



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
Rob Holmlund, AICP, Director

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CITY OF EUREKA
NOTICE OF AVAILABILITY OF DRAFT
TEXT AND LOCAL COASTAL PROGRAM AMENDMENTS
and
Notice of Planning Commission Public Hearing and
Notice of City Council Public Hearing

NOTICE IS HEREBY GIVEN that the City is providing “Notice of Availability of draft Text and Local Coastal Program amendments.” The draft Text and Local Coastal Program (LCP) Amendments are available for review on the City’s website at www.ci.eureka.ca.gov/depts/development_services/public_hearing_notices.asp and will amend the text of the Eureka Municipal Code and the Implementation Plan, which is the pertinent portion of the coastal zoning regulations.

Project Title: Cannabis Text and Local Coastal Program Amendments

Project Applicant: City of Eureka

Case Nos.: TA-16-0006 (mod)/LCP-16-0005 (mod)

Project Description: The City is proposing to amend Chapter 158 of the Eureka Municipal Code, which currently regulates Medical Cannabis in Eureka. The proposed amendment is drafted based on the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and the Adult Use Marijuana Act (AUMA). The proposed amendment addresses both medical cannabis as well as non-medical adult use cannabis. Since the proposed amendments are included in the Implementation Plan of the Local Coastal Program, in addition to an amendment to the text of the Municipal Code, an amendment to the LCP is also required.

FURTHER, NOTICE IS HEREBY GIVEN the Eureka City Planning Commission will hold a special public hearing on Wednesday, September 27, 2017, at 6:30 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber, Eureka City Hall, 531 “K” Street, Eureka, California, to consider and make recommendation to the City Council on the draft Text and LCP amendments.

FURTHER, NOTICE IS HEREBY GIVEN the Eureka City Council will hold a public hearing on Tuesday, October 3, 2017, at 6:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber, Eureka City Hall, 531 “K” Street, Eureka, California, to consider the draft Text and LCP amendments.

The City of Eureka is the applicant for the Text and LCP Amendments and will carry out the

amendments in accordance with the Coastal Act. Pursuant to the Coastal Act, final action by the City Council on the LCP amendments will not occur prior to six weeks after publication and mailing of this “Notice of Availability of draft Text and Local Coastal Program Amendments”. The inland Text Amendments will take effect 30 days after Council adoption, and the LCP amendments will take effect upon Coastal Commission approval.

Environmental: Amending the text of the Eureka Municipal Code is a “project” for the purposes of the California Environmental Quality Act (CEQA). However, pursuant to the CEQA Guidelines section 15061, there is a general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the uses that are being added are principally permitted uses are similar to uses that currently exist within the zone (e.g., manufacturing, offices, laboratories) and the uses that are being added as conditionally permitted uses will receive CEQA review during the use or minor use permit process; and because no changes are being made to development standards (including setbacks, parking, height, FAR, etc.) it is certain that the Text Amendment will not result in a significant effect on the environment.

Pursuant to Section 21080.9 and 21080.5 and Division 20, Chapter 6 of the Public Resources Code, the Coastal Commission’s review and development process for LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by the California Environmental Quality Act (CEQA). Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments. Therefore, based on the Public Resources Code Sections cited above, the City of Eureka exempts from CEQA the amendments to medical cannabis.

All interested persons are invited to comment on the draft amendments either in person at the scheduled public hearings, or in writing. Written comments on the draft amendments may be submitted either at the hearing or prior to the hearing by mailing or delivering them to the Community Development Division of the Development Services Department, 531 “K” Street, Eureka, CA 95501; or by emailing them to sasbury@ci.eureka.ca.gov.

Americans with Disabilities Act: Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting.

Notes: If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at a public hearing described in this notice or written correspondence delivered to the public entity conducting the hearing at or prior to the public hearing. The draft amendments are available for review at the Development Services Department Community Development Division, Third Floor, City Hall. If you have questions regarding the draft amendments to the Eureka Municipal Code or this notice, please contact Swan Asbury, Assistant Planner, phone: (707) 268-1830; fax: (707) 441-4202; e-mail: sasbury@ci.eureka.ca.gov



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EUREKA CITY PLANNING COMMISSION

STAFF REPORT

September 27, 2017

Project Title: Cannabis Text and Local Coastal Program Amendments

Project Applicant: City of Eureka **Case No.:** TA-16-0006(mod)/LCP-16-0005(mod)

Project Location: Citywide

Staff Contact Person: Swan Asbury, Assistant Planner; City of Eureka, Development Services Department, Community Development Division; 531 “K” Street, Eureka, CA 95501-1165; phone: (707)268-1830, fax: (707) 441-4202, email: sasbury@ci.eureka.ca.gov

Project Overview: The City is proposing to amend Chapter 158 of the Eureka Municipal Code, which currently regulates Medical Cannabis in Eureka. The proposed amendment is drafted based on direction from City Council on June 6, 2017, the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), and the Adult Use Marijuana Act (AUMA). The proposed amendment addresses both medical cannabis as well as non-medical adult use cannabis.

On September 11, 2017, staff presented the proposed text amendments to the Planning Commission. The Planning Commission discussed disallowing onsite consumption with the Cannabis Temporary Event license, eliminating the 2,500 square foot maximum for the Microbusiness license type and limiting the number of recreational facilities. However, while the Commission made a motion to recommend the Text Amendment to City Council and while the Commission included the above items as a part of the motion, the motion did not pass. In a separate motion, the Commission voted affirmatively to hold a Special Planning Commission meeting on September 27th. Staff has amended the Current Code and Old Code to eliminate the 2,500 square foot maximum for the Microbusiness license type. Staff will update City Council to the Planning Commission’s recommendation during the presentation on October 3, 2017.

Since the proposed amendments are included in the Implementation Plan of the Local Coastal Program, in addition to an amendment to the text of the Municipal Code, an amendment to the LCP is also required.

Staff Recommendation and Suggested Motion:

Adopt a Planning Commission Resolution finding that the proposed Text and Local Coastal Program amendments are consistent with the objectives of Title 15 Chapter 155 and Title 10 Chapter 5, and recommending the City Council adopt the Text and Local Coastal Program Amendments and direct Staff to forward the amendments to the Coastal Commission.

“I move that the Planning Commission adopt a Planning Commission Resolution finding that the proposed Text and Local Coastal Program amendments are consistent with the objectives of Title 15 Chapter 155 and Title 10 Chapter 5, and I further move that we forward a recommendation to the City Council that they adopt the Text and Local Coastal Program amendments, and direct Staff to forward the amendment to the Coastal Commission.”

