



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY*

Monday, September 12, 2016

6:00 PM

Town Hall, 363 N. Main Street

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [16-358](#) Presentation of Proclamation Recognizing Ruth Sparks as the 2016 Jere Melo Foundation Volunteer of the Year
Attachments: [17-2016 Jere Melo Volunteer of Year Proclamation](#)
- 1B. [16-352](#) Presentation of Proclamation Announcing September 2016 as National Preparedness Month in Fort Bragg
Attachments: [18-2016 National Preparedness Month Proclamation](#)
- 1C. [16-347](#) Presentation by Farmers Market Manager Julie Apostolu and Nutrition Educator Petra Schulte Regarding the Fort Bragg Farmers Market "Market Match" Program
Attachments: [Market Match Report City Council Sept 2016](#)

2. STAFF COMMENTS

3. MATTERS FROM COUNCILMEMBERS

4A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

MANNER OF ADDRESSING THE CITY COUNCIL: Any member of the public desiring to address the City Council shall submit a "Speaker Card" to the City Clerk and proceed to the podium after being recognized by the Presiding Officer. Speakers will be called up in the order the Speaker Cards are received. All remarks and questions shall be addressed to the City Council and no discussion or action shall be taken on any requests, in accordance with Brown Act Requirements. No person shall enter into any discussion without being recognized by the Mayor or acting Mayor.

IF AGENDA PERMITS: A maximum of thirty (30) minutes shall be allotted to receiving public comments at the initial public comment period and, if necessary, an additional 30 minutes shall be allotted to public comments prior to action on the Consent Calendar. Any citizen, after being recognized by the Mayor or acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or acting Mayor may determine is appropriate under the circumstances of the particular meeting, including but not limited to, the number of persons wishing to speak on a particular topic or at a particular meeting, or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: Pursuant to the Brown Act the Council cannot discuss issues or take action on any requests during this comment period.

5. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

6. CONDUCT OF BUSINESS

- 6A. [16-363](#)** Receive Presentation from Sonoma Clean Power and Mendocino County Representatives Regarding the Possibility of the City of Fort Bragg Joining the Sonoma Clean Power Joint Powers Authority and Provide Direction to Staff

Attachments: [09122016 Oral Report SCP](#)
[Sonoma Clean Power Presentation](#)

- 6B. [16-332](#)** Receive Report and Provide Direction to Staff Regarding Draft Cannabis Manufacturing Ordinance

Attachments: [09122016 Cannabis Manufacturing Ordinance](#)
[FBMC 9.33 Draft Cannabis Manufacturing Ordinance](#)
[FBMC 18.42.055 Cannabis Manufacturing - Specific Use Standards](#)
[Jean Goodall Comment](#)

- 6C. [16-360](#) Consider Request that City Council Oppose Measure AF - Mendocino Heritage Initiative

Attachments: [09122016 Measure AF](#)
[Letter from No on Measure AF Committee](#)
[Q&A - No on Measure AF](#)
[Information Handed out by Sarah Bodnar](#)

4B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

See 4A. above.

7. CONSENT CALENDAR

All items under the consent calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under CONDUCT OF BUSINESS

- 7A. [16-343](#) Adopt City Council Resolution Authorizing City Manager to Decline the Right of First Refusal to Purchase 435 N Whipple Unit B, an Inclusionary Housing Unit, and Instead Authorize Owner of 435 N Whipple Unit B to Sell the Unit, Subject to City Approval, to an Income Qualified Person with Preference to Essential Public Service Employees (Teachers, Firefighters, Police, etc.)

Attachments: [RESO - Inclusionary Housing Unit Sale](#)

- 7B. [16-365](#) Adopt City Council Resolution Authorizing City Manager to Sign Program Supplement Agreements with the California Department of Transportation

Attachments: [RESO Chestnut Street Project PSA signing](#)
[Caltrans Letter 8-12-16 re Project 01-5088F15](#)
[Caltrans Letter 8-12-16 re Project 01-5088R](#)

- 7C. [16-361](#) Adopt City Council Resolution Establishing Schedule for Standing Committee Meetings

Attachments: [RESO Committee Schedule](#)
[FBMC 2.04.045](#)
[RESO 3556-2012](#)

- 7D. [16-346](#) Reject Claim of Steve Bradley and the F/V Sound Adventure

Attachments: [Bradley Claim](#)
[Bradley Claim Rejection Letter 2016-09-12](#)

- 7E. [16-355](#) Receive and File Minutes of June 22, 2016 Public Works and Facilities Committee Special Meeting

Attachments: [PWM 2016-06-22](#)

- 7F. [16-356](#) Receive and File Minutes of August 18, 2016 Public Works and Facilities Committee Meeting

Attachments: [PWM2016-08-18](#)

- 7G. [16-357](#) Receive and File Minutes of July 26, 2016 Community Development Committee Meeting

Attachments: [CDCM_07262016](#)

- 7H. [16-350](#) Approve Minutes of August 22, 2016

Attachments: [CCM2016-08-22](#)

8. CLOSED SESSION

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

NEXT REGULAR CITY COUNCIL MEETING: 6:00 P.M., MONDAY, SEPTEMBER 26, 2016

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on September 7, 2016.

Brenda Jourdain, Administrative Assistant

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection in the lobby of City Hall at 416 N. Franklin Street during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at <http://city.fortbragg.com> subject to staff's ability to post the documents before the meeting.*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

The Council Chamber is equipped with a Wireless Stereo Headphone unit for use by the hearing impaired. The unit operates in conjunction with the Chamber's sound system. You may request the Wireless Stereo Headphone unit from the City Clerk for personal use during the Council meetings.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



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Text File

File Number: 16-358

Agenda Date: 9/12/2016

Version: 1

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Agenda Number: 1A.

Presentation of Proclamation Recognizing Ruth Sparks as the 2016 Jere Melo Foundation
Volunteer of the Year

PROCLAMATION

RECOGNIZING RUTH SPARKS

AS THE JERE MELO FOUNDATION VOLUNTEER OF THE YEAR

WHEREAS, Ruth Sparks has given generously of her time and efforts to this community since the 1990s; and

WHEREAS, Ruth remains positive, gracious, kind and patient at all times; and

WHEREAS, Ruth is a “world-betterer,” and all those who spend any time with her are soon rolling up their sleeves and calling other friends to volunteer to be part of a local event; and

WHEREAS, Ruth is willing and eager to work with any individual and/or organization in order to enhance the everyday lives of our residents and once in a lifetime experiences of our visitors; and

WHEREAS, Ruth is a member of the Fort Bragg Garden Club and has served on its board and many of its committees, and

WHEREAS, Ruth was the idea person behind the Sidewalk Gardens to Bragg About Project which has showcased local homeowners’ gardens and businesses over the past four years; and

WHEREAS, Ruth was a strong advocate of the Fort Bragg Rotary Club’s Read Aloud Project which teaches the value of reading to our children in school and at special events; and

WHEREAS, Ruth was instrumental in bringing together 22 other organizations to put on the New Pygmy Forest Rededication celebration sponsored by the Fort Bragg Garden Club; and

WHEREAS, Ruth is an invaluable asset to our community with the projects mentioned above being only a handful of programs, projects and events for which she has volunteered countless hours of her time; and

WHEREAS, Ruth was honored as the Jere Melo Foundation Volunteer of the Year at an award dinner that followed the Walk to Take Back Our Forests event.

NOW, THEREFORE, I, Dave Turner, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby recognize and honor **Ruth Sparks** for the many things she does for the community of Fort Bragg.

SIGNED this 12th day of September, 2016.

DAVE TURNER, Mayor

ATTEST:

June Lemos, City Clerk

No. 17-2016



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Text File

File Number: 16-352

Agenda Date: 9/12/2016

Version: 1

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Agenda Number: 1B.

Presentation of Proclamation Announcing September 2016 as National Preparedness Month
in Fort Bragg

P R O C L A M A T I O N
**ANNOUNCING SEPTEMBER 2016 AS
NATIONAL PREPAREDNESS MONTH IN FORT BRAGG**

WHEREAS, emergency preparedness is a priority for all of the citizens of Fort Bragg; and

WHEREAS, as proclaimed by President Obama on August 31, 2016, National Preparedness Month serves as a reminder that we all must take action to prepare, now and throughout the year, for the types of emergencies that could affect us where we live, work and also where we visit; and

WHEREAS, for residents living on the isolated Mendocino Coast, being prepared and organized is especially critical; and

WHEREAS, the Federal Emergency Management Agency (FEMA), through its Ready Campaign, has declared September as National Preparedness Month for the thirteenth year in a row; and

WHEREAS, FEMA's Ready Campaign has very practical and useful tools for individuals, families, organizations and businesses to assist in planning and preparing for emergencies; and

WHEREAS, residents of Fort Bragg and our neighboring communities are encouraged to establish emergency plans for themselves, their friends and loved ones to help when a disaster strikes; and

WHEREAS, the City of Fort Bragg takes an active role in our community's preparedness by providing resources and tools to assist in preparing for an emergency, holding events throughout the year, distributing press releases, executing social media campaigns and working to establish a Community Emergency Response Team (CERT) program on the Mendocino Coast;

NOW, THEREFORE, I, Dave Turner, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby proclaim the Month of September 2016, as National Preparedness Month in Fort Bragg.

SIGNED this 12th day of September, 2016.

DAVE TURNER, Mayor

ATTEST:

June Lemos, City Clerk

No. 18-2016



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Text File

File Number: 16-347

Agenda Date: 9/12/2016

Version: 1

Status: Mayor's Office

In Control: City Council

File Type:
Recognition/Announcements

Agenda Number: 1C.

Presentation by Farmers Market Manager Julie Apostolu and Nutrition Educator Petra Schulte
Regarding the Fort Bragg Farmers Market "Market Match" Program

Federal grant increases fresh fruit and vegetable purchase at farmers market

The federal Food Insecurity Nutrition Incentive (FINI) grant, awarded by the National Institute of Food and Agriculture (NIFA) USDA has partnered with Fort Bragg Farmers Market in offering market match dollars to its customers. The grant, awarded to the Ecology Center in 2015, was for two 12-month periods (April 2015 – March 2017) and started out with 30 farmers' market and non-profit partners, who offer Market Match at 230 sites throughout California. With the help of North Coast Opportunities, Fort Bragg Farmers Market manager Julie Apostolu was able to include our local farmers market in this federal matching program for the May 2016-April 2017 period offering Market Match healthy food SNAP (Supplemental Nutrition Assistance Program, formerly Food Stamps) incentives. The Market Match project purpose is to *increase the purchase of fruits and vegetables by low-income consumers participating in SNAP by providing incentives at the point of purchase.*

The food stamp matching program at the Fort Bragg Farmers' Market is a simple, low cost project that does amazing things on many levels. The program uses funds raised from the community to provide an incentive for CalFresh/EBT/Food Stamp users to shop at Fort Bragg Farmers Market. The federal program “matches” (i.e., doubles) a portion of the money customers commit to spend from their CalFresh/EBT/Food Stamp at the farmers market. Starting May 2016 EBT recipients received up to an additional \$10 when they spent \$10 or more of their food stamp money at the Fort Bragg Farmers Market. Now the matching money has increased to \$30 per week.

CalFresh/EBT/Food Stamp customers are our low income neighbors most susceptible to food insecurity, related stress and health strains. Less healthy eating adds to the burden. As a community we experience those stresses together. The current food subsidy system worsens the problem by (mostly) ignoring small farms producing healthy food.

The Market Match program provides several important benefits to both individuals and the community. The program allows SNAP users to stretch their federal benefits further each month. As one example, a customer using the program last summer at the Ukiah Farmers Market stated that it was *only* because of the match program that she was getting fresh produce at all. The program brings new CalFresh/EBT/Food Stamp customers to the farmers market every week. Our community gets healthier family by family. These new customers are spending money at the farmers market each week. As the program keeps running, word of mouth promotion brings in new people who have never been to a farmers' market before.

Just as important for our local economy, when EBT/Food Stamps are spent at the

Farmers' Market, it injects federal money into our county's local farm and ranch economy. Even a small increase in support can make a big difference to local farms. An Essex County, MA study found that if only 1% of locals shifted \$12 per week over the growing season to farm stands, farmers markets and Community Supported Agriculture (C.S.A), net income of county farmers would increase by 50%. Due to the multiplier effect, keeping more food dollars in the local economy also boosts income in our economy for everyone.

The program relies on volunteers and business sponsorships. The volunteer time is matched with \$20 per hour by the federal government and significantly increases funds for the Market Match. For the May 2016- April 2017 growing season four local businesses donated \$2,200, which were matched dollar for dollar by the federal grant. We are very grateful for the generous donations given by local businesses and volunteers donating their time to this worthy project.

Julie Apostolu will be giving specifics about the Market Match program during her September 12 City Council meeting presentation.

If you have additional questions about the Fort Bragg Farmer's Market Match program, please contact Julie Apostolu at 962-0297 and forestlove@lanset.com. For more information about the program visit <http://www.marketmatch.org>



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Text File

File Number: 16-363

Agenda Date: 9/12/2016

Version: 1

Status: Business

In Control: City Council

File Type: Report

Agenda Number: 6A.

Receive Presentation from Sonoma Clean Power and Mendocino County Representatives Regarding the Possibility of the City of Fort Bragg Joining the Sonoma Clean Power Joint Powers Authority and Provide Direction to Staff



AGENCY: City Council
MEETING DATE: September 12, 2016

AGENDA ITEM SUMMARY

TITLE:

RECEIVE PRESENTATION FROM SONOMA CLEAN POWER AND MENDOCINO COUNTY REPRESENTATIVES REGARDING THE POSSIBILITY OF THE CITY OF FORT BRAGG JOINING THE SONOMA CLEAN POWER JOINT POWERS AUTHORITY AND PROVIDE DIRECTION TO STAFF

THIS WILL BE AN ORAL PRESENTATION



Local. Renewable. Ours.

Program Update and Q&A

Geof Syphers, CEO
September 12, 2016



Local. Renewable. Ours.

Fort Bragg Has Options

Keep current situation with PG&E as only supply option

Join SCP in time for June 2017 service

Wait and join SCP later

Timeline for June 2017 Service

Oct 10, 2016	Ordinances adopted
Nov 1, 2016	Update Implementation Plan and file with CPUC
Dec 31, 2016	CPUC certification and prelim. energy contracts
Feb 1, 2017	Ramp up outreach / Finalize energy contracts
Mar 15, 2017	Customer enrollment noticing begins
Apr 15, 2017	2 nd enrollment notices
Jun 1, 2017	Service begins

70 MW New California Solar

15 MW New Local Solar

50 MW Local Geothermal

46 MW New Calif Wind

\$890,000 paid to customers
overproducing solar

\$3.5 million approved to
support local programs

\$62 million in bill savings
since program inception



Primary Purposes:

Reduce greenhouse gas emissions

Provide competitive and stable rates

Support local renewables, efficiency and economy

Create opportunities through local control of rates and revenues



Local. Renewable. Ours.

CleanStart

Default service

36% renewable power

Competitive rates

About half PG&E's emissions

EverGreen

Optional service

100% renewable power

2.5 cents per kWh premium

100% local sources

What are the Risks?

Must meet power demands of customers

- Short and Long term planning of load/demand

Matching of Supply and Demand

- Spot Market (uncertain)
- Short, medium, and long term contracts
- Owned Generation and Power Purchase Agreements

Estimation of Power Supply Risks

- Over or under estimation of demand

What are the Risks?

