moral turpitude, or any crime involving the sale, possession for sale, manufacture, transportation, cultivation, or distribution of a controlled substance within the previous ten years, and that the subject is not currently on parole or probation for a felony, a felony or misdemeanor involving moral turpitude, or any crime involving the sale, possession for sale, manufacture, transportation, cultivation, or distribution of a controlled substance. For each business owner, who becomes part of a medicinal cannabis retailer or small cannabis manufacturer after a Cannabis Establishment Clearance is issued, the medicinal cannabis retailer or small cannabis manufacturer must submit the required criminal history to the Director within two weeks of the new business owner joining the operation.

(i) A site plan and operations plan that demonstrate how the medicinal cannabis retailer or small cannabis manufacturer has already complied or will comply with the requirements of this section.

(j) A copy of all required permits and certificates under title 15 (Buildings and Construction) of this code or a written acknowledgment that the medicinal cannabis retailer or small cannabis manufacturer will obtain all required permits and certificates under title 15 prior to its opening, establishment, operation, and/or commencement.

(k) A written acknowledgment that a Cannabis Establishment Clearance issued under this section does not create, confer, or convey any vested rights or entitlement to operate a medicinal cannabis retailer or small cannabis manufacturer at the proposed location or anywhere else in the City.

(l) The name, address, and contact information for the owner of the property on which the medicinal cannabis retailer or small cannabis manufacturer will be located.

(m) An agreement signed by the owner of the property on which the medicinal cannabis retailer or small cannabis manufacturer is located consenting to the use of the property as a medicinal cannabis retailer or small cannabis manufacturer and agreeing to indemnify, defend (with an attorney selected by the City), and hold harmless the City from any claims, damages, legal or enforcement actions arising

from the use of the property as a medicinal cannabis retailer or small cannabis manufacturer.

(n) Any supplemental information requested by the Director to establish compliance with the requirements of this section.

3. If a Clearance Request is complete (containing all of the information required above), and the Director determines that the commercial cannabis activity is in compliance with all requirements of this section, the Director shall issue a written Cannabis Establishment Clearance to the proposed medicinal cannabis retailer or small cannabis manufacturer. The Cannabis Establishment Clearance shall document that the commercial cannabis activity is in compliance with all applicable local ordinances and regulations, in accordance with California Business and Professions Code Section 26055(g)(2)(C).

4. A Cannabis Establishment Clearance is valid for one year from the date of issuance. In order to remain eligible for the immunity provided under subsection (D)(1), a medicinal cannabis retailer or small cannabis manufacturer must submit a renewal application to the Director no earlier than 90 days, and no later than 30 days, prior to the expiration of the existing Cannabis Establishment Clearance. The renewal application must include a renewal fee, in an amount to be determined by City Council resolution, and all of the information required above for a Cannabis Establishment Clearance.

5. A Cannabis Establishment Clearance is non-transferable to another person or entity or location.

E. Zoning and Locational Restrictions

1. Medicinal Cannabis Retailers.

(a) Medicinal cannabis retailers may only operate in the following zoning districts: Medical Office (OM), Light Industrial (IL), and Industrial Park-Area C (IP-C).

(b) No medicinal cannabis retailer may be located on a property that is within 1,000 feet of any youth oriented property.

(c) No medicinal cannabis retailer may be located on a property that directly abuts, or is directly across the street from, a residential zoning district; with the exception that a medicinal cannabis retailer may be located on a property directly abutting the back yard of a residential zoning district.

2. Small Cannabis Manufacturers

(a) Small cannabis manufacturers may only operate in the following zoning districts: Light Industrial (IL), Industrial Park-Area A, B and C (IP-A, IP-B and IP-C).

(b) No small cannabis manufacturers may be located on a property that is within 1,000 feet of any youth oriented property.

(c) No small cannabis manufacturers may be located on a property that directly abuts, or is across the street from, a residential zoning district.

3. Exceptions for Distance Separation Standards

(a) The distance separation standards set forth in this section may be reduced only to the extent that the Director determines, based on substantial evidence, that California State Route 29 provides an impenetrable barrier to pedestrian access between the uses, so that the separation of the uses is functionally equivalent to the requirements of this section.

(b) The distance separation standards from youth oriented property set forth in this section shall not apply to any commercial cannabis activity if: (1) at the time the commercial cannabis activity first received a Cannabis Establishment Clearance in accordance with this section, there was no youth oriented property within 1,000 feet of the property on which the commercial cannabis activity is located, and (2) the commercial cannabis activity has continuously held a valid Cannabis Establishment Clearance (in accordance with subsections (D)(2) through (D)(5)).