Support Material:

Attachment 1	September 11, 2017 Planning Commission Staff Report
Attachment 2	Draft Ordinance Current Code strikeout
Attachment 3	Draft Ordinance Current Code clean
Attachment 4	Draft Ordinance Old Code strikeout
Attachment 5	Draft Ordinance Old Code clean
Attachment 6	Planning Commission Resolution

ATTACHMENT 1

September 11, 2017 Planning Commission Staff Report



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Timeline of Key Events to Date:

1. **Fall, 2015: State passes new Medical Cannabis Regulations.** The state legislature passed and the Governor signed into law three bills (AB 266, AB 243, and SB 643), which together comprised the Medical Marijuana Regulation and Safety Act (MMRSA) and was later changed to the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA created a comprehensive state licensing system for the commercial cultivation, manufacture, dispensing, transport, distribution, delivery and testing of medical cannabis.
2. **City adopts new Medical Cannabis Regulations:** In September of 2016, the City Council adopted an Ordinance modifying Chapter 158 of the Eureka Municipal Code. The Ordinance updated the City’s regulations of medical cannabis by incorporating provisions to match MCRSA.
3. **Non-medical Adult Use Marijuana Ballot Initiative Passes:** In November of 2016, California’s voters approved Proposition 64, titled the Adult Use of Marijuana Act (AUMA). AUMA is an extensive initiative, which regulates and legalizes the adult recreational use of marijuana (non-medical).
4. **City Council Provides Updated Direction to City Staff:** On June 6, 2017, staff presented the general provisions of AUMA to the Eureka City Council and received specific feedback regarding

Council's vision for the regulation of non-medical marijuana in the City as well as some envisioned alterations to the City's current regulations of medical cannabis.

- 5. State Updates Cannabis Regulations:** On June 27, 2017, Governor Brown signed into law SB94: The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). The bill repeals the Medical Cannabis Regulation and Safety Act (MCRSA) and incorporates some provisions of MCRSA and the Adult Use of Marijuana Act (AUMA aka Proposition 64).

Background and Need for Action:

Per MAUCRSA, the City of Eureka has until January 2018 to develop customized regulations regarding Adult Use Cannabis. If the City fails to act by January of 2018, the State's default regulations will automatically apply in Eureka. Accordingly, the City has three primary options:

1. Do nothing and allow the State's default regulations to apply in Eureka (not recommended)
2. Completely ban all forms of Adult Use in Eureka
3. Develop custom regulations regarding Adult Use Cannabis (recommended)

The City Council directed Staff move forward with Option 3. Since June, Staff has reviewed and analyzed each of the cannabis laws and prepared a new draft Ordinance. Once the Planning Commission provides a recommendation, Staff will prepare a report for City Council; Council will hold a public hearing and have the first reading of the Ordinance. Staff will incorporate any revisions per City Council's recommendations, and bring the Ordinance back to the City Council for the second reading and adoption. The ordinance will become effective 30 days after Council adoption. This process typically takes four to six months. Accordingly, staff needs action from the Planning Commission in September in order to beat the timeline and have custom regulations in place by January of 2018.

Because of the deadline established by Proposition 64 (AUMA) and MAUCRSA, the City must immediately initiate the process to modify Chapter 158 in order to have regulations in place prior to January of 2018. Fortunately, the recent passage of SB94 makes the task significantly more straightforward.

It is important to note that the State legislature has changed the regulations regarding cannabis an average of every three months since the initial passage of MCRSA. While the passage of SB94 should bring some stability to the ever-changing State regulations, staff assumes that more changes are ahead at the State level. Accordingly, staff's underlying strategy in drafting modifications to our local code is to develop custom regulations that suit Eureka's needs/interests and to require in our Municipal Code that cannabis-related business must also "comply with State law." This avoids the need to ensure that every detail of our local ordinance precisely matches the details of the State laws.

The following outlines the details of Proposition 64 (AUMA) and SB94 (MAUCRSA), both of which require the City take action and update our local codes:

Proposition 64 (AUMA) includes the following regulations that have influenced the drafting of Eureka's revised Ordinance:

- **Marijuana users**

The recreational use of marijuana for adults aged 21 years or older is legal in private homes or at businesses licensed for on-site marijuana consumption. Use of marijuana is illegal while driving a vehicle, anywhere smoking tobacco is prohibited, and in all public places. Up to 28.5 grams of marijuana plant matter and eight grams of concentrated marijuana are legal to possess. However, possession on the grounds of a school, day care center, or youth center while children are present remains illegal. The City has little to no influence over these provisions.

- **Personal Use Cultivation**

Adults aged 21 and over may cultivate up to six plants and possess the marijuana from these plants at their residence for personal use. The City may not ban this State provision. The plants may be grown inside a residence, within an accessory structure that is “fully enclosed and secure,” or outdoors (though outdoor cultivation is unlikely to be viable in Eureka’s climate). All plants and harvested marijuana in excess of one ounce must be (1) kept within the person's private residence or on its grounds, (2) in a locked space, and (3) not visible from a public place. The City may impose “reasonable regulations” on personal use cultivation, and may ban outdoor cultivation, but cannot completely prohibit cultivation at a residence.

- **Marijuana sellers**

Businesses are required to obtain a state license to sell marijuana for recreational use. The City of Eureka may also require businesses to obtain a local license. Per State law, businesses are not authorized to sell within 600 feet of a school, day care center, or youth center. Prop 64 also prevents licenses for large-scale marijuana businesses for five years in order to prevent "unlawful monopoly power." The City may establish more restrictive regulations.

- **License Types**

Counties and municipalities are empowered to restrict where marijuana businesses can be located. Local governments are also allowed to completely ban the sale of marijuana from their jurisdictions. The State law allows the City to build upon the City’s current medical cannabis regulations and business types (cultivation, manufacturing, distribution/transport, testing, dispensing/retail). The City may also establish “standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections that exceed state standards.” If the City fails to regulate adult use cannabis by January 1, 2018, then the State laws will apply in the City without any City oversight or influence.

SB94 (MAUCRSA) includes the following regulations that have influenced the drafting of Eureka’s revised Ordinance¹:

- The types of licenses available for commercial adult-use cannabis activity and commercial medicinal cannabis activity will be the same and generally fall into these categories:
 - Cultivation
 - Distribution/Transportation
 - Manufacturing

¹ Portions of this summary were taken from the law firm Harris Bricken, Canna Law Group and their summary of SB94, which can be found here: <http://www.cannalawblog.com/breaking-news-california-passes-sb-94-regulating-medicinal-and-adult-use-cannabis/>.

- Testing and Research & Development
- Dispensaries/Retail
- There will be new requirements associated with quality assurance, inspection, and testing of cannabis and cannabis products prior to retail sale.
- Until January 1, 2026, there are limits on the combinations of cannabis license types that a person may hold.
- After January 1, 2026, there are no limits on the combinations of cannabis license types that a person may hold (except for testing licenses, which will remain a “single” license).

Environmental: Amending the text of the Eureka Municipal Code is a “project” for the purposes of the California Environmental Quality Act (CEQA). However, pursuant to the CEQA Guidelines section 15061, there is a general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the uses that are being added as principally permitted uses are similar to uses that currently exist within the zone (e.g., manufacturing, offices, laboratories) and the uses that are being added as conditionally permitted uses will receive CEQA review during the use or minor use permit process; and because no changes are being made to development standards (including setbacks, parking, height, FAR, etc.) it is certain that the Text Amendment will not result in a significant effect on the environment.