Regulatory Risks

- CPUC, CEC, CARB, etc.
- Legislature

Contract Risks

- Contract defaults

The Triple Firewall

General funds are not responsible for debts of SCPA:

First, California law permits JPA members to have no liability for debts and obligations of the separate entity created by the JPA

Second, the SCPA joint powers agreement did not require cities to become signatories to the JPA

Third, SCPA's energy contracts contain language that other party can only look to the assets of the separate JPA entity in case of default

Process

Participating incorporated cities to pass resolution and ordinance authorizing service

Important to consider carefully, since decision should be considered permanent

SCPA's Board of Directors to complete JPA update and vote to accept new participants Oct 2016

Local Control Over Customer Programs

Program can provide funds for local customer programs in efficiency, solar & more

Sonoma Clean Power is starting to promote electric vehicles powered by local renewables

Available program funds for Mendocino County is estimated to be \$500,000 per year







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Text File

File Number: 16-332

Agenda Date: 9/12/2016

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 6B.

Receive Report and Provide Direction to Staff Regarding Draft Cannabis Manufacturing Ordinance



AGENCY:	City Council
MEETING DATE:	September 12, 2016
DEPARTMENT:	CDD
PRESENTED BY:	S. Perkins

AGENDA ITEM SUMMARY REPORT

TITLE:

RECEIVE REPORT AND PROVIDE DIRECTION TO STAFF REGARDING DRAFT CANNABIS MANUFACTURING ORDINANCE

ISSUE:

The State of California has adopted the Medical Marijuana Regulation and Safety Act (MMRSA) and is now instituting a new regulatory and licensing system to regulate the cultivation, transportation, third party certification, manufacture and distribution of Medical Marijuana. The Act is comprised of three State legislative bills known as AB 243, AB 266 and SB 643. While the State is still drafting regulations to implement the Act and will not issue licenses under the Act until January 2018, many communities have started to review and develop local regulations regarding the various components of the Medical Marijuana supply chain. As a result of MMRSA, both the Public Safety Committee and City Council have discussed the regulation of cannabis businesses in the City of Fort Bragg and provided direction to staff, as follows:

Public Safety Committee (December 9, 2015): Received detailed report on MMRSA.

Public Safety Committee (April 13, 2016): Recommended that the City a) retain its current cultivation and dispensary ordinances as they stand; b) take a "wait-and-see" approach to developing new regulations for cannabis transport and delivery as the State crafts legislation; and c) develop recommendations for modifying the Municipal Code and the Land Use and Development Code so that City Council can deliberate on whether and how to permit cannabis manufacturing in Fort Bragg.

City Council (May 9, 2016): Directed staff to craft a draft ordinance to address cannabis manufacturing within City Limits.

Public Safety Committee (June 29, 2016): Reviewed a spectrum of policy options for the regulation of cannabis manufacturing, and provided recommendations to City Council for the development of a cannabis manufacturing ordinance which would provide for cannabis manufacturing while offsetting negative impacts the business could present to the community.

City Council (July 25, 2015): Reviewed Public Safety Committee recommendations and directed staff to draft an ordinance to regulating future cannabis manufacturing uses.

This report summarizes the Council's direction for regulating various aspects of cannabis manufacturing businesses and presents a draft ordinance for the Council's consideration.

RECOMMENDED ACTION:

Provide direction to staff regarding contents of a draft ordinance allowing cannabis manufacturing businesses in the Light and Heavy Industrial Zoning Districts with an approved Use Permit, and subject to additional standards prescribed in the draft ordinance.

ALTERNATIVE ACTION(S):

1. No action. Under this alternative, no further actions would be taken to address cannabis manufacturing uses and the use would continue to be prohibited in Fort Bragg, until it is allowed under the regulations adopted to implement MMRSA at the State level.
2. Provide alternative and/or more specific direction regarding regulations addressing cannabis manufacturing uses.
3. Request additional information and/or analysis by staff.

ANALYSIS:

The City of Fort Bragg presently implements Municipal Code Chapter 9.30 and 9.32 for Medical Marijuana Dispensaries and Medical Marijuana Cultivation, respectively. If Council approves a new ordinance specific to cannabis manufacturing, it would reside both in the Municipal Code alongside the existing dispensary and cultivation ordinances and in the Land Use and Development Code.

Staff incorporated City Council’s recommendations for regulating future cannabis manufacturing uses into a draft ordinance, included as Attachment 1: Draft Cannabis Manufacturing Ordinance and Attachment 2 which identifies changes which would be made to the Land Use and Development Code to allow for a Use Permit approval with appropriate findings for this new use type. The following table summarizes the Council’s direction regarding policy questions.

Policy Question	Council Direction
Definitions: How should a cannabis manufacturing ordinance handle the potential for future legalization of cannabis for recreational uses?	Include generic language, such as cannabis manufacturing, and language that permits the use of cannabis in the manufacturing process as permitted by the State of California.
Zoning and Permitting: In which zoning districts should Commercial Cannabis Manufacturing be permitted?	Table 2-10 of ILUDC Section 18.24.030 should be revised, adding a cannabis manufacturing use, and allowing the new use in both the IL and IH zoning districts with an approved Use Permit.
Proximity to Sensitive Uses: Should Commercial Cannabis Manufacturing uses be prohibited within certain distances of sensitive uses (churches, schools, hospitals, etc.)?	Include as a Use Permit finding for approval for cannabis manufacturing uses that the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity, and, specifically, with any church, park, day care, hospital, non-profit organization or residential use within 200 feet of the proposed use. The information would be used by the review authority (the Planning Commission) to determine the suitability of the project’s proximity to sensitive uses, and place conditions of approval on the Use Permit to mitigate impacts. Further, prohibit any cannabis manufacturing use from locating within 600 feet of any K-12 school.

<p>Use Restrictions: Should accessory uses or services be permissible for cannabis manufacturing uses?</p>	<p>A cannabis manufacturing ordinance should prohibit accessory retail or service uses in association with the primary industrial use.</p>
<p>Exterior Restrictions: Should a Commercial Cannabis Manufacturing ordinance limit outdoor displays or signage?</p>	<p>Prohibit cannabis manufacturers from displaying logos, art or signage that implies a cannabis-based activity.</p>
<p>Odor: How should a cannabis manufacturing ordinance regulate odor?</p>	<p>The cannabis manufacturing ordinance should reference odor regulations as they apply to all uses (Section 18.30.080(J)), and replicate the odor requirements of the marijuana cultivation ordinance.</p> <p>Applicants for cannabis manufacturing Use Permits should submit an odor control plan, which may include an odor absorbing ventilation and exhaust system as part of their application so that Staff can determine if the business will comply with odor control requirements.</p>
<p>Security: What measures should a cannabis manufacturing ordinance include to ensure adequate security is provided for these industrial uses?</p>	<p>A cannabis manufacturing ordinance should include application requirements that address the following:</p> <ul style="list-style-type: none"> - Project consistency with the requirements of MMRSA - A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry - A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions - A floor plan clearly illustrating the purpose and security of each room or area of operation <p>These submissions would be reviewed to the satisfaction of the Police Department. No Use Permit application for cannabis manufacturing would be approved without approval of the security plans by the Police Department.</p>

<p>Manufacturing Operations: What should a cannabis manufacturing ordinance include to ensure safe and proper operation?</p>	<p>The application submission requirements for a cannabis manufacturing use should include detailed information on the business's operation, specifically:</p> <ol style="list-style-type: none"> 1. Security procedures (see security discussion above) 2. Detailed operating procedures, which should include how the business will comply with MMRSA, safety and quality assurances, record keeping procedures, and product recall procedures 3. Proposed hours of operation 4. Solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive the solid waste produced by the cannabis manufacturing 5. Product supply chain information (cultivation, testing, transportation, packaging and labeling) 6. Odor prevention plan (see odor discussion above) 7. Other information as required by the Director as necessary to ensure the project's compliance with local, state and federal regulations.
<p>Infrastructure: How should a Commercial Cannabis Manufacturing ordinance address water and sewer usage and impacts?</p>	<p>Public Works staff should continue to review the water and sewer impacts of proposed projects, including cannabis manufacturing businesses, to identify Special Conditions that may be required to minimize impacts to the City's water and sewer systems.</p>

FISCAL IMPACT:

Preparation and processing of an ordinance to regulate medical marijuana manufacturing requires continued efforts by City staff and the City Attorney's office. If an ordinance is adopted by the City Council allowing cannabis manufacturing, the Council would need to establish appropriate fees to offset costs associated with the permitting process and any subsequent inspections or enforcement activities. If permitted, cannabis manufacturing would create new jobs. As a point of reference, RootOne Botanicals' business plan anticipates hiring more than 20 employees once running at full capacity.

IMPLEMENTATION/TIMEFRAMES:

Once the City Council reviews the draft ordinance, the matter will be brought back to City for introduction and then for adoption. If everything proceeds smoothly, the ordinance would be adopted in late 2016 or early 2017.

ATTACHMENTS:

1. Draft Cannabis Manufacturing Ordinance

NOTIFICATION:

Root One Botanicals, Jon McColley

City Clerk's Office Use Only

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		

CHAPTER 9.33: CANNABIS MANUFACTURING

Section

9.33.010	Purpose and intent
9.33.020	Definitions
9.33.030	Permit required
9.33.040	Applications
9.33.050	Time limit for filing application for permit
9.33.060	Term of permits and renewals
9.33.070	Fees
9.33.080	Investigation and action on application
9.33.090	Grounds for rejection of cannabis manufacturing use permit application
9.33.100	Appeal from Chief of Police decision to reject application
9.33.110	Processing of cannabis manufacturing use permit
9.33.120	Operating requirements
9.33.130	Minors
9.33.140	Display of permit
9.33.150	Registration of new employees
9.33.160	Transfer of permits
9.33.170	Suspension and revocation — notice
9.33.180	Suspension and revocation — grounds
9.33.190	Suspension and revocation — appeals
9.33.200	Suspension or revocation without hearing
9.33.210	Separate offense for each day
9.33.220	Public nuisance
9.33.230	Criminal penalties
9.33.240	Civil injunction
9.33.250	Administrative remedies
9.33.270	Severability

§ 9.33.010 PURPOSE AND INTENT.

It is the purpose and intent of this ordinance to regulate Cannabis Manufacturing in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

§ 9.33.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words or phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources: Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5); Medical Marijuana Program Act (California Health and Safety Code Section 11362.7 through 11362.83); and Medical Marijuana Regulation and Safety Act of 2015 (enacted by Assembly Bill (AB) 243, AB 266 and Senate Bill 643).

APPLICANT. A person who is required to file an application for a permit under this chapter, including an

Public Peace, Safety, and Morals

individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a cannabis manufacturing use.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

CHURCH. A structure or leased portion of a structure which is used primarily for religious worship and related religious activities.

CONTROLLED SUBSTANCES. A drug, substance, or immediate precursor which is listed in any schedule in Cal. Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058.

DRUG PARAPHERNALIA. Shall have the same definition as Cal. Health and Safety Code § 11364.5, and as may be amended.

CANNABIS. Shall have the same definition as Cal. Health and Safety Code § 11018.

CANNABIS MANUFACTURING. A process where cannabis is transformed into a product (such as food, medicine, oil, clothing, textile, etc.) , and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly.

PERMITTEE. The person to whom a cannabis manufacturing permit is issued.

PERSON WITH AN IDENTIFICATION CARD. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

PRIMARY CAREGIVER. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

QUALIFIED PATIENT. Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

SCHOOL. An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care 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.

§ 9.33.030 PERMIT REQUIRED.

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 or upon any premises in the City the operation of a cannabis manufacturing use unless the person first obtains and continues to maintain in full force and effect a cannabis manufacturing permit from the City as herein required.

§ 9.33.040 APPLICATIONS.

A. All applications for cannabis manufacturing permits shall be filed with the Chief of Police. The application shall be made under penalty of perjury.

B. Any application for a cannabis manufacturing permit shall include the following information:

1. The full name, present address, and telephone number of the applicant;
2. The address to which notice of action on the application and all other notices are to be mailed;
3. Previous addresses for the past five (5) years immediately prior to the present address of the applicant;
4. Written proof that the applicant is over 21 years of age;
5. Photographs for identification purposes (photographs shall be taken by the Police Department);

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6. The cannabis business history of the applicant, including whether the person, in previously operating in this or another City, county, or state under permit has had a permit revoked or suspended and, if so, the reason therefore;

7. The name or names of the person or persons having the management or supervision of applicant's business;

8. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefore;

9. The names of all employees, independent contractors, and other persons who will work at the cannabis manufacturing use;

10. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;

11. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis manufacturing use and the purpose and security of each room or area of operation;

12. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;

13. Security measures ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;

14. Detailed operating procedures, which shall include the following:

a. Proposed hours of operation;

b. How the business will comply with applicable State regulations;

c. Product safety and quality assurances;

d. Record keeping procedures;

e. Product recall procedures;

f. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis manufacturing use.

g. Product supply chain information (cultivation, testing, transportation, packaging and labeling);

h. An odor prevention plan, illustrating how the use will be consistent with §17.30.080(J) and/or §18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and

i. Other information as required by the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations.

14. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

15. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

C. If the applicant has completed the application improperly, or if the application is incomplete, the Chief of Police shall, within ten (10) days of receipt of the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or more to submit a complete application.

D. The fact that an applicant possesses other types of state or City permits or licenses does not necessarily

Public Peace, Safety, and Morals

exempt the applicant from the requirement of obtaining a cannabis manufacturing permit.

§ 9.33.050 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

All persons who possess an outstanding business license heretofore issued for cannabis manufacturing must apply for and obtain a cannabis manufacturing permit within 90 days of the effective date of this ordinance. Continued operation of a cannabis manufacturing use without a permit more than 90 days after the effective date of this ordinance shall constitute a violation of this chapter.

§ 9.33.060 TERM OF PERMITS AND RENEWALS.

Cannabis manufacturing permits issued under this chapter shall expire one (1) year following their issuance. Cannabis manufacturing permits shall be renewed by the Chief of Police for additional one (1)-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.33.180. Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.33.070. When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits. The Chief of Police may deny an application for renewal based on any of the grounds referenced in §§ 9.33.090 and 9.33.180. An applicant aggrieved by the Chief of Police's decision to deny a renewal of a cannabis manufacturing permit may appeal pursuant to § 9.33.100.

§ 9.33.070 FEES.

Every application for a cannabis manufacturing permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

§ 9.33.080 INVESTIGATION AND ACTION ON APPLICATION.

After the making and filing of the application for the cannabis manufacturing permit and the payment of the fees, the Chief of Police shall conduct a background check of the applicant and all employees and conduct an investigation of the application. After the background checks and investigation are complete, the Chief of Police shall either formally accept or reject the application in accordance with the provisions of this chapter.

§ 9.33.090 GROUNDS FOR REJECTION OF CANNABIS MANUFACTURING PERMIT APPLICATION.

The grounds for rejection of a cannabis manufacturing permit application shall be one or more of the following:

A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;

B. The applicant has violated any local or state law, statute, rule, or regulation respecting the cannabis business;

C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;

D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on

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behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;

F. An applicant is under 21 years of age;

G. The cannabis manufacturing use does not comply with the Title 18 (Land Use and Development Code); and/or

H. The required application or renewal fees have not been paid.

(Ord. 850, passed - -2005)

§ 9.33.100 APPEAL FROM CHIEF OF POLICE DECISION TO REJECT APPLICATION.