F. Operational Requirements

1. A medicinal cannabis retailer or small cannabis manufacturer must comply with all applicable State Cannabis Laws.

2. A medicinal cannabis retailer may only sell medicinal cannabis or medicinal cannabis products between the hours of 7:00 a.m. and 8:00 p.m.

3. A medicinal cannabis retailer or small cannabis manufacturer must comply with all applicable provisions of title 15 of this code.

4. A medicinal cannabis retailer may only sell, distribute, and/or provide medicinal cannabis and/or medicinal cannabis products to qualified patients, primary caregivers, or persons with an identification card who are 18 years of age or older.

5. A medicinal cannabis retailer or small cannabis manufacturer may not employ any person who is not at least 21 years of age.

6. No person under 18 years of age shall be allowed on the property of a medicinal cannabis retailer or small cannabis manufacturer unless he or she is a confirmed qualified patient and is accompanied by his or her licensed attending physician, parent or parents, or documented legal guardian, or is an emancipated minor as demonstrated by documentation.

7. With the exception of deliveries made in accordance with State Cannabis Laws, a medicinal cannabis retailer may not conduct, allow, or permit transactions and/or sales to occur outside of an enclosed building.

8. A small cannabis manufacturer shall not conduct or engage in the commercial or retail sales of any cannabis products on the premises of the small cannabis manufacturer.

9. No cannabis cultivation may occur on the property of a medicinal cannabis retailer or small cannabis manufacturer.

10. A medicinal cannabis retailer or small cannabis manufacturer may not allow or permit the use, inhalation, smoking, eating, ingestion, or consumption of cannabis or cannabis products on the property of the medicinal cannabis retailer or small cannabis manufacturer, including in the parking areas of such property.

11. A medicinal cannabis retailer or small cannabis manufacturer must utilize an odor-absorbing ventilation and exhaust system that ensures that cannabis odors generated inside the property are not detectable outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the medicinal cannabis retailer or small cannabis manufacturer.

12. A medicinal cannabis retailer must have an electronic point of sale system that is either part of their seed to sale software or integrates with their seed to sale software. The electronic point of sale system must be capable of producing an electronic or automatic paper record for all transactions associated with any product sold, rented, or otherwise provided to qualified patients, primary caregivers, or persons with an identification card.

13. Criminal Background Requirements.

(a) No person who is currently charged with or has been convicted within the previous ten years of a felony, a felony or misdemeanor involving moral turpitude, or any crime involving the sale, possession for sale, manufacture, transportation, cultivation, or distribution of a controlled substance, shall be a business owner of a medicinal cannabis retailer or small cannabis manufacturer. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere or no contest.

(b) Prior to commencing any work within or on behalf of a medicinal cannabis retailer or small cannabis manufacturer, each business owner must complete a current criminal history background check that demonstrates compliance with subsection (F)(13)(a). Each criminal history background check must be updated every 12 months.

(c) A medicinal cannabis retailer or small cannabis manufacturer shall maintain a complete register of each business owner working for and/or associated with the medicinal cannabis retailer or small cannabis manufacturer, including a copy of each required criminal history background check. The register and required records must be made available for inspection by any City officer or official for purposes of determining compliance with this section.

(d) A medicinal cannabis retailer or small cannabis manufacturer shall notify the Police Chief in writing of any disqualifying conviction described in subsection (F)(13)(a) for a business owner within 10 days of the conviction.

(e) A medicinal cannabis retailer or small cannabis manufacturer may submit to the Police Chief a written request for a waiver of the prohibition in subsection (F)(13)(a) with regard to a particular business owner on the ground that such person's involvement with the medicinal cannabis retailer or small cannabis manufacturer will not pose a threat to public safety. If the Police Chief determines that the requesting party has not submitted a preponderance of evidence to support the conclusion that there is no threat to public safety, the Police Chief shall deny the request, subject to the appeal procedures before an administrative hearing officer, as set forth in Chapter 1.26.

14. A medicinal cannabis retailer or small cannabis manufacturer shall comply with all State Cannabis Laws related to adequate security practices on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The security practices shall include video surveillance cameras recording 24 hours per day, every day, with transmission control protocol capable of being accessed through the internet. The video surveillance cameras shall be installed to monitor the interior of the on-site secured storage area and main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities. Security video shall be maintained for a minimum of 72 hours. The camera and recording system must be of adequate quality, color, rendition, and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the location. A professionally monitored robbery alarm system shall be installed and maintained in good working condition.