Pursuant to Section 21080.9 and 21080.5 and Division 20, Chapter 6 of the Public Resources Code, the Coastal Commission’s review and development process for LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by the California Environmental Quality Act (CEQA). Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments. Therefore, based on the Public Resources Code Sections cited above, the City of Eureka exempts from CEQA the amendments to medical cannabis.

Staff Recommendation and Suggested Motion:

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Applicable Regulations

Text Amendment: In order to amend the text of the Eureka Municipal Code a finding must be made that the proposed amendment is consistent with the objectives of the zoning regulations as prescribed in § 155.002 and Sec. 10-5.102 of the Eureka Municipal Code. The zoning regulations are adopted to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare:

Objectives of Chapter 155 and Chapter 5.

There are eleven objectives specified for Title 10 Chapter 5, and Title 15 Chapter 155 of the Eureka Municipal Code, ZONING REGULATIONS:

- (a)/i. To provide a precise guide for the physical development of the city in such manner as to achieve progressively the arrangement of land uses depicted in the general plan adopted by the Council;
- (b)/ii. To foster a harmonious, convenient, workable relationship among land uses;
- (c)/iii. To promote the stability of existing land uses that conform with the general plan and to protect them from inharmonious influences and harmful intrusions;
- (d)/iv. To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the city as a whole
- (e)/v. To prevent excessive population densities and overcrowding of the land with structures;
- (f)/vi. To promote a safe, effective traffic circulation system;
- (g)/vii. To foster the provision of adequate off-street parking and off-street truck loading facilities;
- (h)/viii. To facilitate the appropriate location of community facilities and institutions;
- (i)/ix. To promote commercial and industrial activities in order to strengthen the City's tax base;
- (j)/x. To protect and enhance real property values; and
- (k)/xi. To safeguard and enhance the appearance of the city.

Discussion and Analysis: Per direction from the City Council, issued during the June 6, 2017 regular meeting, staff has drafted proposed amendments to Eureka Municipal Code Chapter 158 and Article 30 to align with the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and the Adult Use Marijuana Act (AUMA).

On July 10, 2017 staff presented your Commission with informational presentations seeking general direction regarding three topics associated with future adult use cannabis regulations:

1. Personal Use
 - a. Limiting outdoor cultivation for personal use
 - b. Limiting indoor cultivation for personal use
2. Commercial licensing
 - a. Cultivation
 - b. Manufacturing
 - c. Transport/Distribution
 - d. Testing/R&D
 - e. Dispensing/Retail

Adult Use Cannabis Topic 1: Limiting Outdoor Cultivation for Personal Use

Per Prop 64, the City may impose “reasonable regulations” on personal use cultivation, and may ban outdoor cultivation, but cannot completely prohibit cultivation at a residence. The table below shows the City’s existing regulations for personal grows of medical cannabis on the left and staff’s recommendations for new regulations for personal grows on the right.

CITY OF EUREKA PERSONAL GROW REGULATIONS	
Medical Cannabis - Existing	Add Nonmedical Cannabis - RECOMMENDED
Qualified patient or caregiver may grow for personal use in residence or accessory structure accessible only by qualified patient or caregiver	ADD: Age 21 or over in residence or accessory structure
	ADD: Outside cultivation is banned
Cannot displace required off-street parking	NO CHANGE
Max 50 sf cultivation area per residence	MODIFY: Maximum of six plants and maximum of 50 sf of cultivation area per residence
Plants have a maximum of 10 feet in height	NO CHANGE
Maximum of 20 sf of processing area	MODIFY: Maximum of 50 sf of processing area
Must comply with Building and/or Fire Code	NO CHANGE
Lighting may not exceed 1,200 watts	NO CHANGE
Use of gas products not allowed	NO CHANGE
No exterior evidence of cultivation from public way	NO CHANGE

Adult Use Cannabis Topic 2: Commercial Licensing

Following the Council’s direction, staff has drafted an ordinance regarding commercial non-medical adult-use cannabis in Eureka. While Proposition 64 establishes multiple license types, commercial adult use cannabis business fall into five general categories:

1. Cultivation
2. Manufacturing
3. Transport/Distribution
4. Testing/R&D
5. Dispensing/Retail

Staff has made the following amendments to the five existing license categories:

GENERAL LICENSE CATEGORY	STAFF RECOMMENDATION
Cultivation	Do not allow outdoor commercial cultivation of non-medical adult use cannabis anywhere in Eureka. License type “Cultivation, mixed light, not more than 10,000 square feet of cultivation area” will be removed.
Manufacturing	Allow commercial manufacturing of non-medical adult use cannabis under the same regulations, in the same zone districts, and in the same facilities as commercial medical cannabis manufacturing. The volume of volatile solvents, not square footage, will categorize volatile manufacturing.
Transport/Distribution	Allow commercial transport/distribution of non-medical adult use cannabis under the same regulations, in the same zone districts, and in the same facilities as commercial medical cannabis transport/distribution. Per MAUCRSA, staff recommends combing the transportation license with the distribution license to align with the State.
Testing/R&D	Allow commercial testing/R&D of non-medical adult use cannabis under the same regulations, in the same zone districts, and in the same facilities as commercial medical cannabis testing/R&D.
Dispensing/Retail	Allow retail sales, including delivery, of non-medical adult use cannabis under the same regulations, in the same zone districts, and in the same facilities as commercial medical cannabis dispensing as a Conditional use. Per Council’s direction, the limit of six dispensaries has been removed. The RFQ process will remain, with a maximum of two retail applications being processed every six months.

In addition to the five existing license categories, staff recommends adding a Microbusiness license category. A Microbusiness facility is defined as a facility where one licensee may conduct two or more

of the following cannabis activities: indoor cultivation with a total cultivation area of not more than 2,500 square feet, distribution, non-volatile manufacturing, and retail sales.

Enforcement, suspension, revocation, and hearing language has been added outlining the role of Code Enforcement and the process to manage non-compliant facilities. Code Enforcement will include the monitoring of odor and odor cannot be detectable outside the exterior walls of a facility.

In MAUCRSA, temporary event licenses will be available for onsite sales and consumption. Staff has added language that prohibits public or private events where cannabis is kept, displayed, or offered in any manner, sold, furnished, transferred, given away, and/or consumed by any person outside a licensed cannabis facility.

Lastly, staff has concerns the State will not have their track and trace program running by the start of 2018. In an effort to be manage our licenses effectively, staff is contracting with a separate track and trace provider. Applicants will participate in both programs, until the State provider is proven sufficient.

The proposed amendments are designed to coordinate with and compliment the requirements that are found in Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and the Adult Use Marijuana Act (AUMA). While managing the impacts of the industry on Eureka, the ordinance revisions allow for the establishment of healthy market conditions for cannabis.