The Chief of Police shall cause a written notice of his or her decision to reject a cannabis manufacturing permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the Chief of Police's decision to reject an application may appeal the decision in accordance with the procedures described in Chapter 1.08. If an appeal is not taken within such time, the Chief of Police's decision shall be final.

(Ord. 900, § 11, passed 12-12-2011)

§ 9.33.110 PROCESSING OF CANNABIS MANUFACTURING PERMIT.

If an application is not rejected by the Chief of Police, it shall be forwarded to the Community Development Department for processing using the same permit process and requirements for a use permit as defined in Title 17 (Coastal Land Use and Development Code) and Title 18 (Land Use and Development Code).

§ 9.33.120 OPERATING REQUIREMENTS.

A cannabis manufacturing use shall meet the following operating requirements for the duration of the use.

A. The design, location, size and operating characteristics of the cannabis manufacturing use shall comply with the findings and conditions of the Use Permit.

B. A cannabis manufacturing use shall maintain a current register of the names of all employees currently employed by the use.

C. The building entrance to a cannabis manufacturing use shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

D. No cannabis or cannabis product shall be smoked, ingested, or otherwise consumed on the project site. The term "project site" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a cannabis manufacturing use shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited.

E. No marijuana shall be grown or cultivated on the premises of the cannabis manufacturing use.

F. No cannabis manufacturing use shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the dispensary.

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G. No cannabis manufacturing use shall conduct or engage in the commercial sale of any product, good or service. The term “commercial sale” does not include the provision of cannabis on terms and conditions consistent with this chapter and applicable law.

H. No accessory uses shall be permitted in conjunction with a cannabis manufacturing use.

I. No cannabis manufacturing use shall sell or display any drug paraphernalia or any implement that may be used to administer cannabis.

J. A cannabis manufacturing use shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry.

K. A cannabis manufacturing use shall provide the Chief of Police with the name, phone number, and email of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the cannabis manufacturing use..

L. A cannabis manufacturing use shall meet all the operating criteria for the manufacturing of cannabis as is required pursuant to State law.

§ 9.33.130 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis manufacturing use to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis manufacturing use unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

§ 9.33.140 DISPLAY OF PERMIT.

Every cannabis manufacturing use shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for cannabis manufacturing in a conspicuous place so that the same may be readily seen by all persons entering the cannabis manufacturing use.

§ 9.33.150 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every cannabis manufacturing permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within five (5) business days of the commencement of the employee’s period of employment at the cannabis manufacturing use, in order to provide necessary information to conduct background checks.

B. Each employee shall be required to provide two (2) recent color passport-quality photographs and, at the discretion of the Chief of Police, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification.

C. Failure to register each new employee within five (5) days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

§ 9.33.160 TRANSFER OF PERMITS.

A. A permittee shall not operate a cannabis manufacturing use under the authority of a cannabis manufacturing permit at any place other than the address of the cannabis manufacturing use stated in the application for the permit.

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B. A permittee shall not transfer ownership or control of a cannabis manufacturing use or transfer a cannabis manufacturing permit to another person unless and until the transferee obtains an amendment to the permit from the Chief of Police stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Chief of Police in accordance with § 9.33.040, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § 9.33.090 that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Chief of Police has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

§ 9.33.170 SUSPENSION AND REVOCATION — NOTICE.

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police when it appears to him or her that the permittee has committed any one (1) or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held by the Chief of Police. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least five (5) days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

§ 9.33.180 SUSPENSION AND REVOCATION — GROUNDS.

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

A. Does any act which violates any of the grounds set forth in § 9.33.090, which sets forth the grounds for rejection of an application for a permit for the cannabis manufacturing use;

B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;

C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;

D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic-control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business;

E. Violates any provision of Title 15 of this code; or

F. Violates or fails to comply with the terms and conditions of the Use Permit.

§ 9.33.190 SUSPENSION AND REVOCATION — APPEALS.

Any permittee aggrieved by the decision of the Chief of Police in suspending or revoking a permit may, within 10 calendar days, appeal the decision in accordance with the procedures described in Chapter 1.08. If a decision of the Chief of Police to suspend or revoke a permit is not appealed within ten (10) calendar days, the decision of the Chief of Police shall be final.

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§ 9.33.200 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this article is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within ten (10) calendar days, appeal the revocation in accordance with the procedures described in Chapter 1.08. During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within ten (10) days, the decision of the Chief of Police shall be final.

§ 9.33.210 SEPARATE OFFENSE FOR EACH DAY.

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

§ 9.33.220 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 Chapter 6.12 of the Fort Bragg Municipal Code.

§ 9.33.230 CRIMINAL PENALTIES.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

§ 9.33.240 CIVIL INJUNCTION.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

§ 9.33.250 ADMINISTRATIVE REMEDIES.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.

§ 9.33.270 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the ordinance. The City Council of the City hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that one (1) or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

18.42.055 – Cannabis Manufacturing

This Section establishes standards for cannabis manufacturing, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). These standards apply in addition to other provisions of the Municipal Code, including but not limited to Chapter 9.33 (Cannabis Manufacturing).

- A. **Limitation on Location.** The design, location, size and operating characteristics of the cannabis manufacturing use shall be compatible with the existing and future land uses in the vicinity, and, specifically, with any church, park, day care, hospital, non-profit organization or residential use within 200 feet of the cannabis manufacturing use. Further, the cannabis manufacturing use shall not be located within six-hundred feet of any school.
- B. **Operating Standards.** Cannabis manufacturing uses shall comply with all of the following operating standards:
1. **Limitations on Use.** A cannabis manufacturing use shall comply with the following limitations: :
 - a) Cannabis manufacturing uses shall not conduct or engage in the retail sale of any product, good or service. Only wholesale activities are permitted.
 - b) Accessory retail and/or distribution uses other than wholesale sales shall not be permitted in conjunction with the cannabis manufacturing use.
 - c) No cannabis shall be grown or cultivated on the property of the cannabis manufacturing use.
 - d) No cannabis or cannabis product shall be smoked, ingested, or otherwise consumed on the property.
 2. **Notice to Entrants.** A cannabis manufacturing use building entrance shall be clearly and legibly posted with a notice indicating that persons under the age of twenty-one (21) are precluded from entering the premises unless they are in the presence of their parent or legal guardian. The building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming cannabis on the property is prohibited.
 3. **Security.** A cannabis manufacturing use shall provide adequate security on the premises, including lighting and alarms, for the safety of employees and visitors and to minimize the potential for criminal activity, including theft and unauthorized entry.
 4. **Employee Register.** A cannabis manufacturing use shall maintain a current register of the names of all employees currently employed by the use, and shall provide the Chief of Police with the name, phone number, and email of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the cannabis manufacturing use. The register and contact information shall be current and up-to-date at all times.
 5. **Off-Site Effects.** No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.
 6. **State Law.** A cannabis manufacturing use shall meet all State law requirements for cannabis manufacturing, including all State law operating criteria.
 7. **Compliance with the Cannabis Manufacturing Ordinance.** As a condition of approval, the applicant shall comply with all the requirements of the Municipal Code, including but not limited to Chapter 9.33 (Cannabis Manufacturing). Such compliance will be confirmed in writing by the Police Chief prior to issuance of a business license for the facility.
- C. **Required Findings**
In order to approve a Use Permit for a cannabis manufacturing use, the Planning Commission must make the following findings:
1. That the cannabis manufacturing use is compatible with the existing and future land uses in the vicinity, and, specifically, with any church, park, day care, hospital, non-profit organization or residential use within two-hundred

- (200) feet of the cannabis manufacturing use; and
2. That the cannabis manufacturing use will not be located within six-hundred (600) feet of any school.

DRAFT

- I would like to speak to the Council on Agenda Item No. 012016-778
- I would like to speak to the Council under "Public Comments on Non-Agenda, Consent Calendar or Closed Session Items"
- I do not wish to speak but want to submit the following comments to the Council

NAME: Jean Goodall, businessowner in Fort Bragg

COMMENTS (ONLY IF YOU DO NOT PLAN TO SPEAK): Purpose of this ordinance?
Impact upon tourism of said locational allowance
in commercial or industrial zoned areas
Is this motivated by what? Money
revenue is the motivation? There is a
water shortage in FB to cultivate plants

(This information is retained as a Public Record, and as such, may be shared with others upon request. Please do not provide any information that you do not wish to be disclosed to others.)

requires a larger amount of water. Imp not
water study should be performed. Sprinklers
for fire suppression require water impact of water

ANY PERSON DESIRING TO ADDRESS THE CITY COUNCIL

Thank you for attending this Fort Bragg City Council meeting. Your interest and participation is appreciated.

Those individuals who wish to address the Council on non-agenda subjects or agenda subjects scheduled as public hearings or discussions shall fill out speaker cards available at the meeting. Pursuant to Council procedures, the Mayor will recognize any member of the public who wishes to speak.

The Guidelines for the Conduct of the City Council meetings provide, in part:

- All speakers before the City Council shall approach the public microphone and give their name prior to addressing the Council.
- Questions to staff from the public and staff response should be directed through the Mayor.
- No clapping, cheering, cat-calling or other disruptive audience participation shall be permitted.
- The audience is requested to be seated in the Council Chambers. Standing or obstructing of aisles is prohibited.

Each individual who wishes to address the Council shall limit their remarks to the time limitations established by the Mayor. It is not necessary to address the Council when called upon by the Mayor if someone else has already made a similar comment or statement. Please limit your comments so that everyone has a chance to address the Council.

hook up when ^{water} it is not allowed to be ^{Thank you.}
hooked up to the city water supply. Isn't
there still a city moratorium on water hook
up to businesses for sprinkler systems?



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-360

Agenda Date: 9/12/2016

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 6C.

Consider Request that City Council Oppose Measure AF - Mendocino Heritage Initiative



AGENCY: City Council
MEETING DATE: September 12, 2016

AGENDA ITEM SUMMARY

TITLE:

CONSIDER REQUEST THAT CITY COUNCIL OPPOSE MEASURE AF - MENDOCINO HERITAGE INITIATIVE

THIS WILL BE AN ORAL DISCUSSION

REC'D AUG 29 2016

No on Measure AF Committee

110 South Main Street Suite C

Willits, CA 95490

August 26, 2016

Mayor and City Council
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

RE: Request for endorsement of No on Measure AF

Dear Mayor and Councilmembers,

Mendocino County faces an important choice on the future of the marijuana industry. Commercial production was authorized by the legislature in January 2016 and will be expanded under Proposition 64 (the Parker initiative). But both statewide legal schemes allow local cities and counties a wide latitude to establish their own regulations for marijuana cultivation, processing and sales.

The Mendocino County Board of Supervisors has risen to this challenge and worked hard at crafting an ordinance that would authorize permits for commercial marijuana operations while protecting citizens from nuisance impacts and protecting the environment from harm. After months of public hearings, the Board referred a draft ordinance for environmental review with the expectation that it would receive further consideration early next year.

But this careful process didn't satisfy a group of marijuana growers who wanted to write the marijuana rules themselves. They collected enough signatures to qualify the "Mendocino Heritage Act" for the November ballot. It has been designated Measure AF and is 60 pages long.

Serious problems are common when regulations are written by the industry that's being regulated, and Measure AF is no exception. We believe that Measure AF should be rejected on these grounds alone--that it is an attempt to override the good-faith work by our democratically-elected representatives on the Board of Supervisors. Rather than reflect the needs of the entire community, Measure AF would serve the needs of marijuana growers alone.

In addition, there are seven specific flaws in Measure AF:

- Measure AF would allow growing in every residential zoning district, with grows of up to 1 acre of plant canopy.

- Measure AF would allow growing within 30 feet of a neighbor's property and within 100 feet of a neighbor's house, except in mobile home parks where there would be no setback requirements at all.
- Measure AF establishes a civil enforcement procedure that would be so weak and slow as to be non-existent.
- Measure AF would give marijuana recognition under the County's "Right to Farm" ordinance, meaning neighbors would be barred from complaining about odor.
- Measure AF would eliminate the 1000 foot separation under existing County Code between marijuana operations and youth-oriented facilities, churches and residential treatment centers, and Measure AF would reduce the marijuana separation from parks and schools to only 600 feet.
- Measure AF would allow an unlimited number of marijuana dispensaries in any commercial zoning without public process.
- Measure AF would recognize the use of explosive butane in manufacture of hash oil as a "principal permitted use" in any industrial zoning without public process, even though this dangerous practice has caused many fires.

These issues are discussed in detail in the enclosed document, "Questions and Answers About Measure AF."

The voters will decide the fate of Measure AF in November. It's unreasonable for the average voter to analyze a 60-page document and sort out conflicting advertising claims about it. So most voters will look to established bodies like yours for guidance.

An endorsement by the City of Fort Bragg is appropriate because this issue will affect everyone in Mendocino County--our suburban residents, our rural residents, and our children today and into the future.

We respectfully request that you consider endorsing a "No" vote on Measure AF and communicating that endorsement to our committee. We are available to discuss this issue in person and can be contacted at NoOnMeasureAF@yahoo.com.

Sincerely,

NO ON MEASURE AF COMMITTEE


Hal Wagenet


Chris Neary


Ross Liberty


Mike Sweeney

enclosure

No on Measure AF

Questions and Answers

Where did Measure AF come from?

Measure AF, the "Mendocino Heritage Act," was written by local marijuana growers who collected enough petition signatures to qualify for the November, 2016 ballot. It is 60 pages long. It repeals County Code Chapter 9.31 (Medical Marijuana Cultivation Regulation) and replaces it with a new Chapter 6.22 called "Lawful Cannabis Permits." It also amends the County Zoning Code to add a new Chapter 20.162(inland) and Chapter 20.514(coastal) to provide zoning to allow marijuana cultivation, processing, manufacturing and sales. The entire text is available at https://mendocinoheritageinitiative.files.wordpress.com/2016/03/an-initiative-of-the-people-of-the-county-of-mendo_032216_v7.pdf

What are the problems with Measure AF?

- **It would regulate the marijuana industry but it's written by the marijuana industry itself.**

The cultivation, processing and sale of marijuana are major economic activities but they have created many nuisance and environmental problems. These problems must be controlled by appropriate regulations and enforcement. The decisions about regulation should be made by the Board of Supervisors with consideration for all our citizens, not just marijuana entrepreneurs. The Board of Supervisors enacted the present Chapter 9.31 regulations and is working hard at revised rules. Measure AF would throw out everything the Board of Supervisors has done and instead enact a law written for the convenience of marijuana growers, allowing them to greatly expand operations with no effective limitations.

This is the worst way to make public policy. Laws should be written by the democratically elected representatives of the people, and not by a special interest group that would benefit by a marijuana free-for-all.

- **By replacing the sheriff with a slow and weak civil enforcement process, Measure AF would effectively eliminate any restrictions whatsoever.**

Measure AF says that marijuana operations will require a County permit with environmental standards, but it also says that “No violations of this Chapter shall be subject to criminal enforcement.” [Measure AF, Section 6.22.150(A)(1)]. Instead, various ordinary County departments are required to issue permits and, presumably, issue “administrative citations” for violations. But as long as a grower has applied for a permit, “No enforcement of provisions of this Chapter shall take place against a permit applicant while their application is pending.” [Ibid.] And if a citation is made, the fine is only \$100. After 60 days, the fine can go up to \$1,000. But any citation can be appealed and the “permittee shall be allowed to continue operating during the Appeals process.” [Section 6.22.150(D)(1)] In order to process an appeal, the County must hire a “hearing officer” who is independent of the department that issued the citation [Section 6.22.150(D)(1)(c)], and a hearing officer’s decision can be appealed to a court. The County currently uses a hearing officer procedure for code enforcement cases and it has proven to be extremely slow and expensive, costing the County around \$1,000 per day to hire hearing officers.