15. At all times that a medicinal cannabis retailer is open for retail sales (see subsection F(2), above), there shall be at least two licensed security guards on the premises. One security guard shall be in the retail area of the retailer, and one security guard shall be at the door.

16. A medicinal cannabis retailer or small cannabis manufacturer shall provide the name, cell phone number, facsimile number, and e-mail address of a manager or representative who can be reached 24 hours a day in the event that the City decides to provide notice of an operating problem associated with the medicinal cannabis retailer or small cannabis manufacturer.

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17. All window and exterior signage shall comply with Chapter 15.56. Window signage at a medicinal cannabis retailer may not be placed in such a manner so as to obstruct a clear view of the interior of the medicinal cannabis retailer.

18. The property on which a medicinal cannabis retailer or small cannabis manufacturer is located must be maintained in compliance with Chapter 8.16 of this code.

19. Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and local laws, regulations, rules or other requirements. Cannabis waste must be made unusable and unrecognizable prior to leaving the licensed premises by grinding it and incorporating it with fifty percent non-cannabis waste.

20. A medicinal cannabis retailer or small cannabis manufacturers shall notify the Director and the appropriate law enforcement authorities within twenty-four hours after discovering any of the following:

- (a) Significant discrepancies identified during inventory;
- (b) Diversion, theft, loss, or any criminal activity involving the medicinal cannabis retailer or small cannabis manufacturer, or any agent or employee;
- (c) The loss or unauthorized alteration of records related to cannabis, medicinal cannabis patients, primary caregivers, or employees or agents of the medicinal cannabis retailer or small cannabis manufacturer; or
- (d) Any other breach of security.

21. A small cannabis manufacturer must comply with all applicable State Cannabis Laws.

22. A medicinal cannabis retailer or small cannabis manufacturer must pay any applicable taxes pursuant to federal, state, and local law.

23. A medicinal cannabis retailer must have access to off street parking in compliance with Chapter 17.54, on-site and adjacent to the public entry door, provided at a rate equal to one space for each 250 square feet of floor space.

24. The public entry door to the medicinal cannabis retailer must be visible from, and within 200 feet of, a public street-of-way.

25. The area within 50 feet of the public entry door of the medicinal cannabis retailer shall be illuminated to a minimum of two candle foot during the time between dusk and the permitted closing time of the medicinal cannabis retailer, which such lighting subject to shielding as set forth in Section 17.14.040(L).

26. A medicinal cannabis retailer or small cannabis manufacturer shall provide a secured storage area on-site. All cannabis and cannabis products shall be stored in this area during non-business hours.

27. The display of medicinal cannabis for sale is allowed only in restricted access areas of a medicinal cannabis retailer, and shall not be visible from outside the medicinal cannabis retailer. A restricted access area must be supervised by a staff member at all times when qualified patients, primary caregivers, or persons with an identification card are present to ensure that only qualified patients, primary caregivers, or persons with an identification card are permitted to enter. When allowing a qualified patients, primary caregivers, or persons with an identification card access to a restricted access area, staff members shall make reasonable efforts to limit the number of qualified patients, primary caregivers, or persons with an identification card in relation to the number of staff members in the restricted access area at any time. Restricted access areas shall be secured and maintained separately from any lobby or waiting area, and shall be clearly identified by the posting of a sign which shall be not less than twelve inches wide and twelve inches long, composed of letters not less than one-half inch in height, which shall state, "Restricted Access Area—Only Qualified Patients, Primary Caregivers, and Persons With An Identification Card Allowed."

28. No recommendations from a doctor shall be issued on the premises of a medicinal cannabis retailer or small cannabis manufacturer.

29. A medicinal cannabis retailer or small cannabis manufacturer must comply with all development standards applicable to the zoning district in which the medicinal cannabis retailer or small cannabis manufacturer is located.

G. Inspection

City representatives may enter and inspect a medicinal cannabis retailer or small cannabis manufacturer during regular business hours to ensure compliance and enforcement of the provisions of this section. It is unlawful for any property owner, landlord, lessee, or business owner, officer, partner, manager, or employee of a medicinal cannabis retailer or small cannabis manufacturer to refuse to allow, impede, obstruct, or interfere with an inspection by City representatives.

H. Enforcement

1. A medicinal cannabis retailer or small cannabis manufacturer that violates any provision of this section or any applicable State Cannabis Law shall no longer be entitled to the limited immunity provided under Section 17.52.275(D).