Coastal Zone Background: The Local Coastal Program (LCP) is the foundational policy document for areas of the City located in the coastal zone. It establishes farsighted policy that forms the basis for and defines the framework by which the City's physical and economic resources in the coastal zone are to be developed, managed and utilized. The Local Coastal Program is divided into two components: the first component is the *Land Use Plan (LUP)*, which is the General Plan specific to land in the coastal zone. It outlines the existing conditions, permitted uses, and policies needed to achieve the goals of the Coastal Act and includes the Land Use Plan map. The second component of the Local Coastal Program is the *Implementation Plan (IP)*, which includes zoning regulations and the zoning map for land in the coastal zone, as well as specific coastal zone ordinances necessary to implement the policies of the Land Use Plan. When the City Council amends the Local Coastal Program, the amendment must be submitted to the California Coastal Commission for approval. If the Commission can find that the amendment is in accord with the Coastal Act, they then approve or "certify" the amendment. Even though the City Council approves and adopts an amendment to the LCP, it does not become effective or enforceable until it is certified by the Coastal Commission.

Prior to the Eureka Municipal Code being renumbered in 1997, the inland portion of the zoning code included Articles 1 through 28 in Title 10, Chapter 5. After the renumbering, the inland portion of the zoning code became known as "Chapter 155." When the coastal portion of the zoning code, which was contained in Title 10, Chapter 5, Article 29, was renumbered, it became "Chapter 156." And, as far as the City was concerned at that time, Chapters 155 and 156 were the "zoning code" and the law of the City of Eureka. However, when the renumbering occurred, Chapter 156 should have been sent to the Coastal Commission for certification.

Then, in 2013, Community Development Staff and the Coastal Commission discovered that, for reasons unknown to either agency, Chapter 156 was never sent to the Coastal Commission and therefore was never certified. This meant that even though the coastal law in the City was “Chapter 156,” the coastal law for the State of California (Coastal Commission) was the last version of the Municipal Code that had been certified by the Coastal Commission, which was Title 10, Chapter 5, and Article 29. Since then City Staff has been using “the Old Code” as the law in the coastal portion of the City. Although the City has continued to make some amendments to Chapter 156 since the Municipal Code was renumbered, none of those amendments have been certified by the Coastal Commission.

Because the General Plan Update (GPU) process currently underway includes updating the LUP, and completion of the GPU will necessitate amendments to the zoning code, it was decided to continue to use “the old code” and resolve numbering and amendment issues at the end of the General Plan and Zoning Code update process.

In this instance, in order to make changes to the coastal zoning code, Staff is proposing to amend both Chapters 155 and 158 and the Old Code. That way, the law as the City knows it, and the law as the Coastal Commission knows it, will both be updated.

The California Legislature has determined that the basic goals of the state for the coastal zone are:

- (a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.
- (b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- (c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

And Section 30513 of the Coastal Act establishes the criteria for Coastal Commission action on proposed amendments to certified Implementation Plans. Section 30513 states, in applicable part:

...The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reason for the action taken.

Any proposed changes to the IP must conform with and adequately carry out all applicable policies and standards of the LUP which, either procedurally or substantively, affect or direct the location, type, density, or intensity of such uses through specified due process (e.g., designated hearing body, public hearing requirements) and/or restrictions, limitations, and performance standards imposed on such uses.

Local Coastal Program Amendment

Discussion: The Local Coastal Program (LCP) Amendment will only amend the Implementation Plan (IP) which is the zoning code portion of the LCP to include the proposed amendments.

Environmental: Pursuant to Section 21080.9 and 21080.5 and Division 20, Chapter 6 of the Public Resources Code, the Coastal Commission’s review and development process for LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by the California Environmental Quality Act (CEQA). Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments. Therefore, based on the Public Resources Code Sections cited above, the City of Eureka exempts from CEQA the “*Coastal Zone Amendments*”.

Applicable Regulations

Local Coastal Program Amendment: The standard of review for the proposed amendment to the City of Eureka’s Implementation Plan (i.e., text amendment) is whether the amendment conforms with and is adequate to carry out the certified Land Use Plan (LUP).

The zoning ordinances and zoning district map must conform with and be adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the land use plan. The scope of measures contained in the zoning ordinance and/or district maps extend to the authority granted to the City by the planning laws of California, including Government Code Section 65850-65862 and 65910-65912.

The Policy Document of the General Plan contains explicit statements of goals, policies, standards, implementation programs, and quantified objectives that constitute the formal policy of the City of Eureka for land use, development, and environmental quality. The Policy Document is divided into eight sections: Land Use and Community Design; Housing; Transportation and Circulation; Public Facilities and Services; Recreational and Cultural Resources; Natural Resources; Health and Safety; Administration & Implementation. Below are the policies for each section, followed by Staff’s analysis and conclusion as to conformity with each section’s policies.

Land Use and Community Design

LUP Provisions:

1.A.4 To promote the public safety, health, and welfare, and to protect private and public property, to assure the long-term productivity and economic vitality of coastal

resources, and to conserve and restore the natural environment, the City shall protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

1.A.5 Within the coastal zone, the City shall ensure that coastal-dependent developments have priority over other developments on or near the shoreline. Except as provided elsewhere in this General Plan, coastal-dependent development shall not be sited in a wetland. Coastal-related developments shall generally be accommodated proximate to the coastal-dependent uses they support.

1.A.6 The City shall continue to work with the Humboldt Bay Harbor, Recreation, and Conservation District to implement the projects described in the City's *Eureka Waterfront Revitalization Program* and listed below:

- a. Establishment of a comprehensive wetland management program that includes all of Eureka's restored and natural wetland areas.
- b. Implementation of the PALCO Marsh Enhancement Plan.
- c. Construction of a public access vista point at the foot of Truesdale Street.
- d. Reconstruction of a public access vista point near the foot of C Street.
- e. Design and construction of a public berthing facility in Inner Reach near the Adorni Center.
- f. Development of a multi-use building between C and F Streets to house a Fisherman's-Farmer's Market and retail stores.
- g. Development of Fisherman's Parcel for fishing fleet activities.
- h. Rehabilitation of the existing small boat basin, dredging and expansion of the Humboldt Yacht Club, and development of a fishing industry support facility.
- i. Completion of a waterfront bicycle/pedestrian trail from K Street to Del Norte Street.
- j. Development of a Wetland Mitigation Bank as a comprehensive tool for mitigating the loss of wetlands to development.
- k. Development of a facility for the Humboldt Bay Rowers Association near the Adorni Center.

1.D.1 The City shall retain the historic waterfront building scale, building form, and general character in waterfront revitalization and development as a means of creating a "Victorian Seaport" identity for the waterfront area. New buildings developed along the waterfront north of First Street/Waterfront Drive should not exceed three stories or 50 feet in height.