This weak scheme for enforcement would instantly be recognized as a joke by marijuana growers. History has shown that the only effective regulation comes from the sheriff, and with the sheriff prohibited from involvement, the permit rules of Measure AF would be a dead letter. Marijuana growers could do whatever they wanted and the public would have no recourse. A new “Green Rush” of would-be growers from outside the county would occur as the word got around that there was no effective enforcement of any rules in Mendocino County.

- **Measure AF would vastly increase the size of commercial marijuana grows and allow them in any zoning district.**

Presently County Code Chapter 9.31 limits marijuana growing to 25 plants per parcel unless a special permit, with many restrictions, is obtained from the sheriff, in which case up to 99 plants could be grown on parcels larger than 10 acres. Measure AF would throw out these limits and instead allow marijuana grows as follows:

2,500 square feet of plant canopy on parcels less than 1 acre

5,000 square feet of plant canopy on parcels of 1 acre to 5 acres

10,000 square feet of plant canopy on parcels of 5 acres to 20 acres

43,560 square feet of plant canopy on parcels larger than 20 acres
[Measure AF, Sections 162.040(B) and 514.040(B)]

But since Measure AF would have no effective enforcement, these limits could be exceeded with impunity.

- **Measure AF would allow marijuana grows too close to neighbors**

The odor from large numbers of marijuana plants annoys or even sickens many people. Yet Measure AF would allow grows to reach as close as 30 feet from property lines and within 100 feet of a neighbor's house that's on "a parcel under separate ownership." [Measure AF, Section 6.22.060(B)(2&3)]. This doesn't protect mobile home parks which have many mobile homes occupying a single legal parcel. For them, there is no setback protection whatsoever because there are no legal parcel boundaries between the homes.

- **Measure AF would reduce or eliminate separations from places where children are present**

Youth and child advocates are extremely concerned that marijuana shouldn't be pushed onto children because it can seriously interfere with their learning and development. That's why current County Code Section 9.31 requires a 1000 foot setback of marijuana grows and dispensaries from any school, park, youth-oriented facility, church, or residential treatment center. Measure AF abolishes this setback requirement from youth-oriented facilities, churches, and residential treatment centers. Measure AF reduces the setback to parks and schools to 600 feet [Measure AF, Section 6.22.060(B)(1)].

- **Measure AF would block neighbors from complaining about marijuana odor**

Measure AF amends County Code Section 10A.13.010 to declare that "The commercial cultivation of cannabis, in accordance with all applicable state and local laws, ordinances and regulations, shall be considered an agricultural operation within the meaning of this Chapter." [Measure AF, Section 3] This means that marijuana grows would be protected by the County "Right to Farm" ordinance, which is designed to block nuisance complaints for impacts like odor.

The “Right to Farm” policy in County Code states: “No existing or future agricultural operation or any of its appurtenances, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, shall become or be a nuisance, private or public, for adjacent land uses in or about the locality thereof after the same has been in operation for more than three (3) years, when such action was not a nuisance at the time it began; provided that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances.” [Mendocino County Code Section 10A.13.020].

- **Measure AF would allow an unlimited number of dispensaries in any commercial zoning**

Measure AF states that the County Health and Human Services Agency “shall” issue permits for marijuana dispensaries. [Measure AF, Section 6.22.090]. Dispensaries would be a “principal permitted use” (meaning they are allowed without the need for discretionary approval) in all commercial zoning. [Measure AF, Sections 162.040(L) and Section 514.040(L)]. As noted above, this means that unlimited numbers of marijuana dispensaries could be placed right next door to a youth-oriented facility, church or residential treatment center, and only 200 yards from schools and parks.

- **Measure AF would authorize butane processing of marijuana to make hash oil in any industrial zone**

Mendocino County is confronting a crisis of fires and explosions caused by the use of butane, a volatile and highly flammable solvent, to make marijuana into hash oil. Incredibly, Measure AF makes processing marijuana with volatile solvents “a principal permitted use in all zoning districts where General Industrial Use is a principal permitted use.” [Measure AF, Sections 162.040(F) and 514.040(F)]. “Volatile solvents” are defined as “explosive gases such as butane, propane, xylene, styrene, gasoline kerosene, O₂ or H₂, or carcinogens, such as methanol, isopropyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloroethylene.” [Measure AF, Section 6.22.020].

Couldn't the Board of Supervisors amend Measure AF if it passes?

No--not until June 1, 2018, and then only if amendments are “consistent with and further the purposes and intent of this Ordinance.” [Measure AF, Section 8]. Those “purposes” include recognizing marijuana as “an agricultural product” that the County Right to Farm Ordinance “conserves, protects and encourages.” This language opens the door to a lawsuit to fight any changes to Measure AF that marijuana growers don’t like.

If Measure AF is defeated, will the Board of Supervisors enact an ordinance?

The Board of Supervisors has a draft ordinance that is currently under environmental review for compliance with the California Environmental Quality Act (CEQA). This ordinance, if approved, would amend Chapter 9.31 to allow larger commercial marijuana cultivation in appropriate locations, subject to mandatory inspections to ensure compliance with health, safety and environmental rules. Unlike Measure AF, the proposed County ordinance would try to effectively protect neighbors and youth from harmful impacts. Its permit enforcement would have teeth, unlike the toothless Measure AF. However, if Measure AF passes, it would supersede and overrule any ordinance that the Supervisors might pass.

Does the No on Measure AF Committee support the Supervisors’ proposed tax on marijuana?

The Committee does not take a position on any other ballot measure.

What policies on marijuana does the No on Measure AF Committee advocate?

The Committee takes no position except to urge a “No” vote on Measure AF, and believes that local regulations should be enacted by the Board of Supervisors, not by the marijuana growers’ measure. The Board of Supervisors can be responsive to the needs of the entire community, and can freely amend regulations if circumstances require.

Isn’t marijuana going to be legalized by the State?

The Medical Marijuana Regulation and Safety Act (MMRSA), which was passed by the legislature and went into effect on January 1, 2016, specifically states that a local government permit is needed in addition to a state license. Proposition 64 (the Parker initiative) on the November 2016 ballot, would supersede the MMRSA by legalizing personal use and authorizing commercial cultivation. However, Proposition 64 specifically would specifically “allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older.” [Proposition 64, Section 3(m)]. All this means that Mendocino County retains the

obligation to establish local permit rules and zoning that apply to marijuana cultivation, processing, manufacturing and sales.

Introducing Measure AF

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

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

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

How will Measure AF benefit the people of Mendocino County?

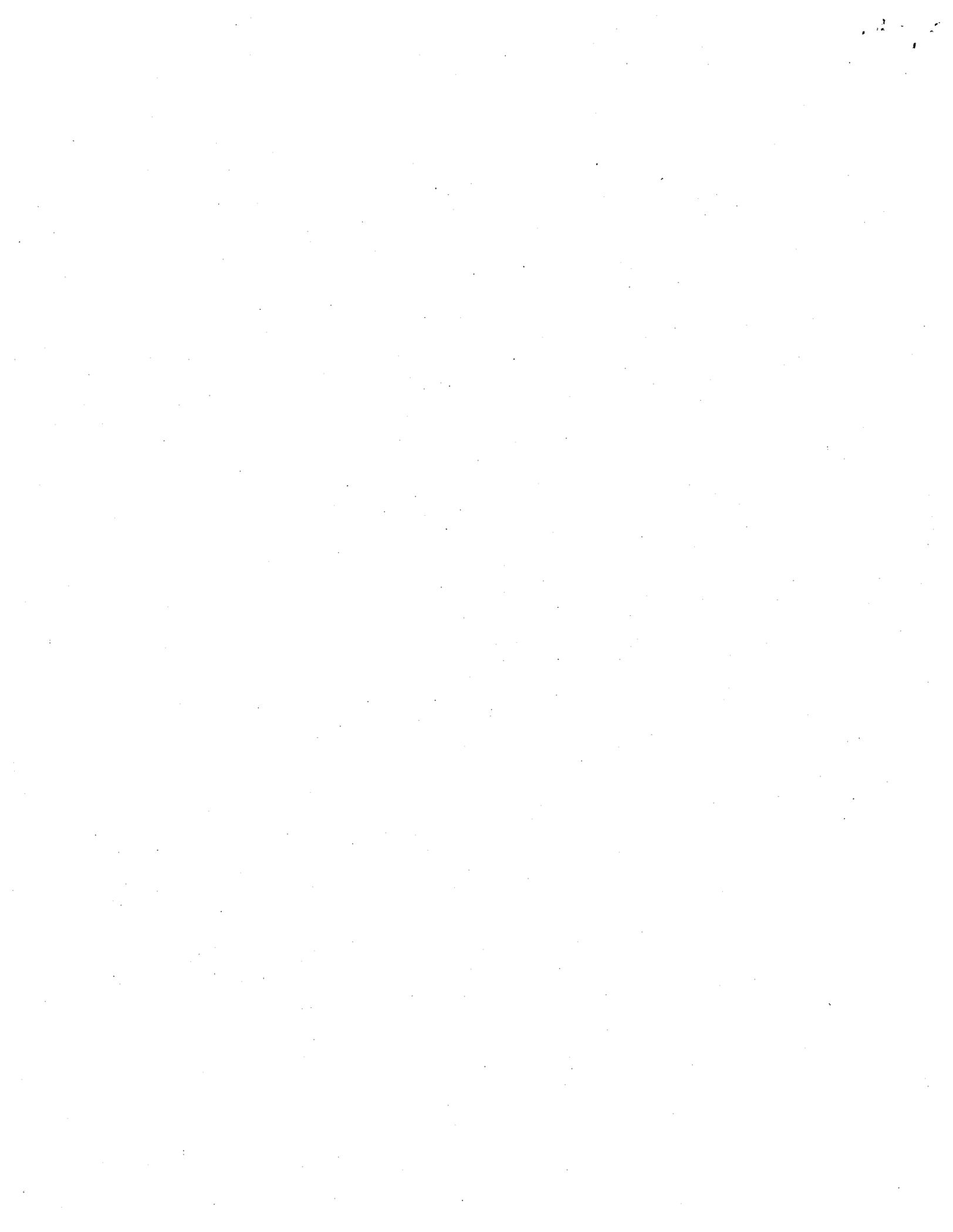
Regulation protects the environment

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

Safer neighborhoods

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

Taxes benefit the community



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

Increased enforcement

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

Protects local business

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

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

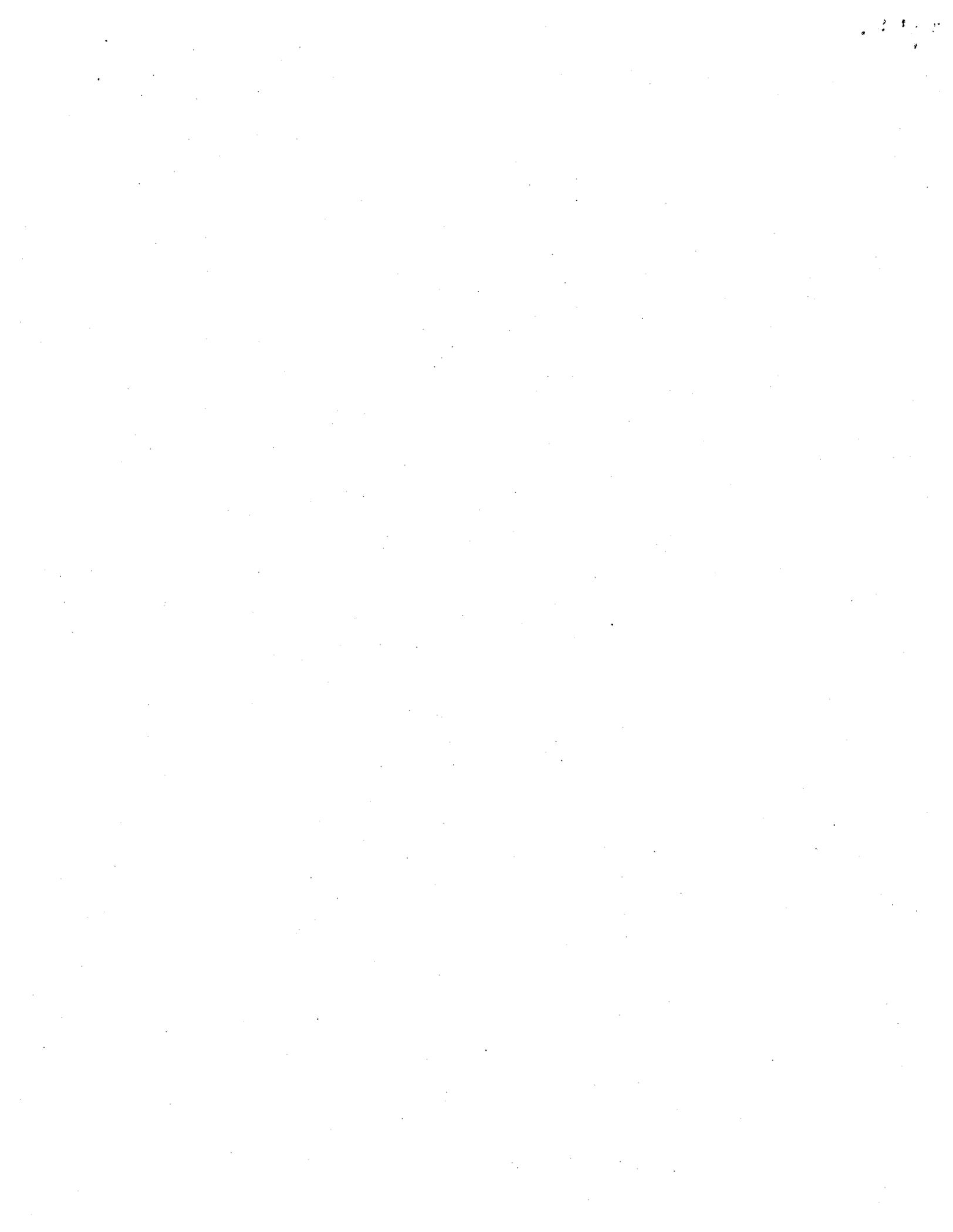
Mendocino County needs solutions. Measure AF creates a clear regulatory program for local farms and businesses who wish to come into compliance, pay taxes, create good jobs, and protect the environment. Vote yes on AF to protect Mendocino County and our legacy of leading the way on sustainable agricultural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

Sincerely,

Yes on AF

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

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MEASURE

AF

MENDOCINO
HERITAGE ACT
2016

YES ON MEASURE AF

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

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

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

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

SMART CANNABIS REGULATION FOR MENDOCINO COUNTY

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

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

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

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

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

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

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

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

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

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

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

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

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

NOW THEREFORE, the People do ordain as follows:

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

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

Section 3. Cannabis Cultivation is Agriculture

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

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

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

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

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

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

- 6.22.010 Legislative Findings and Statements of Purpose**
- 6.22.020 Definitions**
- 6.22.030 Patients and Caregivers Exempt from Permitting Requirement**

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

Sec. 6.22.010 - Legislative Findings and Statement of Purpose.