2. The operation of a medicinal cannabis retailer, small cannabis manufacturer, or other commercial cannabis activity in violation of any provision of this section or any applicable State Cannabis Law is a violation of this code and a public nuisance and may

be enforced by any available remedy under this code, including, but not limited to, the following:

- (a) Any remedy identified in Section 1.16.050;
- (b) Issuance of an administrative citation and/or compliance order under Chapter 1.24;
- (c) Any other lawful remedy.

3. Any person operating a commercial cannabis activity in violation of any provision of this section or misrepresenting any material fact in demonstrating compliance with the requirements for limited immunity is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than six months, or by both such fine and imprisonment.

I. Cultivation

No person or entity may cultivate cannabis at any location in the City, except that a person may cultivate no more than six living cannabis plants per private residence, provided that all of the following conditions are met:

1. The cultivation must be in compliance with all State Cannabis Laws (particularly California Health and Safety Code Sections 11362.1 and 11362.2).

2. The cultivation, and any cannabis produced by the cultivation, must occur within a private residence or on the grounds of the private residence (e.g., in an outdoor garden area), and must be in a locked space that is not visible by normal unaided vision from a public place.

3. Any private residence or interior space in which the cultivation occurs must be in compliance with all applicable requirements set forth in title 15 of this code. In particular, cultivation lighting shall not exceed 1200 watts; and gas products (CO₂, butane, propane, natural gas, etc.) must not be used for purposes of cultivation.

4. Any private residence in which the cultivation occurs must maintain kitchen, bathrooms, and at least one bedroom for their intended use, and shall not use those areas for cultivation.

5. Adverse impacts of cultivation shall be mitigated so that a public nuisance, as defined by California Civil Code Section 3480, does not exist, including but not limited to adverse impacts of dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or the use or storage of hazardous materials, processes, products, or wastes.

SECTION 2: Amendment. The Land Use Regulations table set forth in Subsection 17.12.020.B(5) "Retail Uses" is hereby amended to: (1) add "Medicinal cannabis retailers"

in the appropriate alphabetical location within the table; (2) insert an asterisk “*” under the column labeled “OM”; and (3) insert “* See standards for Cannabis Establishment Clearance in Section. 17.52.275” under the column labeled “Added Use Regulations.”

SECTION 3: Amendment. The Land Use Regulations table set forth in Subsection 17.14.020.B(9) “Retail Uses” is hereby amended to: (1) add “Medicinal cannabis retailers” in the appropriate alphabetical location within the table; (2) insert an asterisk “*” under the columns labeled “IL” and “IP-C,” and (3) insert “* See standards for Cannabis Establishment Clearance in Section. 17.52.275” under the column labeled “Added Use Regulations.”

SECTION 4: Amendment. The Land Use Regulations table set forth in Subsection 17.14.020.A “Industrial Uses” is hereby amended to: (1) add “Small cannabis manufacturers” in the appropriate alphabetical location within the table; (2) insert an asterisk “*” under the columns labeled “IP-C,” “IP-B” and “IP-C”; and (3) insert “See standards for Cannabis Establishment Clearance in Section 17.52.275” under the column labeled “Added Use Regulations.”

SECTION 5: CEQA. This ordinance is not a project within the meaning of the California Environmental Quality Act (“CEQA,” as codified in the California Public Resources Code Division 13), because it has no potential for resulting in physical change in the environment, directly or ultimately (see CEQA Guidelines Section 15378). In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in California Business and Professions Code Section 26055(h) (adoption of an ordinance that establishes other authorizations to engage in commercial cannabis activity); and it is subject to the CEQA exemption contained in CEQA Guideline Section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. Finally, in the event that the ordinance is not exempt from CEQA, the potential environmental effects of the ordinance fall within the scope of, and were adequately examined by, the Environmental Impact Report (EIR) for Envision Napa 2020, the City’s General Plan (the “General Plan EIR”), certified on December 1, 1998, pursuant to CEQA Guidelines section 15168. Section 15168(c) states that if the City determines that, pursuant to CEQA Guidelines section 15162, no new effects could occur and no new mitigation measures would be required due to adoption of the ordinance, then the City can approve the ordinance as being within the scope of the impacts examined in the General Plan EIR. The City has made such a determination based on substantial evidence in the record, and therefore no subsequent environmental review is required.

SECTION 3: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-

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sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a municipal corporation

MAYOR: _____

ATTEST: _____
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA
COUNTY OF NAPA SS:
CITY OF NAPA

I, Dorothy R. Roberts, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the regular meeting of the City Council on the 5th day of December, 2017, and had its second reading and was adopted and passed during the regular meeting of the City Council on the 19th day of December, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Dorothy Roberts
City Clerk

Approved as to Form:

Michael W. Barrett
City Attorney