1.D.2 Except for safety reasons in industrial operations, the City shall ensure public access along the full length of the shoreline within the Core Area through development of multiple access points such as walkways, paths, docks, and piers.

1.D.3 The City shall promote the continued operation of existing fisheries-related industry throughout the Core Area waterfront.

1.D.4 The City shall encourage expansion of the fisheries industry west of C street in the Core Area.

1.D.5 The City shall expand and enhance opportunities for recreational and visitor-serving uses and activities along the waterfront, including visitor accommodations, boating facilities, water transportation, fishing, and other similar attractions.

1.D.6 The City shall encourage expansion of the F Street pier into a major facility that focuses and anchors waterfront public access and open space.

1.E.3 Where recreation or visitor-serving uses are integrated with coastal-dependent uses, the City shall ensure that the recreation or visitor-serving uses are secondary to and compatible with the coastal-dependent uses. To the extent feasible and permitted pursuant to other applicable law, fish processing facilities should incorporate educational and tourist activities and facilities such as tours, fish markets or shops, restaurants and other attractions that support the fishing industry.

1.G.3 The City shall expand the public pier at the foot of F Street to enhance leisure and recreation opportunities within the Core Area.

1.I.1 The City shall ensure that structures of historic or architectural interest are preserved and, wherever feasible, rehabilitated to protect the variety and quality of older buildings in the Core Area. In cases where such structures might be used to better advantage in new surroundings, the City shall encourage relocation.

1.L.11 The City shall protect and, where feasible, upgrade facilities serving the commercial fishing and recreational boating industries. Existing commercial fishing and recreational boating space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. New recreational boating facilities shall, to the maximum extent feasible, be designed and located so as not to interfere with the needs of the commercial fishing industry.

1.M.2 The City shall promote development and upgrading of the Westside Industrial Area to accommodate industrial growth and the relocation of industry from unsuitable sites and areas.

1.M.3 The City shall support the retention of existing and establishment of new fishing facilities related uses in the area north of the railroad tracks between Commercial Street and C Street in the Core Area. The City shall encourage new development in the area that reinforces the essentially industrial character of the area and reduces potential land use conflicts and speculative inflation of land values.

1.M.4 The City shall promote the development of a modern multiple-purpose dock a Dock B that would combine a cruise ship terminal with a break-bulk/container cargo terminal and fishing facilities.

1.M.5 If efforts to develop a multi-purpose terminal at Dock B are unsuccessful, the City will support the development of a non-coastal industrial park in the Dock B area, including the “balloon track” and the Wright-Schuchart site. In developing such an industrial park, the City would retain the Dock A area for possible long-term cargo terminal development.

1.M.7 The City shall encourage coastal-dependent industrial facilities to locate or expand within existing sites. Non-coastal-dependent uses located along the waterfront shall, if feasible, be relocated to other more appropriate areas within the city.

1.10 The City shall prepare and adopt a plan for the expansion and renovation of the F Street pier and surrounding area into a major facility that focuses and anchors waterfront public access and open space.

1.11 The City shall participate in the development of Fisherman’s Parcel for fishing fleet activities.

Analysis and Conclusion: The proposed amendments to the cannabis ordinance includes provisions to ensure public safety, health, welfare, and property are protected, and supports the long-term productivity and economic vitality of coastal resources as provided in the Land Use Plan. Additionally, the proposed amendments will not conflict with, nor displace coastal-dependent or coastal-related uses.

The IP Amendment to amend the text as proposed **does** conform with and **is** adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the Land Use and Community Design section of the adopted and certified LUP.

Housing

LUP Provisions: None

Analysis and Conclusion: There are no Housing LUP provisions; therefore, the IP Amendment to amend the text will have no impact on the Housing section of the adopted and certified LUP.

Transportation and Circulation

LUP Provisions:

3.A.7 The City should improve the appearance of existing transportation right-of-way and incorporate high standards of aesthetic design when considering new transportation corridors, including streets, bikeways, walkways, and other related rights-of-way.

3.A.8 The City shall develop Waterfront Drive along Humboldt Bay from the Elk River Interchange to the vicinity of Eureka Slough, consistent with all other applicable General Plan and LCP policies.

3.G.1 The City shall protect and, where feasible, upgrade facilities serving the commercial fishing and recreational boating industries. Existing commercial fishing and recreational boating space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, to the maximum extent feasible, be designed and located so as not to interfere with the needs of the commercial fishing industry.

3.G.2 The City shall limit new or expanded berthing facilities to sites at the Woodley Island Marina, the Eureka Small Boat Basin, or the Eureka Channel Inner Reach. Facilities supporting party- or charter-fishing boat operations shall be provided at these sites to meet demand for them.

Analysis and Conclusion: None of the above Transportation LUP policies are relevant to the current cannabis text amendment under consideration. The operation of cannabis related businesses will not affect the facilities which serve the commercial and recreational fishing industries, nor road development projects. Accordingly, the IP Amendment to amend the text as proposed **does** conform with and **is** adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the Transportation and Circulation section of the adopted and certified LUP.

Public Facilities and Services

LUP Provisions:

4.A.4 The City declares that existing public works facilities, including water, wastewater, stormwater, highway, and railroad facilities serving the Planning Area are essential to the economic and social well-being of the people and shall be maintained, enhanced, and restored to assure the orderly and balanced utilization and conservation of natural and human-created resources.

4.A.5 The City shall permit the formation or expansion of special districts where assessment for, and provision of, the services will not induce development inconsistent with this General Plan.

4.A.6 The City shall ensure that new or expanded public works facilities within the Coastal Zone will be designed and limited to accommodate needs generated by permitted uses and development consistent with the provisions of this General Plan.

4.A.7 Within the coastal Zone, the City shall prohibit the extension of urban services (sewer and water) into areas with Open Space designations (i.e., Agricultural, Timberland, Natural Resources, Water—Development, and Water—Conservation), except that the

water system intertie line in the southwestern part of the city shall be permitted to extend into these areas, provided no connections for private users shall be allowed.

4.B.1 To the extent feasible, within the Coastal Zone, the City shall preserve water system capacity needed for priority uses. These uses and their order of priority are as follows:

- a. Coastal-dependent uses;
- b. Essential public services;
- c. Basic industries vital to the economic health of the region, state or nation;
- d. Public recreation;
- e. Commercial recreation; and
- f. Visitor-serving uses.

Analysis and Conclusion: None of the above Public Facilities LUP policies are relevant to the current cannabis text amendment under consideration. Accordingly, the IP Amendment to amend the text **does** conform with and **is** adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the Public Facilities and Services section of the adopted and certified LUP.