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

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

Sec. 6.22.020 - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Indoor" means indoor cultivation using exclusively artificial lighting.

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

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

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

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

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

"Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

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

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

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

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

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

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

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

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

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number, and shall have the same meaning as set forth in Business & Professions Code § 19300.5 as the same may be amended from time to time.

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

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

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

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

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

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

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

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

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

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

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

“Volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gases, such as butane, propane, xylene, styrene, gasoline, kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as methanol, isopropyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloroethylene.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6.22.070 - Permits for Commercial Medical Cannabis Activity.

(A) Permit Applications

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

(B) Qualifications of an Applicant

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

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

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

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

(C) Permit Renewals

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

(D) Permit Application Grace Period

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

Sec. 6.22.080 - Medical Cannabis Cultivation.

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

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

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

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

Sec. 6.22.084 - Cultivation Operating Requirements.

(A) Visibility and Fencing.

(1) In any location where cannabis plants are visible from the public right of way or publicly traveled private roads, a secure fence at least six (6) feet in height that fully encloses the immediate garden area must be used. The fence must include a lockable gate that is locked at all times when a permittee is not in the immediate area. The fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except that shade cloth may be used on the inside of the fence.

(B) Lighting.

(1) All lights used for cultivation shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed from dusk to dawn.

(C) Noise.

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

(D) Water Source.

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

(E) Water Discharge.

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

(F) Security.

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

(G) Plant Health.

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

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

Sec. 6.22.090 - Medical Cannabis Dispensaries.

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

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

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

Sec. 6.22.094 - Dispensary Operating Requirements.

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

(A) Minors.

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

(B) Operating Hours.

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

(C) Dispensing Operations.

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

(D) Consumption Restrictions.

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

(E) Operating Plans.

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

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

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

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

(G) Emergency Contact.

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

(H) Staff Training.

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

(I) Compliance.

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

Sec. 6.22.100 - Medical Cannabis Manufacturing.

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

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

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

Sec. 6.22.104 - Manufacturing Operating Requirements.

(A) Minimum Standards.

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

(B) Operating Plans.

- (1) A permitted Manufacturer 7 using volatile solvents shall maintain on-site an operating plan that shall include but not be limited to the following information:

- a. Methods or procedures to limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety.
- b. A hazardous waste disposal plan.
- c. A fire safety and suppression plan.
- d. A water source and discharge plan.

Sec. 6.22.110 - Medical Cannabis Testing.

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

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

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

Sec. 6.22.114 - Testing Operating Requirements.

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

(1) A process for a facility to become accredited by an appropriate accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement;

(2) Standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products;

(3) Standards for accurate record keeping of testing of products.

(B) Until such time as the County develops standard operating procedures and regulations for the testing of medical cannabis products pursuant to subsection 22.114(A), the County shall issue permits for this activity upon an applicant's submission of a detailed description of the applicant's operating procedures with the permit application, including:

(1) Methods of testing medical cannabis products, including proof of the ability to test medical cannabis from dried flower for concentration, pesticides, mold, and other contaminants.

(2) If accredited, certificate or proof of accreditation.

(3) Methods of inventory control, including security and non-diversion tactics, and disposal techniques of tested medical cannabis products to ensure no diversion or theft occurs.

(4) Proof that no person or applicant for a Testing Permit has any ownership interest in any other Cannabis Permit approved under this Section, and proof that the applicant has no ownership interest in any parcel, site, or property that shall be the location of any other medical cannabis activity allowed by the Code.

(C) When the County promulgates rules and regulations governing the Testing of medical cannabis products pursuant to subsection 22.114(A), any operator holding a permit to test shall have one-hundred eighty (180) days to become compliant with the governing rules.

Sec. 6.22.120 - Medical Cannabis Distribution and Transportation.

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

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

(1) Permits issued under this chapter shall expire two (2) years following the date of their issuance.

(2) Permits shall be renewed by the Department of Planning and Building Services for additional periods of one (1) year in length upon application by the permittee, unless the application for renewal fails to comply with the provisions of this Chapter.

Sec. 6.22.124 - Distribution and Transportation Operating Requirements.

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

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

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

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

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

Sec. 6.22.130 - Permit Fees.

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

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

Sec. 6.22.140 - Cannabis Business Tax.

For the purposes of this section:

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

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

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

Sec. 6.22.150 - Enforcement and Appeals Process.

(A) Civil Enforcement.

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

(B) Notice of Inspections.

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

(C) Penalties.

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

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

(D) Appeals Process.

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

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

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

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

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

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

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

Sec. 6.22.160 – Establishment of a Mendocino County Cannabis Commission

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

Sec. 6.22.170 – Applicability to Change in State Regulations

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

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

Section 7: Conflicting legislation

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

Section 8: Amendment

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

Section 9: Severability

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

Section 10: Effectiveness of this Act

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

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

Inland Zoning

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

162.005 - Authority and Title

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

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

162.010 – Purpose and Intent

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

162.015 – Applicability and Interpretation

- (A) These regulations shall apply to the location and permitting of commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use in zoning districts within which such use is authorized, as specified in this section. For purposes of this section and for clarity, the geographic region governed and regulated by Division I of the Mendocino County Zoning Code shall be referred to herein this Section as the “Inland Zone.”
- (B) The commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use within the jurisdiction of the County of Mendocino, exclusive of the Inland Zone, shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
- (C) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, from compliance with all other applicable Mendocino County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.
- (D) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building, or land use standards of permitting requirements.
- (E) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, testing, distribution, transportation, delivery, dispensaries, and manufacturing of cannabis for medical use on private property.
- (F) The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Mendocino County Code Section 20.008 et seq. and Section 1.04 et seq. may also apply to this Section.
- (G) As Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section, for purposes of the MMRSA, and Business and Professions Code Section 19300 et seq., this County intends to regulate the commercial cultivation of cannabis for medical use pursuant to the existing Code governing agricultural products. The commercial cultivation of medical cannabis shall be considered, contemplated as, and interpreted to be a Row and Field Crops Agricultural Use as defined in section 20.032.015. The commercial cultivation of medical cannabis shall be a

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

162.020 – Severability

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

162.025 – Release of Liability and Hold Harmless

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

162.030 – Penalties and Enforcement

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

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

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

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

162.040 – General Provisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

162.045 – Permit Types

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

Inland Zone Chart

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

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

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

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

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

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

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

(1) The owner, cultivator, or operator shall prepare and keep a site plan and operating procedures, consistent with Business & Professions Code 19322, in a safe and secure location on the premise or at a location under the control of the individuals.

(2) A copy of the statement of water diversion, or other permit, license, or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable shall be kept with the operations plan.

(3) If applicable, to be kept with the operations plan, a copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2, or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.

(4) For indoor cultivation facilities, a document shall be kept with the operations plan identifying the source of electrical power and how it complies with the energy requirements in section 162.040(C), and all documentation demonstrating compliance with all applicable Building Codes.

162.055 – Performance Standards for All MHA Cultivation and Processing Operations

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

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

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

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

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

- (10) Pay all applicable application and annual inspection fees.
- (11) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Administrative Permit, Major Use Permit, or Minor Use Permit.
- (12) Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
- (13) All persons hiring employees to engage in commercial medical cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - 1) Emergency action response planning as necessary;
 - 2) Employee accident reporting and investigation policies;
 - 3) Fire prevention;
 - 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - 5) Materials handling policies;
 - 6) Job hazard analyses; and
 - 7) Personal protective equipment policies, including respiratory protection.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - 1) Operation manager contacts;
 - 2) Emergency responder contacts;
 - 3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

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

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

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

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

k. Description of source of drinking water for employees.

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

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

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

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

162.060 – Terms of Commercial Medical Cannabis Cultivation Permit

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

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

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

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

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

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

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

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

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

162.065 – Appeal of Inspection Determination

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

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

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

162.075 – Disclosure

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

Coastal Zoning

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

514.005 - Authority and Title

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

514.010 – Purpose and Intent

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

514.015 – Applicability and Interpretation

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

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

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

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

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

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

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

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

514.020 – Severability

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

514.025 – Release of Liability and Hold Harmless

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

514.030 – Penalties and Enforcement

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

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

514.035 – Definitions

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

514.040 – General Provisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

514.045 – Permit Types

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

Coastal Zone Chart

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

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

Not Permitted

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

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

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

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

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

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

514.055 – Performance Standards for All MHA Cultivation and Processing Operations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

514.060 – Term of Commercial Medical Cannabis Activity Permit

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

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

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

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

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

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

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

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

514.065 – Appeal of Inspection Determination

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

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

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

514.075 – Disclosure

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

Town Zoning

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

698.005 - Authority and Title

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

698.010 – Purpose and Intent

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

698.015 – Applicability and Interpretation

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

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

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

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

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

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

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

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

698.020 – Severability

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

698.025 – Release of Liability and Hold Harmless

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

698.030 – Penalties and Enforcement

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

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

698.035 – Definitions

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

698.040 – General Provisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

698.045 – Permit Types

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

Town Zone Chart

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

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

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

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

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

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

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

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

698.055 – Performance Standards for All MHA Cultivation and Processing Operations

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

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

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

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

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

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

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

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

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

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

5) Materials handling policies;

6) Job hazard analyses; and

7) Personal protective equipment policies, including respiratory protection.

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

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

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

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

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

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

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

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

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

698.060 – Term of Commercial Medical Cannabis Activity Permit

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

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

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

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

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

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

698.065 – Appeal of Inspection Determination

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

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

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

698.075 – Disclosure

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



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-343

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7A.

Adopt City Council Resolution Authorizing City Manager to Decline the Right of First Refusal to Purchase 435 N Whipple Unit B, an Inclusionary Housing Unit, and Instead Authorize Owner of 435 N Whipple Unit B to Sell the Unit, Subject to City Approval, to an Income Qualified Person with Preference to Essential Public Service Employees (Teachers, Firefighters, Police, etc.)

The City of Fort Bragg adopted an Inclusionary Housing ordinance in 2004. In 2006, Charles Dimock received approval by the Planning Commission for a Subdivision (DIV 3-06) and Design Review (DR 4-06) authorizing construction of three detached single family residences at 435 N. Whipple Street and division of the property into five condominium units. As part of the approval process, the project was required to comply with Land Use and Development Code Section 18.31.020(A)(1) which required that 20 percent of the total units (in this case one unit) be reserved for a low income household. The applicant entered into a recorded regulatory agreement with the City of Fort Bragg regarding the inclusionary housing unit (435 N Whipple Unit B). The agreement provides the City with a right of first refusal to purchase the affordable unit at the "Affordable Sales Price" within 60 days following the City's receipt of a written notice that the homeowner intends to sell. The homeowner has submitted written notice of his intent to sell the unit. The City is not in a position to purchase or manage this unit of affordable housing. However, in compliance with the regulatory agreement, the inclusionary unit must be sold to, and occupied by, a person or household whose income does not exceed 120 percent of the Area Median Income. Additionally, the purchaser of the inclusionary unit must be approved by the City of Fort Bragg and must agree to be bound by and honor the Subdivider's obligations and covenants pursuant to the regulatory agreement. The intent of the Inclusionary Housing Ordinance and the recorded regulatory agreement for 435 N Whipple Unit B can be achieved through the sale of this unit to a qualified person or household and the affordability of the unit will continue through 2038.

RESOLUTION NO. ____-2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING THE CITY MANAGER TO DECLINE THE RIGHT OF FIRST REFUSAL TO PURCHASE 435 N WHIPPLE UNIT B, AN INCLUSIONARY HOUSING UNIT, AND INSTEAD AUTHORIZE THE OWNER OF 435 N WHIPPLE UNIT B TO SELL THE UNIT, SUBJECT TO CITY APPROVAL, TO AN INCOME QUALIFIED PERSON WITH PREFERENCE TO ESSENTIAL PUBLIC SERVICE EMPLOYEES (TEACHERS, FIREFIGHTERS, POLICE, ETC.)

WHEREAS, the City of Fort Bragg adopted an Inclusionary Housing ordinance in 2004; and

WHEREAS, in 2006, Charles Dimock received approval by the Planning Commission for a Subdivision (DIV 3-06) and Design Review (DR 4-06) authorizing construction of three detached single family residences at 435 N. Whipple street and division of the property into five condominium units;

WHEREAS, as part of the project review and approval process, the project was found in compliance with Land Use and Development Code Section 18.31.020(A)(1) which required that 20 percent of the total number of proposed dwelling units be reserved for low income residential unit, so long as the applicant complied with various Special Conditions of the permit including:

1. Prior to approval of the Final Map, the applicant shall submit an Inclusionary Housing Plan, consistent with Section 18.32.100 of the LUDC, that details how the provisions of Chapter 18.32 (Inclusionary Housing) of the LUDC shall be implemented for the proposed residential project. This Plan shall be reviewed by the Community Development Director and the City Attorney to ensure compliance with the City's Inclusionary Housing Program and the final map cannot be recorded unless and until the City Council approves the Inclusionary Housing Program.
2. Prior to issuance of building permits for any of the proposed residences, inclusionary housing agreements, resale restrictions, deed restrictions, and/or other documents, all of which shall be reviewed and approved by the City Attorney for consistency with the requirements of Chapter 18.32 of the LUDC, shall be recorded against the parcel(s) having the inclusionary unit.

WHEREAS, in compliance with these Special Conditions, Charles Dimock entered into a recorded regulatory agreement with the City of Fort Bragg regarding the inclusionary housing unit (435 N Whipple Unit B) of the project; and

WHEREAS, the recorded regulatory agreement provides the City with a right of first refusal to purchase the affordable unit at the "affordable Sales Price" within 60 days following the City's receipt of a written notice that the homeowner intends to sell; and

WHEREAS, the City is not in a position to purchase or manage this unit of affordable housing; and

WHEREAS, the property owner has submitted written notice of their intent to sell the property; and

WHEREAS, the unit must be sold to, and occupied by, a person or household whose income does not exceed 120 percent of the Area Median Income; and

WHEREAS, per the regulatory agreement, the purchaser of the inclusionary unit must be approved by the City of Fort Bragg and must agree to be bound by and honor the Subdivider’s obligations and covenants pursuant to the regulatory agreement;

WHEREAS, the regulatory agreement will remain in force for 30 years from the signature date of 2008 and thereby ensure ongoing affordability of the unit through 2038; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The intent of the Inclusionary Housing Ordinance and the recorded regulatory agreement for 435 N Whipple Unit B can be achieved through the sale of this unit to a qualified person or household.
2. The affordability of the unit shall continue through 2038.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the City Manager to decline the City’s right of first offer to purchase 435 N Whipple Unit B.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 12th day of September 2016, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

DAVE TURNER,
Mayor

ATTEST:

June Lemos
City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-365

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7B.

Adopt City Council Resolution Authorizing City Manager to Sign Program Supplement Agreements with the California Department of Transportation

On August 12, 2016, the City received two letters from the Department of Transportation (Caltrans) enclosing Program Supplement Agreements (PSAs) for federal funding of the Chestnut Street Corridor Project and the Safe Routes to School Project (see attached). The federal funds obligated for the Chestnut Street Corridor Project total \$975,500; federal funds obligated for the Safe Routes to School Project total \$26,000.

The Caltrans cover letters specifically instruct: "Attach your local agency's certified authorizing resolution that clearly identifies the project and the official authorized to execute the agreement." The signed PSAs and certified resolution must be returned to Caltrans within 90 days of receipt of the documents (by November 10, 2016) or the funds may be disencumbered and/or deobligated. Upon adoption of the attached resolution, the City Clerk will promptly return executed original PSAs along with a certified copy of the Resolution to Caltrans.