Recreation and Cultural Resources

LUP Provisions:

5.B.1 The City shall provide public open space and shoreline access through the Coastal Zone, particularly along the waterfront and First Street, through all of the following:

- a. Develop Waterfront Drive from the Elk River Interchange to a terminus near Eureka Slough, with provisions for bicycle lanes, pedestrian walkways, and supporting facilities.
- b. Establish a walkway system located on or near the shoreline throughout the city's waterfront Core Area.
- c. Establish scenic vista points at numerous locations along the waterfront, including construction of a public access vista point at the foot of Truesdale Street.
- d. Consider and protect the scenic and visual qualities of coastal areas that are visible from scenic public vista points and waterfront walkways.
- e. The City, in cooperation with the Coastal Commission and Coastal Conservancy, shall provide for attractive directional signs that are meaningful on the North Coast so as to assist area residents and visitors alike in identifying visitor-serving, recreational, and historical facilities in the city.

5.B.2 On shoreline parcels where recreation or visitor-serving uses are integrated with coastal-dependent uses, the City shall ensure that the recreation or visitor-serving uses are secondary to and compatible with the coastal-dependent uses.

5.B.3 The City shall promote the maintenance of and, where feasible, shall provide, restore, or enhance facilities serving commercial and recreational boating, including party or charter fishing boats.

5.B.4 The City of Eureka shall protect and enhance the public's rights of access to and along the shoreline, consistent with protecting environmentally sensitive habitats, by:

- a. Accepting offers of dedications that will increase opportunities for public access and recreation and the availability of necessary staff and funding to improve and maintain access ways and assume liability for them;
- b. Actively seeking other public, community non-profit, or public agencies to accept offers of dedications and having them assume liability and maintenance responsibilities; and,
- c. Allowing only such development as will not interfere with the public's right of access to the sea, where such right was acquired through use or legislative authorization.

5.B.5 For new development between the first public road and the sea, the City shall require the dedication of a vertical access easement to the mean high tide line unless:

- a. Another more suitable public access corridor is available within 500 feet of the site; or
- b. Access at the site would be inconsistent with other General Plan coastal policies, including existing, expanded, or new coastal-dependent industry, agricultural operations, or the protection of environmentally sensitive habitat areas; or,
- c. Access at the site is inconsistent with public safety, environmental protection, or military security needs.

5.B.6 For new development between the first public road and the sea, the City shall require a lateral access easement along the shoreline unless:

- a. Lateral access at the site would be inconsistent with other General Plan coastal policies, including existing expanded, or new coastal dependent industry, agricultural operations, or the protection of environmentally sensitive habitat areas; or,
- b. Access is inconsistent with public safety or military security needs.

5.B.7 The City shall establish a coordinated continuous public access system throughout its Coastal Zone, consisting of pedestrian walkways, nature walks, and bikeways with necessary support facilities, as described in Table 5-2 and shown in Figure 5-1.

5.B.8 The City shall enforce the access standards and recommendations contained in the State Coastal Conservancy/Coastal Commission *Report on Coastal Access* (revised August 1980) as the criteria for improvement, maintenance, and management of accessways and supporting facilities proposed in this General Plan. Special attention in design and construction of accessways shall be given to minimizing maintenance requirements given the North Coast climate and to minimizing the possibilities of vandalism. Where public accessways or vista points are located near environmentally

sensitive habitat areas, attractive barriers shall be provided to preclude disturbance of natural areas by off-road or all-terrain vehicles.

5.B.9 The City shall ensure that public access support facilities are distributed throughout the Eureka Coastal Zone. Off-street parking shall be provided in the waterfront area; however, it shall not be located immediately adjacent to the shoreline, unless there is no feasible alternative.

5.B.10 To the maximum extent feasible, the City shall ensure universal public access to the waterfront, including support facilities.

5.B.11 The City shall participate in the development of a facility for the Humboldt Bay Rowers Association on the waterfront.

TABLE 5-2
COASTAL ZONE PUBLIC ACCESS

Access Point/Area	Description of Proposed Access
Along shoreline between "J" and "M" Streets	To be located along the shoreline, East Plaza and West Plaza shall be developed in coordination with the overall Restoration Plan.
At the foot of "C" Street	The City-owned pier and dock shall, consistent with any lease requirements or conditions, be restored for pedestrian and public fishing use.
At the Small Boat Basin	A small plaza and improved access facilities, including off-street parking, bicycle racks, benches, tables, restrooms, and an improved boat-launching area shall be provided. Lamoreaux Park shall be upgraded. Public use facilities shall be designed and located to complement potential adjacent revenue generating uses. Existing access to piers with docks shall be continued consistent with public safety and protection of the property of boat owners.
At the foot of "V" Street	A passive recreation plaza with landscaping improvements and picnic tables shall be provided at the shoreline. Development of the "V" Street Plaza shall occur either in conjunction with the construction of Waterfront Drive or the private development of the property (in proximity to the Blue Ox), whichever comes first.
At Eureka Slough, north of the Northwestern Pacific Railroad tracks	A passive recreation plaza with landscaping improvements and picnic tables shall be provided at the shoreline. Public access improvements either at Eureka Slough or near the Samoa Bridge shall also include a small boat launch ramp and off-street parking area, provided that in consultation with the Department of Fish and Game, Coastal Commission, and the Coastal Conservancy, a specific location for these access improvements can be identified that will create no significant adverse effects on environmentally sensitive habitat areas.

Access Point/Area	Description of Proposed Access
At Woodley Island at the westerly end of the marina	A scenic vista point shall be developed to complement the existing public access and support facilities and be compatible with other permitted development. Access to Woodley Island wildlife area shall continue to be by permit from the Department of Fish and Game.
From the Samoa Bridge to and along Eureka Slough	A continuous shoreline pedestrian walkway shall be developed. Portions of this accessway may be incorporated into the extension of Waterfront Drive, which shall also provide for a bicycle way, provided that in consultation with the Department of Fish and Game, Coastal Commission, and the Coastal Conservancy, a specific location for these access improvements can be identified that will create no significant adverse effects on environmentally sensitive habitat areas. Support facilities shall include parking areas and trash receptacles.
Along the Eureka northern waterfront between commercial Street on the west and the Samoa bridge on the east	A continuous accessway shall be developed to include: (1) completion of lateral accessways at the foot of “J” and “M” Streets; (2) vista points at the foot of “F” Street and the end of “M” Street (on the bluff top near the Carson Mansion/Ingomar Club); (3) access support facilities distributed throughout Old Town so as to minimize potential adverse impacts.
Near Second and “Y” Streets in the East Bridge District	The City shall accept a vertical accessway easement dedication offer if further consultation with the Department of Fish and Game indicates that access can be provided consistent with protection of sensitive natural habitat areas. If the dedication offer is accepted, access shall be integrated through directional signing and support facilities into the northern waterfront shoreline access system.
At the foot of Truesdale Street	A scenic vista point shall be developed on the shoreline to complement the existing vertical access at the street end. Access support facilities shall include a small parking area, bicycle racks, and trash receptacles.
Along waterfront between Truesdale Street and Hilfiker Lane	A continuous waterfront rail shall be dedicated and developed in conjunction with future development in order to connect the vertical accessways at the two street ends. The waterfront trail shall be fenced and/or landscaped to protect adjacent property.
Halvorsen Village and East Park Plaza	The City shall, concurrent with the development of, construct the Fountain Plaza Pedestrian Bridge immediately to the west of the East Park Plaza amphitheater, so as to provide safe public access across the Northwestern Pacific Railroad right-of-way from Waterfront Drive to Old Town.

Access Point/Area	Description of Proposed Access
Near “K” Street across the Northwestern Pacific Railroad right-of-way along the city’s bay front	The City shall, concurrent with the development of the community conference center, parking structure, and West Park Plaza, construct a pedestrian bridge. West Park, located at the foot of “J” Street, shall include a small parking area and public pier available for fishing and, if feasible, use by a tourist-oriented water taxi.
Across the Northwestern Pacific Railroad right-of-way from Waterfront Drive to Old Town	The City shall, in conjunction with the California Public Utilities Commission and the Northwestern Pacific Railroad, prepare an implementable long-range plan for pedestrian and vehicular at-grade access, consistent with requirements of this General Plan, in order to maximize public access opportunities and ensure public safety.
Greenways or gulches near Eureka, First, and Second Sloughs	The City shall utilize public lands, rights-of-way, potential future dedications of land, and/or limited acquisition to establish public walkways in greenways or gulches. The precise location of walkways shall be determined after consultation with adjacent private property owners, the Department of Fish and Game, and the Coastal Conservancy in order to assure that private property rights and environmentally sensitive habitat areas are protected, while this important community asset is opened for appropriate levels of public use and enjoyment. In consultation with the Coastal Conservancy, the City shall explore creation and funding of a community non-profit organization to assist in the design, implementation, and maintenance of the greenway.gulch public access system.
Elk River	Public accessways shall be implemented by the City in consultation with the Department of Fish and Game.
Elk River Split	The pedestrian footbridge and appropriate directional signing shall be constructed.

5.4 The City shall participate in the development of a facility for the Humboldt Bay Rowers Association on the waterfront.

Analysis and Conclusion: The proposed amendments to the cannabis ordinance will not diminish open space, prohibit shoreline access, or impact any recreation areas or cultural resources. Additionally, the operation of cannabis related businesses will have no impact on public access to the Coastal Zone, as they do not require any modification to the road network and operate on private property. None of the above Recreation and Cultural Resources LUP policies are relevant to the current cannabis text amendment under consideration. Accordingly, the IP Amendment to amend the text **does** conform with and **is** adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the Recreation and Cultural Resources section of the adopted and certified LUP.

Natural Resources

LUP Provisions:

6.A.1 The City shall maintain, enhance, and, where feasible, restore valuable aquatic resources, with special protection given to areas and species of special biological or economic significance. The City shall require that uses of the marine environment are carried out in the manner that will sustain the biological productivity of coastal waters and that will maintain health populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

6.A.3 The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

6.A.4 The City shall require that channelizations or other substantial alterations that could significantly disrupt the habitat values of rivers and streams incorporate the best mitigation measures feasible. Such channelizations and alterations shall be limited to the following:

- a. Flood control projects where no other method for protecting existing structure in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development;
- b. Developments where the primary function is the improvement of fish and wildlife habitat.

6.A.5 The City shall permit revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes only when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion.

6.A.6 The City declares the following to be environmentally sensitive habitat areas within the Coastal Zone:

- a. Rivers, creeks, sloughs, gulches and associated riparian habitats, including but not limited to Eureka Slough, Fay Slough, Cut-Off Slough, Freshwater Slough, Cooper Slough, Second Slough, Third Slough, Martin Slough, Ryan Slough, Swain Slough, and Elk River.
- b. Wetlands and estuaries, including that portion of Humboldt Bay within the City's jurisdiction, riparian areas, and vegetated dunes.
- c. Indian Island, Daby Island, and the Woodley Island wildlife area.
- d. Other unique habitat areas, such as waterbird rookeries, and habitat for all rare or endangered species on state or federal lists.

- e. Grazed or farmed wetlands (i.e., diked former tidelands).

6.A.7 Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

6.A.8 Within the Coastal Zone, prior to approval of a development, the City shall require that all development on lots or parcels designated NR (Natural Resources) on the *Land Use Diagram* or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat area, shall be found to be in conformity with the applicable habitat protection policies of the General Plan. All development plans, drainage plans, and grading plans submitted as part of an application shall show the precise location of the habitat(s) potentially affected by the proposed project and the manner in which they will be protected, enhanced or restored.

6.A.9 The City shall permit the diking, filling, or dredging of open coastal waters, wetlands, or estuaries only under the following conditions:

- a. The diking, filling or dredging is for a permitted use in that resource area;
- b. There is no feasible, less environmentally damaging alternative;
- c. Feasible mitigation measures have been provided to minimize adverse environmental effects;
- d. The functional capacity of the resource area is maintained or enhanced.

6.A.10 The City shall support dredging and spoils disposal to avoid significant disruption to aquatic and wildlife habitats and water circulation.

6.A.11 The City shall require that diking, filling or dredging of a wetland or estuary maintain or enhance the functional capacity of these resources. Functional capacity means the ability of the wetland or estuary to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, all of the following must be demonstrated.

- a. Presently-occurring plant and animal populations in the ecosystem will not be altered in a manner that would impair the long-term stability of the ecosystem, i.e., natural species diversity, abundance and composition are essentially unchanged as the result of the project;
- b. A species that is rare, threatened, or endangered will not be significantly adversely affected; and
- c. Consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuary ecosystem will not be significantly reduced.

6.A.12 The City shall require that dredging, when consistent with the provisions of this General Plan or other adopted City regulations and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat or for flood control purposes, shall be subject to the following conditions:

- a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.
- b. Dredging shall be limited to the smallest area feasible.
- c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, weirs, etc., to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials.

6.A.13 The City shall require that diking or filling of a wetland that is otherwise in accordance with the policies of this General Plan, shall, at a minimum, require the following mitigation measures:

- a. A detailed restoration plan shall be required as part of the project application for each specific restoration site. The restoration plan shall include provisions for purchase, if required, and restoration of an equivalent area of equal or greater biological productivity, and dedication of the land to a public agency or other method which permanently restricts the use of the site to habitat and open space purposes. The restoration site shall be purchased or otherwise made available prior to any permitted diking or filling.
- b. Areas adequate to maintain functional capacity shall be opened to tidal action or other sources of surface water shall be provided. This provision shall apply to diked or filled areas which themselves are not environmentally sensitive habitat areas, but would become so if, as part of a restoration program, they are opened to tidal action or provided other sources of surface water. All of the provisions for restoration, purchase (if necessary), and dedication described under item a. of this policy shall apply to any program or activity performed pursuant to this policy.
- c. Mitigation shall, to the maximum extent feasible, be of the same type as the wetland to be filled (i.e., freshwater marsh for freshwater marsh, saltwater marsh for saltwater marsh, etc.).
- d. Where no suitable private or public restoration or enhancement sites are available, an in-lieu fee may be required to be paid to an appropriate public agency for use in the restoration or enhancement of an area of equivalent productive value or surface area.