RESOLUTION NO. ____-2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SIGN PROGRAM SUPPLEMENT AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the City of Fort Bragg is eligible to receive federal and/or State funding for certain Transportation Projects through the California Department of Transportation, to wit: Chestnut Street Corridor Project (Federal Aid Project No. 01-5088R) and Safe Routes to School Project (Federal Aid Project No. 01-5088F15); and

WHEREAS, Program Supplement Agreement documents need to be executed with the California Department of Transportation for these projects before such funds can be claimed; and

WHEREAS, the City of Fort Bragg wishes to delegate authority to execute these documents, and any other documents pertinent thereto, to the City Manager.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby authorize the City Manager to execute all Program Supplement Agreement documents and any amendments thereto with the California Department of Transportation.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 12th day of September, 2016, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

DAVE TURNER,
Mayor

ATTEST:

June Lemos
City Clerk

DEPARTMENT OF TRANSPORTATION

Division of Local Assistance
1120 N STREET
P.O. BOX 942874, MS# 1
Sacramento, CA 94274-0001
TTY 711
(916) 654-3883
Fax (916) 654-2408

REC'D AUG 12 2016

File : 01-MEN-0-FBG
ATPLNI-5088(030)
In Fort Bragg. Non-Infrastructure

August 11, 2016

Ms. Linda Ruffing
City Manager
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

Dear Ms. Ruffing:

Enclosed are two originals of the Program Supplement Agreement No. 014-F to Administering Agency-State Agreement No. 01-5088F15 and an approved Finance Letter for the subject project. Please retain the signed Finance Letter for your records.

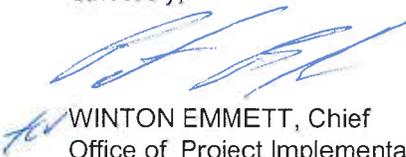
Please note that federal funding will be lost if you proceed with future phase(s) of the project prior to getting the "Authorization to Proceed" with that phase.

Please review the covenants and sign both copies of this Agreement and return both to this office, Office of Project Implementation - MS1 within 90 days from the receipt of this letter. If the signed Agreements are not received back in this office within 90 days, funds will be disencumbered and/or deobligated. Alterations should not be made to the agreement language or funding. ATTACH YOUR LOCAL AGENCY'S CERTIFIED AUTHORIZING RESOLUTION THAT CLEARLY IDENTIFIES THE PROJECT AND THE OFFICIAL AUTHORIZED TO EXECUTE THE AGREEMENT. A fully executed copy of the agreement will be returned to you upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

The State budget authority supporting the encumbered funds is only available for liquidation up to specific deadlines. These deadlines are shown on the attached Finance letter as the "Reversion Date". Please ensure that your invoices are submitted at least 60 days prior to the reversion date to avoid any lapse of funds. If your agency is unable to seek reimbursement by this date you may request an extension through a Cooperative Work Agreement (CWA). A CWA is subject to the final approval of the State Department of Finance. If approved, the CWA may extend the deadline for up to two years.

Your prompt action is requested. If you have questions, please contact your District Local Assistance Engineer.

Sincerely,


WINTON EMMETT, Chief
Office of Project Implementation - North
Division of Local Assistance

Enclosure

c: DLA AE Project Files
(01) DLAE - Suzanne Theiss

PROGRAM SUPPLEMENT NO. F014
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 01-5088F15

Adv Project ID **Date:** August 3, 2016
0116000142 **Location:** 01-MEN-0-FBG
Project Number: ATPLNI-5088(030)
E.A. Number:
Locode: 5088

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on _____ and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the Administering Agency on _____ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

In Fort Bragg. Non-Infrastructure

TYPE OF WORK: Safe Route to Schools

LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	M3E2		LOCAL	OTHER
\$26,000.00	\$26,000.00		\$0.00	\$0.00

CITY OF FORT BRAGG

STATE OF CALIFORNIA
Department of Transportation

By _____
Title _____
Date _____
Attest _____

By _____
Chief, Office of Project Implementation
Division of Local Assistance
Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer  Date 8/4/16 \$26,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal

SPECIAL COVENANTS OR REMARKS

obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

H. This PROJECT is programmed to receive Federal funding from the Active Transportation Program (ATP). Funding may be provided under one or more components. A component(s) specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the component(s) identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per component(s).

This PROGRAM SUPPLEMENT has been prepared to allow reimbursement of eligible PROJECT expenditures for the component(s) allocated. The start of reimbursable expenditures is restricted to the later of either 1) the effective date of the component specific allocation or the effective date of the federal obligation of funds.

SPECIAL COVENANTS OR REMARKS

I. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY also agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration and that STATE funds available for reimbursement will be limited to the amounts allocated by the California Transportation Commission and/or STATE.

J. Upon ADMINISTERING AGENCY request, the CTC and/or STATE may approve supplementary allocations, time extensions, and fund transfers between components. Funds transferred between allocated project components retain their original timely use of funds deadlines, but an approved time extension will revise the timely use of funds criteria for the component(s) and allocation(s) requested. Approved supplementary allocations, time extensions, and fund transfers between components made after the execution of this PROGRAM SUPPLEMENT will be documented and considered subject to the terms and conditions thereof. Documentation will consist of a Federal Highway Administration-approved "Authorization to Proceed" notification, a STATE approved Allocation Letter, Fund Transfer Letter, Time Extension Letter, and Finance Letter, as appropriate.

K. This PROJECT will be administered in accordance with the applicable CTC STIP guidelines and the Active Transportation Program guidelines as adopted or amended, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

L. The submittal of invoices for PROJECT costs shall be in accordance with the above-referenced publications and the following. The ADMINISTERING AGENCY shall invoice STATE for environmental & permits, plans specifications & estimate, and right-of-way costs no later than 180 days after the end of last eligible fiscal year of expenditure. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance, whichever occurs first, to make the final payment to the contractor and prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and payment.

M. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the encumbrance of funds under this Agreement. Funding and reimbursement are available only upon the passage of the State Budget Act containing these Federal funds.

N. This PROJECT is subject to the timely use of funds provisions enacted by the ATP Guidelines, as adopted or amended, and by approved CTC and State procedures as outlined below.

Funds allocated for the environmental & permits (E&P), plan specifications & estimate (PS&E), and right-of-way components are available for expenditure until the end of the second fiscal year following the year in which the funds were allocated.

SPECIAL COVENANTS OR REMARKS

Funds allocated for the construction component are subject to an award deadline and contract completion deadline. ADMINISTERING AGENCY agrees to award the contract within 6 months of the construction fund allocation and to complete and accept the construction within 36 months of award.

O. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to comply with all reporting requirements in accordance with the Active Transportation Program Guidelines, as adopted or amended.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and

SPECIAL COVENANTS OR REMARKS

subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and

SPECIAL COVENANTS OR REMARKS

maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

DEPARTMENT OF TRANSPORTATION

Division of Local Assistance
1120 N STREET
P.O. BOX 942874, MS# 1
Sacramento, CA 94274-0001
TTY 711
(916) 654-3883
Fax (916) 654-2408



REC'D AUG 12 2016

August 11, 2016

File : 01-MEN-0-FBG

DEMO6L-5088(028)

In Fort Bragg: on the North Side of
Chestnut Street from Franklin Street
to Dana Street.

Ms. Linda Ruffing
City Manager
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

Dear Ms. Ruffing:

Enclosed are two originals of the Program Supplement Agreement No. 013-N1 to Administering Agency-State Agreement No. 01-5088R and an approved Finance Letter for the subject project. Please retain the signed Finance Letter for your records.

Please note that federal funding will be lost if you proceed with future phase(s) of the project prior to getting the "Authorization to Proceed" with that phase.

Please review the covenants and sign both copies of this Agreement and return both to this office, Office of Project Implementation - MS1 within 90 days from the receipt of this letter. If the signed Agreements are not received back in this office within 90 days, funds will be disencumbered and/or deobligated. Alterations should not be made to the agreement language or funding. ATTACH YOUR LOCAL AGENCY'S CERTIFIED AUTHORIZING RESOLUTION THAT CLEARLY IDENTIFIES THE PROJECT AND THE OFFICIAL AUTHORIZED TO EXECUTE THE AGREEMENT. A fully executed copy of the agreement will be returned to you upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

The State budget authority supporting the encumbered funds is only available for liquidation up to specific deadlines. These deadlines are shown on the attached Finance letter as the "Reversion Date". Please ensure that your invoices are submitted at least 60 days prior to the reversion date to avoid any lapse of funds. If your agency is unable to seek reimbursement by this date you may request an extension through a Cooperative Work Agreement (CWA). A CWA is subject to the final approval of the State Department of Finance. If approved, the CWA may extend the deadline for up to two years.

Your prompt action is requested. If you have questions, please contact your District Local Assistance Engineer.

Sincerely,

A handwritten signature in blue ink, appearing to read "Winton Emmett".

WINTON EMMETT, Chief
Office of Project Implementation - North
Division of Local Assistance

Enclosure

c: DLA AE Project Files
(01) DLAE - Suzanne Theiss

PROGRAM SUPPLEMENT NO. N013 Rev. 1
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 01-5088R

Adv Project ID: 0114000012
Date: August 1, 2016
Location: 01-MEN-0-FBG
Project Number: DEMO6L-5088(028)
E.A. Number:
Locode: 5088

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 09/14/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the Administering Agency on _____ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

In Fort Bragg: on the North Side of Chestnut Street from Franklin Street to Dana Street.

TYPE OF WORK: Construct Pedestrian and Bike Trail

LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	M3E2	LY60	LOCAL	OTHER
\$1,262,914.00	\$233,000.00	\$742,500.00	\$0.00	\$287,414.00

CITY OF FORT BRAGG

STATE OF CALIFORNIA
Department of Transportation

By _____
 Title _____
 Date _____
 Attest _____

By _____
 Chief, Office of Project Implementation
 Division of Local Assistance
 Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer *[Signature]* Date 8/4/16 \$975,500.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal

SPECIAL COVENANTS OR REMARKS

obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

H. This PROJECT is programmed to receive Federal funding from the Active Transportation Program (ATP). Funding may be provided under one or more components. A component(s) specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the component(s) identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per component(s).

This PROGRAM SUPPLEMENT has been prepared to allow reimbursement of eligible PROJECT expenditures for the component(s) allocated. The start of reimbursable expenditures is restricted to the later of either 1) the effective date of the component specific allocation or the effective date of the federal obligation of funds.

SPECIAL COVENANTS OR REMARKS

I. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY also agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration and that STATE funds available for reimbursement will be limited to the amounts allocated by the California Transportation Commission and/or STATE.

J. Upon ADMINISTERING AGENCY request, the CTC and/or STATE may approve supplementary allocations, time extensions, and fund transfers between components. Funds transferred between allocated project components retain their original timely use of funds deadlines, but an approved time extension will revise the timely use of funds criteria for the component(s) and allocation(s) requested. Approved supplementary allocations, time extensions, and fund transfers between components made after the execution of this PROGRAM SUPPLEMENT will be documented and considered subject to the terms and conditions thereof. Documentation will consist of a Federal Highway Administration-approved "Authorization to Proceed" notification, a STATE approved Allocation Letter, Fund Transfer Letter, Time Extension Letter, and Finance Letter, as appropriate.

K. This PROJECT will be administered in accordance with the applicable CTC STIP guidelines and the Active Transportation Program guidelines as adopted or amended, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

L. The submittal of invoices for PROJECT costs shall be in accordance with the above-referenced publications and the following. The ADMINISTERING AGENCY shall invoice STATE for environmental & permits, plans specifications & estimate, and right-of-way costs no later than 180 days after the end of last eligible fiscal year of expenditure. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance, whichever occurs first, to make the final payment to the contractor and prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and payment.

M. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the encumbrance of funds under this Agreement. Funding and reimbursement are available only upon the passage of the State Budget Act containing these Federal funds.

N. This PROJECT is subject to the timely use of funds provisions enacted by the ATP Guidelines, as adopted or amended, and by approved CTC and State procedures as outlined below.

Funds allocated for the environmental & permits (E&P), plan specifications & estimate (PS&E), and right-of-way components are available for expenditure until the end of the second fiscal year following the year in which the funds were allocated.

SPECIAL COVENANTS OR REMARKS

Funds allocated for the construction component are subject to an award deadline and contract completion deadline. ADMINISTERING AGENCY agrees to award the contract within 6 months of the construction fund allocation and to complete and accept the construction within 36 months of award.

O. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to comply with all reporting requirements in accordance with the Active Transportation Program Guidelines, as adopted or amended.

2. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

SPECIAL COVENANTS OR REMARKS

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the

SPECIAL COVENANTS OR REMARKS

Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

3. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.
- B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.
- C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
- D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.
- E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.
- F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is

SPECIAL COVENANTS OR REMARKS

responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at

SPECIAL COVENANTS OR REMARKS

interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-361

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7C.

Adopt City Council Resolution Establishing Schedule for Standing Committee Meetings

The Public Works and Facilities Committee (PWFC) is a standing Council Committee that regularly meets on the third Thursday of the month at 3:00 PM. Vice Mayor Peters recently requested that the date and time of the PWFC meeting be changed to the fourth Wednesday of the month at 3:00 PM so as not to conflict with his work schedule. Section 2.04.040 of the Fort Bragg Municipal Code states, "The City Council may establish (and amend, from time to time) rules for the conduct of its proceedings by adoption of a resolution." The attached Resolution establishes the date, time, and location for each of the four standing Council Committees and allows the Council to update or amend the schedule by resolution when changes need to be made, for example after the Council reorganizes and the Mayor makes new committee assignments in January 2017.

RESOLUTION NO. ____-2016

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL ESTABLISHING SCHEDULE FOR
STANDING COMMITTEE MEETINGS**

WHEREAS, Fort Bragg Municipal Code Section 2.04.045 entitled "Standing Committees Designated," establishes four standing committees of the Fort Bragg City Council, i.e., Community Development Committee, Finance and Administration Committee, Public Safety Committee and Public Works and Facilities Committee; and

WHEREAS, Resolution 3556-2012, Exhibit A, Article II, sets forth the duties to be performed by each of the Standing Committees; and

WHEREAS, a regular schedule of dates, times, and locations needs to be set for these standing committees which can be updated by resolution from time to time as availability of committee members changes; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby adopt the Schedule of Council Standing Committees, a copy of which is attached hereto and incorporated herein as Exhibit "A."

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 12th day of September, 2016, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

DAVE TURNER
Mayor

ATTEST:

June Lemos
City Clerk

EXHIBIT "A"

SCHEDULE OF COUNCIL STANDING COMMITTEES

Committee	Meeting Date	Time	Location
Community Development Committee	4 th Tuesday of the month	3:00 PM	Town Hall
Finance & Administration Committee	1 st Wednesday of the month	3:00 PM	Town Hall
Public Safety Committee	2 nd Wednesday of the month	3:00 PM	Town Hall
Public Works & Facilities Committee	4 th Wednesday of the month	3:00 PM	Town Hall

2.04.045 STANDING COMMITTEES DESIGNATED.

A. There shall be four standing committees; each committee shall consist of two members of the City Council to be appointed by the Mayor.

B. The committees are as follows:

1. Community Development Committee;
2. Finance and Administration Committee;
3. Public Safety Committee; and
4. Public Works and Facilities Committee.

(Ord. 904 §2, passed 06-11-2012)

RESOLUTION NO. 3556-2012

RESOLUTION OF THE FORT BRAGG CITY COUNCIL ESTABLISHING CITY COUNCIL RULES OF PROCEDURE FOR CONDUCT OF CITY COUNCIL BUSINESS

WHEREAS, certain rules of procedure for the conduct of City Council business have been included in Chapter 2.04 of the Fort Bragg Municipal Code ("Chapter 2.04"); and

WHEREAS, Chapter 2.04 has now been amended to remove certain procedural provisions relating to the conduct of the City Council's business; and

WHEREAS, the procedural provisions that have been removed from Chapter 2.04 can be updated more flexibly and efficiently if those provisions are formalized in a resolution; and

WHEREAS, resolutions establishing the order of business and guidelines for the conduct of City Council meetings have been adopted in the past; and

WHEREAS, it is the recommendation of the City Council that the removed provisions of Chapter 2.04 and prior resolutions that established guidelines for certain City Council activities be consolidated into one comprehensive resolution governing the rules of procedure for conduct of City Council business; and

NOW, THEREFORE, BE IT RESOLVED that the following resolutions of the Fort Bragg City Council are hereby rescinded and revoked and shall no longer be in effect: Resolution 1910-92 adopted on July 27, 1992, Resolution 3183-2008 adopted on July 14, 2008 and Resolution 3253-2009 adopted on March 9, 2009.

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby adopt the Rules of Procedures for conduct of City Council business, a copy of which is attached hereto and incorporated herein as Exhibit "A".

The above and foregoing Resolution was introduced by Councilmember Gjerde, seconded by Councilmember Hammerstrom, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 9th day of July, 2012, by the following vote:

AYES: Councilmembers Courtney, Deitz, Gjerde, Hammerstrom, and Mayor Turner.
NOES: None.
ABSENT: None.
ABSTAIN: None.



DAVE TURNER,
Mayor

ATTEST:


Cynthia M. VanWormer, CMC
City Clerk

ARTICLE I – MEETINGS

Section 1. Regular Meetings

Regular meetings of the City Council shall be as established in Fort Bragg Municipal Code Sections 2.04.010 and 2.04.020.

Section 2. Special Meetings

- 2.1 A special meeting of the City Council may be called at any time by the Mayor or, in the Mayor's absence, by the Vice Mayor, or by a majority of the members of the City Council, by providing written notice in accordance with applicable laws to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing.
- 2.2 The notice described in Section 2.1, above, at least 24 hours before the time of the meeting as specified in the notice shall be posted in a location that is freely accessible to members of the public.
- 2.3 The call and notice shall specify the time and place of the special meeting and the business to be transacted.
- 2.4 No other business shall be considered at the special meeting by the City Council.
- 2.4 The written notice may be dispensed with as to any member of the City Council who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice of the meeting. The waiver may also be given by, telephone, fax or e-mail and, further, may be dispensed with as to any member of the City Council who is actually present at the meeting at the time it convenes.

Section 3. Order of Business

- 3.1 **Agenda:** The order of business of each meeting shall be as contained in the Agenda prepared by the City Clerk. The Agenda shall be a listing by topic of the subjects which shall be taken up for consideration in the following order:

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
AGENDA REVIEW
MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS
STAFF COMMENTS
MATTERS FROM COUNCILMEMBERS
PUBLIC HEARINGS
CONDUCT OF BUSINESS
PUBLIC COMMENTS ON NON-AGENDA AND CONSENT CALENDAR ITEMS
 A. Non-Agenda Items
 B. Consent Calendar Items
CONSENT CALENDAR
CLOSED SESSION
ADJOURNMENT

- 3.2 **Urgency Items:** Urgency items can be handled at any meeting of the City Council upon proper notice and/or action by the City Council, in accordance with the provisions of Government Code section 54954.2, as amended from time to time.
- 3.3 **Conduct of Business / Public Hearings:**
- a. All speakers before the City Council shall proceed to the podium and wait to be recognized by the Presiding Officer. Additional information regarding addressing the City Council is found in Section 5 below.
 - b. Questions to staff from the public and staff response should be directed through the Mayor.
 - c. When a public hearing has been underway for a period of sixty (60) minutes, the Council shall vote on whether to continue to proceed with the hearing at that meeting or to continue the hearing to another meeting.
 - d. The City Manager may schedule special meetings for public hearings which are expected to be well attended.
- 3.4 **Public Comments:** The Council welcomes input from the public. However, the Council cannot take action or deliberate on matters brought before them under Public Comments. Additional information regarding addressing the City Council is found in Section 5 below.
- 3.5 **Council Committees:** The Council will make greater utilization of standing committees before matters appear on the agenda.
- 3.6 **Adjournment:** The adjournment time for all Council meetings shall be 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote. Further, if it appears that the meeting will adjourn, the Council shall vote upon which items are to be continued to a future meeting.

Section 4. Rules, Decorum and Order

- 4.1 **Questions of Order:** The Mayor shall decide all questions of order.
- 4.2 **Interruption during discussion:** No member of the City Council shall be permitted to interrupt another during debate or discussion of any subject.

Section 5. Addressing the City Council

- 5.1 **Manner of Addressing the City Council:** Any member of the public desiring to address the City Council shall proceed to the podium and wait to be recognized by the Presiding Officer.

All remarks and questions shall be addressed to the Mayor or acting Mayor and not to any individual Councilmember, staff member or other person. No person shall enter into any discussion without being recognized by the Mayor or acting Mayor.

- 5.2 **Time Limitation:** Any citizen, after being recognized by the Mayor or acting Mayor may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or acting Mayor may determine is appropriate under the circumstances of the particular meeting, including but not limited to, the number of

persons wishing to speak on a particular topic or at a particular meeting, or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

Section 6. Motions

- 6.1 **Motions - Generally:** All motions shall be reduced to writing, if any member of the City Council requires it, and when a motion has once been made and carried or lost, it shall be in order for a member voting in the majority, to move for a reconsideration; provided, that no more than one motion for reconsideration shall be entertained.
- 6.2 **Motions – Action:** After a motion has been made and seconded, regarding any thing or matter concerning and upon which the City Council has the right to act, then it shall be entertained by the City Council and shall be debatable, each member having the right to talk on the subject five (5) minutes, or more, except a motion to adjourn which is not debatable.
- 6.3 **Voting:**
- a. Every member of the City Council present, shall give his or her vote on every question or matter when put, except if he or she is disqualified from voting by operation of law, or unless the City Council for special reasons entered in the minutes, excuses him or her from voting on a particular matter then under consideration. Should a member abstain from voting, he or she shall state the reason for abstaining. The reason shall be recorded in the minutes of the meeting.
 - b. For votes taken on any ordinance, resolution, or amendment of any ordinance or resolution, and for all motions or resolutions for the payment of money, or ordering the doing of any act or thing that will result in the payment of money, the ayes and noes shall be taken and entered in the minutes, and at the desire of any member of the City Council, the ayes and noes shall be taken and entered in the minutes.

ARTICLE II – COMMITTEES

1. **Duties of Standing Committees:** The standing committees named in Fort Bragg Municipal Code Section 2.04.045 shall each do and perform the duties as set forth below:
 - a. **Community Development Committee:** Exercises oversight for planning and community development functions. Reviews and makes recommendations concerning grant applications, annexation, and development review procedures. Liaison with other community development agencies and, for administrative purposes, with the Planning Commission.

Primary staff support to this committee shall be the Community Development Director.
 - b. **Finance and Administration Committee:** The functions of this committee include: Reviews and approves warrants (bills); exercises oversight for administrative and finance staff functions, reviews and makes recommendations concerning debt financing, budgetary control, business licenses, investment policies, administrative procedures, public information, intergovernmental relations, personnel, cable television franchise agreement, records management, insurance, data processing, employee salary and benefit programs, purchasing, accounting, utility rates, and related matters.

Reviews proposed legislation and makes recommendations for Council policy consideration.

Primary staff support to this committee shall be the City Manager and Finance Director.

- c. Public Safety Committee: Exercises oversight for police, fire, building safety and disaster preparedness functions. Reviews and makes recommendations concerning departmental staffing levels, parking regulations, traffic safety (stop signs, etc.) and building code. Liaison with Rural Fire District and volunteer fire department. Reviews proposed legislation and makes recommendations for Council policy consideration.

In addition to the duties as set forth, the two Councilmembers appointed to this committee shall be designated as the City's representatives to the Fort Bragg Fire Protection Authority.

Primary staff support to this committee shall be the Chief of Police.

- d. Public Works and Facilities Committee: Exercises oversight for public works functions including street maintenance, parks, drainage, water and sewer. Reviews and makes recommendations concerning departmental staffing, use and maintenance of public buildings, prioritization of public works improvements, service extensions, engineering services and solid waste. Liaison with private utility companies. Reviewed proposed legislation and makes recommendations for Council policy consideration.

In addition to the duties as set forth the two Councilmembers appointed to this committee are hereby designated as the City's representatives to:

- 1) The County-City Coordinating Committee; and
- 2) The Mendocino County Solid Waste Joint Powers Authority (MSWMA), with one Councilmember designated as the MSWMA Board appointee and the second Councilmember designated as the alternate appointee to the MSWMA Board.

Primary staff support to this committee shall be the Public Works Director.

2. Reports of Committees: It shall be the duty of any committee of the City Council, to whom any subject or matter may be referred, to report thereon by providing a copy of the approved committee minutes at the next regular meeting of the City Council after approval.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-346

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Agenda Number: 7D.

Reject Claim of Steve Bradley and the F/V Sound Adventure

On August 12, 2016, the City received a claim from attorney C. Joseph Ou on behalf of Steve Bradley and the F/V Sound Adventure. The claim demanded indemnity from the City of Fort Bragg for the injuries to Florencio Hernandez Castaneda who allegedly was injured on or about March 5, 2013 when he slipped and fell on the Noyo Harbor docks. The claim was forwarded to Redwood Empire Municipal Insurance Fund (REMIF) for review and direction.

REMIF's General Manager reviewed the claim and recommended that it be placed on an agenda for City Council rejection, as the location of the incident is not within City Limits and is therefore not in the City's jurisdiction. A copy of the claim and the proposed rejection letter are attached for Council's review. If the claim is rejected by the City Council, the City Clerk will issue the Notice of Rejection and advise REMIF that the claim has been rejected.

Geoffrey Robb
Peter A. Lindh
Joshua E. Kirsch
Michael J. Cummins
Jennifer T. Sanchez
Marker E. Lovell, Jr.
Joshua A. Southwick
Michelle L. Tommey
Chelsea D. Yuan
Marisa G. Huber
C. Joseph Ou
Christopher J. Sung

GIBSON ROBB & LINDH LLP
201 Mission Street, Suite 2700
San Francisco, CA 94105

Of Counsel
Stanley L. Gibson

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Writer's Direct Dial
(415) 979-2337

cjou@gibsonrobb.com

August 10, 2016

RECEIVED

AUG 12 2016

**CITY OF FORT BRAGG
CITY CLERK**

Via U.S. Mail

City of Fort Bragg
City Clerk: June Lemos
416 N. Franklin St.
Fort Bragg, CA 95437

Re: Notice of Claim: Florencio Hernandez Castaneda v. Steve Bradley
United States District Court - Northern District Court Case No. 3:16-cv-00746-JD
GRL File No. 8004.27

Dear Ms. Lemos,

Please be advised that Plaintiff Florencio Hernandez Castaneda has filed the above subject action against Steve Bradley and the F/V Sound Adventure. Mr. Castaneda alleges that he was injured on or about March 5, 2013, when he slipped and fell on the Noyo Harbor docks.

On February 12, 2016, Mr. Castaneda filed his complaint the District Court for the Northern District of California, Case No. 3:16-cv-00746-JD, alleging Jones Act Negligence; Jones Act: Negligent Failure to Secure Maintenance & Cure; Maintenance and Cure: Failure to Inform; Unseaworthiness; and Maintenance & Cure: Ongoing Failure to provide. Mr. Castaneda is seeking damages in excess of \$1,000,000.00, including damages for: Compensable value of physical and emotional injuries, pain, and suffering, loss of wages and earning power, compensable value of medical treatment and related services, compensable value of the loss of life's pleasures, maintenance and cure benefits, prejudgment interest, and punitive damages.

Pursuant to the Government Claims Act, Govt. Code §§ 810-996.6, Steve Bradley and the F/V Sound Adventure hereby demands indemnity from the City of Fort Bragg/Noyo Harbor District for Mr. Castaneda's claim. Please contact this office regarding any issues to the filing of this claim.

Sincerely,

GIBSON ROBB & LINDH LLP



C. Joseph Ou

CJO/cll



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

VIA CERTIFIED MAIL
Return Receipt Requested
#7014 1820 0002 1877 0967

September 12, 2016

Mr. C. Joseph Ou
Gibson Robb & Lindh LLP
201 Mission Street, Suite 2700
San Francisco, CA 94105

**RE: Notice of Rejection of Claim by City of Fort Bragg
Florencio Hernandez Castaneda v. Steve Bradley, et al.
US District Court, Northern District, Case No. 3:16-CV-07746-JD**

Dear Mr. Ou:

NOTICE IS HEREBY GIVEN that the claim which you presented to the City of Fort Bragg on August 10, 2016 was rejected by the Fort Bragg City Council at its regular meeting on September 12, 2016, because the location of the alleged injury is not within the city limits of the City of Fort Bragg and therefore not under the City's jurisdiction.

Should you have any questions regarding the above notice, please do not hesitate to contact me at 707.961.1694.

Sincerely,

June Lemos
City Clerk

cc: Mark Ferguson, REMIF
Master File #472-16/A



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-355

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 7E.

Receive and File Minutes of June 22, 2016 Public Works and Facilities Committee Special Meeting



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes - Draft Public Works and Facilities Committee

Wednesday, June 22, 2016

3:00 PM

City Hall Conference Room, 416 N. Franklin Street

Special Meeting

MEETING CALLED TO ORDER

Meeting called to order by Committee Member Turner at 3:11pm. Staff members present: Marie Jones, Crystal Prairie, Tom Varga, Scott Schneider.

Present: 2 - Dave Turner and Lindy Peters

ROLL CALL

APPROVAL OF MINUTES

Approve Minutes of May 19, 2016

Approved as presented.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

CONDUCT OF BUSINESS

Consider Draft Regulations for Electric Personal Assistive Mobility Devices (EPAMDs)

Public Works Director Varga gave a brief overview of staff report and draft regulations.

There was discussion of only having EPAMDs on paved surface vs. gravel surface. Decision was made to remove section stating no use on gravel surface.

There was discussion of insurance requirements as well as business license requirements.

There was discussion of potential use of EPAMDs on sidewalks as well as having people on the roadway (or in bike lanes.)

Lynne Baumgartner talked about possible locations for tours for her potential business. Glass Beach Drive to trestle. Cemetery. Harold Street to Otis Johnson Park. Cedar Street to Timberwolf Stadium. Behind skate park. Coastal Trail is not an option at this point. 8 people is full tour. Pointed out that the Healdsburg example given in staff report was from 2003. Updated laws (2008) do mention EPAMDs. City can regulate, but regulations can not be less stringent than State.

Public works Director Varga read a letter from Alice and Douglas Chouteau against use of EPAMDs in Fort Bragg.

Direction was given to staff to send regulations to City Attorney's office and then bring to Council for approval.

Receive Report and Discuss Special Events and Other Public Uses of Coastal Trail Property

Public Works Director Varga gave an overview of the staff report and draft guidelines. He also read an email from Alice and Douglas Chouteau in opposition to events on the Trail.

Chuck Greenberg stated the Kite Festival (benefiting Habitat for Humanity) needs to use amplified sound, as well as sell food at the event. There was discussion about adding that regulation to the Encroachment Permit process.

Community Development Director Jones mentioned that there is an area around the runway on the south trail that wasn't acquired with Coastal Conservancy dollars. It's 2 acres and could be used for different types of events that don't have to be regulated. It was clarified that Noyo Headlands Park is 92 acres. Coastal Conservancy only bought 35. The rest of the property was donated by GP. Research needs to be done to find out if all of the property has the deed restriction. The 100 person limit is problematic for things such as runs. The 4 hour limit also seems problematic. Change it to a case by case basis. TAC would get involved for an event over 100 people and an encroachment permit will be required. The Phase II Trail has several parts that will not be paid for with Coastal Conservancy dollars. A suggestion was made to break up regulations geographically (Site A - Coastal Conservancy Funded site and Site B - Non Coastal Conservancy funded site.) Start a three tier permit process. Different fees for non profit vs. commercial. There was discussion of the "non-refundable fee," versus a cleaning deposit. There was discussion about fees to be charged for a "for profit" event. Possible base fee of \$3,000 for all 5 acres with a lower fee for using less land, or have a lower base fee and take a percentage.

There was discussion of potentially setting up "fair grounds" at some point in the future. There was discussion of using the dog park for events as the property is not restricted by the Coastal Conservancy Deed Restriction.

Public Works Director Varga mentioned having similar regulations to the proposed for smaller events, and anything over 100 people would have to go through TAC. Anything that restricts access triggers a Coastal Development Permit. A suggestion was made that anything over 2,000 people goes to City Council for review.

Administrative Services Director Schneider stated the trail is a big asset that should be utilized and not overly restricted at this point. There was discussion about potential festivals and events that could happen in the future.

There was discussion about marketing the trail to draw people to Fort Bragg.

A suggestion was made that a "standing reservation" be held for events like Paul Bunyan Days and the Kite Festival.

Direction was given to staff to refine regulations based on discussion and bring back to committee at future date.

Receive Oral Update from Staff on Departmental Activities

Summers Lane Reservoir excavation is mostly done. Building under drain currently.

Chestnut Street multi-use path Request for Authorization is in process. May be constructed by the

end of 2016.

Otis Johnson Park there will be maintenance during late June and possibly middle of July. Strong candidates for caretaker.

Independence Day weekend fireworks set up.

Water Tank Project CDBG application underway.

MATTERS FROM COMMITTEE / STAFF

Committee Member Peters mentioned that there is narrow sidewalk on Chestnut where there are bushes encroaching on sidewalk and people have to go out in the street. Community Development Director Jones will pass along information for Code Enforcement letter.

ADJOURNMENT

Meeting adjourned at 4:55pm by Committee Member Turner.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-356

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 7F.

Receive and File Minutes of August 18, 2016 Public Works and Facilities Committee Meeting



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Public Works and Facilities Committee

Thursday, August 18, 2016

3:00 PM

Town Hall, 363 N. Main Street

MEETING CALLED TO ORDER

Committee Member Turner opened the meeting at 3:07pm.

ROLL CALL

Staff members present: Marie Jones, Tom Varga, Linda Ruffing, Fabian Lizarraga, Crystal Prairie, Scott Perkins. Also present: Fire Chief Steve Orsi.

Present: 1 - Dave Turner

Absent: 1 - Lindy Peters

1 APPROVAL OF MINUTES

1A. [16-327](#) Approve Minutes of June 22, 2016

Not approved

2 PUBLIC COMMENTS ON NON-AGENDA ITEMS

3 CONDUCT OF BUSINESS

3A. [16-328](#) Receive Report and Make Recommendations to City Council Regarding Adaptive Management of Coastal Parks

PW Director Varga spoke briefly about signs at Glass Beach Drive and removal of beach glass by visitors.

Nancy Fowler from Glass Beach Bed & Breakfast spoke about how famous Glass Beach is.

Committee Member Turner spoke about how famous Glass Beach is and options regarding the glass.

3B. [16-329](#) Receive Report and Discuss Replanting Vegetation in City Right-of-Way at North End of North Harrison Street

PW Director Varga read details of the staff report on this item.

Robert Cooney, 801 N. Harrison spoke in favor of the removal of the eucalyptus trees and against replanting anything tall. He also mentioned a drainage problem, a lot of water on his property.

John Shannon, who resides on north Harrison Street spoke in favor of the eucalyptus tree removal.

3C. [16-331](#) Receive Oral Update from Staff on Departmental Activities

Not dicussed.

MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT

As a quorum could not be reached, the meeting was adjourned with no business being conducted. The next (special) meeting of the Public Works and Facilities Committee will be held on Wednesday, August 24, 2016 at 3:00pm at Town Hall, 363 N. Main Street, Fort Bragg. The meeting closed at 3:50 PM.



City of Fort Bragg

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Text File

File Number: 16-357

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 7G.

Receive and File Minutes of July 26, 2016 Community Development Committee Meeting



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Community Development Committee

Tuesday, July 26, 2016

3:00 PM

Town Hall, 363 N. Main Street

MEETING CALLED TO ORDER

Committee Member Deitz called the meeting to order at 3:00 PM.

ROLL CALL

Present: 2 - Scott Deitz and Michael Cimolino

1. APPROVAL OF MINUTES

1A. [16-297](#) Approve Minutes of June 28, 2016

A motion was made by Committee Member Cimolino, seconded by Committee Member Deitz, that the Committee Minutes be approved for Council review. The motion carried by a unanimous vote.

Aye: 2 - Councilmember Deitz and Councilmember Cimolino

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

3. CONDUCT OF BUSINESS

3A. [16-312](#) Receive Report and Provide Recommendation to City Council Regarding update to the Inland Land Use and Development Code (ILUDC) Land Use Tables

Associate Planner Perkins presented the staff report and reviewed the proposed updates to the Inland Land Use and Development Code land use tables. During the Discussion, Committee Members expressed their general disposition toward allowing more uses in the various zoning districts. Following the discussion, Committee Members specified additional changes to the land use tables.

Council Committee recommended bringing the land use tables as amended to City Council for full review August 22, 2016.

3B. [16-313](#) Receive Report and Provide Recommendation to Council Regarding Potentially Allowing the Use of Downtown Parking Spaces for Parklets

Community Development Director Jones presented a proposal for allowing the use of sidewalk or parking spaces to create parklets (amenities like seating, dining, or other

activities) in the downtown area. Committee Members expressed concerns about safety, maintenance, and these activities decreasing available parking in the downtown districts. Following the discussion, Committee Members requested staff to do additional research on the following:

1. Identify specific requirements that would need to be met to make an area appropriate for parklet placement
2. Designate places where this activity could be allowed/prohibited based on characteristics of the physical location
3. Get feedback from the Community and City Dialogue

Committee Members recommended performing the additional research and bringing the revisions back to the Community Development Committee before bringing the matter to City Council.

4. MATTERS FROM COMMITTEE / STAFF

Committee Member Deitz recommended opening a window of opportunity to allow business owners incentive to do improvements and maintenance on their property without it counting toward the fire sprinkler ordinance calculations. Community Development Director Jones announced the upcoming City Dialogue, August 3, 2016 from 5:00 to 7:00 PM.

ADJOURNMENT

Committee Member Deitz adjourned the meeting at 4:18 PM.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 16-350

Agenda Date: 9/12/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 7H.

Approve Minutes of August 22, 2016



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT
SUCCESSOR AGENCY*

Monday, August 22, 2016

6:00 PM

Town Hall, 363 N. Main Street

MEETING CALLED TO ORDER

Mayor Turner called the meeting to order at 6:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 5 - Vice Mayor Lindy Peters, Councilmember Michael Cimolino, Councilmember Scott Deitz, Councilmember Doug Hammerstrom and Mayor Dave Turner

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [16-318](#)** Presentation by California Recreation Alliance Director Sarah Huff Regarding Cleanup of Mendocino Coast Recreation and Park District Property on Highway 20

Sarah Huff gave a presentation on the California Recreation Alliance efforts to clean up the Mendocino Coast Recreation and Park District regional park property on Highway 20.

2. STAFF COMMENTS

City Clerk Lemos announced that five persons have qualified as nominees for the two City Council seats that will be on the November 8, 2016 ballot: Curtis Bruchler, Rex Gressett, Will Lee, Scott Menzies and Bernie Norvell. Chief Lizarraga spoke about a recent presentation by Project Sanctuary on human trafficking. City Manager Ruffing announced upcoming meetings of the Community Development Committee (CDC), Public Works and Facilities Committee (PWFC) and a forum on Opioid use and abuse.

3. MATTERS FROM COUNCILMEMBERS

Mayor Turner reported on the Mendocino Solid Waste Management Association board meeting and noted that Paul Bunyan Days is coming up in September. Vice Mayor Peters spoke on the National League of Cities and FAA rules relating to drone operation, the PWFC meeting, and AB 718 allowing rest in vehicles. Councilmember Cimolino spoke on the Lower Lake fire, the Coalition for Gang Awareness and Prevention, e-cigarettes, the opioid forum, and an Economic Development and Financing Corporation retreat. Councilmember Deitz thanked the candidates who are running for Council and spoke about the upcoming CDC meeting. Councilmember Hammerstrom remarked on National Night Out, the League of California Cities regional meeting, and events at Mendocino College.

4A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

- David Gurney spoke in favor of moving the Consent Calendar to earlier in the agenda.
- George Reinhardt commented on climate change and electric vehicle charging stations.
- Ann Rennacker remarked on EV charging stations and pygmy forest land.

5. PUBLIC HEARING

6. CONDUCT OF BUSINESS

- 6A. [16-334](#)** Receive Presentation Regarding Fort Bragg Police Department's Annual Report

Chief Lizarraga presented the Fort Bragg Police Department's annual report to the City Council.

This Annual Report was received and filed.

- 6B. [16-336](#)** Receive Recommendation from Community Development Committee and Provide Direction to Staff Regarding an Update to the Inland Land Use and Development Code

Associate Planner Perkins gave his staff report on updates to the Inland Land Use and Development Code (ILUDC).

Public Comment was received from Rex Gressett and Ann Rennacker.

Discussion: Councilmembers directed staff as follows:

• **Vacation Home Rentals**: All Councilmembers agreed with the detailed recommendations for vacation home rentals outlined in the staff report. The number of vacation home rental units should be established by Resolution so that the ILUDC does not need to be amended just to change the number. Council recommends three permits per property and ten permits in total.

Mayor Turner recessed the meeting at 7:54 PM; the meeting was reconvened at 8:02 PM.

• **Home Sharing**: The Council was unanimous in not allowing home sharing within the City of Fort Bragg.

• **Single Family Dwellings in Commercial Districts**: Council directed staff to come forward to the CDC with a plan that will include flexible parking rules, legalization of use, and limitation of quantity by resolution.

• **Brewery-Restaurants**: All Councilmembers agreed with allowing brewery/restaurant businesses in both the Central Business District and industrial zones.

• **Second Residential Units**: This matter was referred back to staff for preparation of GIS maps. Council directed that this item be discussed by the CDC and the Fire Marshal prior to returning to the full Council.

• **Signage**: Council unanimously approved revising signage regulations.

• **Miscellaneous Items**: The Council:

- * was in favor of allowing tattoo services in all commercial zoning districts;
- * recommended leaving the animal keeping regulations as they are;
- * approved updating the land use table to allow more permitted uses in more districts to make Fort Bragg more business friendly;
- * recommended a sign ordinance reorganization;
- * was in favor of rezoning 471 South Whipple Street to residential; and
- * approved map updates and other maintenance updates to the ILUDC.

This Staff Report was referred to staff for further action as directed by Council.

4B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

7. CONSENT CALENDAR

Approval of the Consent Calendar

Vice Mayor Peters requested that Item 7D be removed from the Consent Calendar for further discussion.

A motion was made by Councilmember Hammerstrom, seconded by Councilmember Deitz, to approve the Consent Calendar with the exception of Item 7D. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

- 7A. [16-317](#)** Adopt City Council Resolution Confirming the Continued Existence of a Local Drought Emergency in the City of Fort Bragg

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3926-2016

- 7B. [16-319](#)** Adopt City Council Resolution Amending the City of Fort Bragg Conflict of Interest Code

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3927-2016

- 7C. [16-324](#)** Adopt City Council Resolution Approving a Project Agreement with Superior Pump and Drilling, Inc. to Construct and Complete Two New Water Wells (Amount Not to Exceed \$34,778; Account No. 615-6004-0731)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3928-2016

- 7E. [16-333](#)** Adopt City Council Resolution Accepting the Bid of Southwest Pipeline & Trenchless Corp. as the Lowest Responsive Bid, Awarding the Contract for the 2016 Slip Line Project, City Project 2016-04, to Southwest Pipeline & Trenchless Corp. and Authorizing City Manager to Execute Contract (Amount Not to Exceed \$128,980; Account No. 714-4713-0751)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 3930-2016

- 7F. [16-325](#)** Adopt Fort Bragg Municipal Improvement District Resolution Accepting Quote of Applied Marine Sciences, Awarding the Contract for Biological

Survey and Outfall Inspection Project (Project); to Applied Marine Sciences and Authorizing District Manager to Execute Contract (Amount Not to Exceed \$32,756; Account #710-4712-0319)

This ID Resolution was adopted on the Consent Calendar.

Enactment No: RES ID382-2016

- 7G. [16-338](#)** Receive and File Minutes of June 28, 2016 Community Development Committee Meeting

These Committee Minutes were received and filed on the Consent Calendar.

- 7H. [16-337](#)** Receive and File Minutes of June 29, 2016 Public Safety Committee Special Meeting

These Committee Minutes were received and filed on the Consent Calendar.

- 7I. [16-315](#)** Approve Minutes of July 25, 2016

These Minutes were approved on the Consent Calendar.

ITEMS REMOVED FROM CONSENT CALENDAR

- 7D. [16-326](#)** Adopt City Council Resolution Approving Budget Amendment No. 2017-01 Amending the FY 2016/17 Budget to Appropriate Funds in the Amount of \$25,000 from the General Fund Unallocated Fund Balance to Account No. 421-4957-0731 to Cover Costs for Removal and Replacement of the Noyo Headlands Park Visitors Center Roof

Public Works Director Varga explained that the \$25,000 was an original estimate based on the public contracting code and prevailing wages. The bids are more likely to be in the \$15,000 range. Public Comment on this agenda item was received from David Gurney and Rex Gressett. Discussion: The Council was in general agreement that the amount of the Budget Amendment listed in the Resolution should be reduced from \$25,000 to \$15,000.

A motion was made by Vice Mayor Peters, seconded by Councilmember Deitz, that this Resolution be adopted as amended, to reflect a reduction in the amount of appropriated funds from \$25,000 to \$15,000. The motion carried by the following vote:

Aye: 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

Enactment No: RES 3929-2016

8. CLOSED SESSION

ADJOURNMENT

Mayor Turner adjourned the meeting at 9:16 PM.

DAVE TURNER, MAYOR

June Lemos, City Clerk

IMAGED (_____)