6.A.14 Consistent with all other applicable policies of this General Plan, the City shall limit development or uses within wetlands that are neither farmed nor grazed, or within estuaries, to the following:

- a. Port facilities.
- b. Energy facilities.
- c. Coastal-dependent industrial facilities, including commercial fishing facilities.

- d. Maintenance of existing or restoration of previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- e. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables or pipes, inspection of piers, and maintenance of existing intake and outfall lines.
- f. Restoration projects.
- g. Nature study, aquaculture, or similar resource-dependent activities.
- h. New or expanded boating facilities in estuaries, consistent with the demand for such facilities.
- i. Placement of structural piling for public recreational piers that provide public access and recreational opportunities.

6.A.15 The City shall limit uses and development in grazed or farmed wetlands to the following:

Agricultural operations limited to accessory structures, apiaries, field and truck crops, livestock raising, greenhouses (provided they are not located on slab foundations and crops are grown in the existing soil on site), and orchards;

- a. Farm-related structures, including barns, sheds, and farmer-occupied housing, necessary for the performance of agricultural operations. Such structures may be located on an existing grazed or farmed wetland parcel only if no alternative upland location is available for such purpose and the structures are sited and designed to minimize adverse environmental effects on the farmed wetland. No more than one permanent residential structure per parcel shall be allowed.
- b. Restoration projects, including the PALCO on-site restoration and enhancement program.
- c. Nature study, aquaculture, and similar resource-dependent activities; and,
- d. Incidental public service purposes which may temporarily impact the resources of the area, such as burying cables or pipes.

6.A.16 Consistent with all other applicable policies of this General Plan, the City shall limit uses within open coastal waters to the following:

- a. Port facilities.
- b. Energy facilities.
- c. Coastal-dependent industrial facilities, including commercial fishing facilities.
- d. Maintenance of existing or restoration of previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- e. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables or pipes, inspection of piers, and maintenance of existing intake and outfall lines.
- f. Restoration projects.
- g. Nature study, aquaculture, or similar resource-dependent activities.
- h. New or expanded boating facilities.

- i. Placement of structural piling for public recreational piers that provide public access and recreational opportunities.

6.A.17 The City shall require that any uses that involve substantial alterations of streams and rivers incorporate the best mitigation measures feasible and shall be limited to the following:

- a. Flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect development.
- b. Development where the primary function is the improvement of fish and wildlife habitat.

6.A.18 The City may permit new fill for repair and maintenance purposes on lands adjacent to the previously filled northern waterfront provided that it is consistent with other General Plan policies and where all of the following apply:

- a. Fill will be placed in previously filled areas which have been subject to erosion;
- b. Fill will not be placed beyond the existing bulkhead line;
- c. Fill is necessary to protect existing development, coastal-dependent uses, or redeveloped areas from erosion;
- d. Fill will not interfere with commercial fishing activities and facilities; and
- e. Placement of the fill is consistent with the coastal public access policies of the General Plan.

6.A.19 The City shall require establishment of a buffer for permitted development adjacent to all environmentally sensitive areas. The minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or proposed mitigation (such as planting of vegetation) that will achieve the purpose(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. As necessary to protect the environmentally sensitive area, the City may require a buffer greater than 100 feet. The Buffer shall be measured horizontally from the edge of the environmental sensitive area nearest the proposed development to the edge of the development nearest to the environmentally sensitive area. Maps and supplemental information submitted as part of the application shall be used to specifically define these boundaries.

6.A.20 To protect urban wetlands against physical intrusion, the City shall require that wetland buffer areas incorporate attractively designed and strategically located barriers and informational signs.

6.A.21 The City shall require that all land use activities adjacent to gulch greenways be carried out in a manner that avoids vegetative removal below the break in slope (usually those areas with a slope of 20 percent or greater) and that does not alter natural land forms and drainage patterns.

6.A.22 The City shall maintain Indian Island as a site for habitat, scientific research and education. Existing uses may be maintained but shall not be expanded, except that reburial of Native American remains shall be permitted as part of the mitigation for coastal-dependent industrial development elsewhere in the Planning area.

6.A.23 The City, in consultation with the Department of Fish and Game, Coastal Conservancy, Coastal Commission, Humboldt County, Humboldt Bay Harbor, Recreation, and conservation District, affected landowners, and other interested parties shall prepare a detailed, implementable wetlands management, restoration and enhancement program consistent with the provisions of this General Plan. The objectives of the program shall be to enhance the biological productivity of wetlands; to minimize or eliminate conflicts between wetlands and adjacent urban uses; to provide stable boundaries and buffers between urban and habitat areas; to provide restoration areas, including the City-owned lands on the Elk River Spit that may benefit from restoration and enhancement, to serve as mitigation in conjunction with future projects that may include wetland areas. Upon completion, the wetlands management and restoration program created by this policy shall be submitted to the Coastal Commission for review and approval.

6.A.24 Within the Coastal Zone, where there is a question regarding the boundary, buffer requirements, location, or current status of an environmentally sensitive area identified pursuant to the policies of this General Plan, the City shall require the applicant to provide the City with the following:

- a. Base map delineating topographic lines, adjacent roads, location of dikes, levees, of flood control channels and tide gates, as applicable;
- b. Vegetation map, including identification of species that may indicate the existence or non-existence of the sensitive environmental habitat area;
- c. Soils map delineating hydric and non-hydric soils; and
- d. Census of animal species that may indicate the existence or non-existence of the sensitive environmental habitat area.

The City shall transmit the information provided by the applicant pursuant to this policy to the Department of Fish and Game for review and comment. Any comments and recommendations provided by the Department shall be immediately sent to the applicant for his or her response. The City shall make its decision concerning the boundary, location, or current status of the environmentally sensitive habitat area in question based on the substantial evidence in the record and shall adopt findings to support its actions.

6.B.2 The City shall require the retention in agricultural use of agricultural lands within the Coastal Zone with soils other than Classes I or II in agricultural use, except under the following conditions:

- a. Continued or renewed agricultural use is demonstrated to be infeasible,
- b. Conversion to urban uses would locate development within, contiguous with, or in close proximity to, existing developed areas, or

- c. Farmed wetlands are proposed and funded through a wetland management and restoration program for restoration of resource-dependent activities.

6.B.3 The City shall limit uses in grazed or farmed wetlands to the following:

- a. Agricultural operations (except for greenhouses on slab foundations).
- b. Farm-related structures (including barns, sheds, and farmer-occupied housing) necessary for the continuance of the agricultural operation. Such structures may be located on an existing grazed or farmed wetland parcel only if no alternative upland location is available for such purpose and the structures are sited and designed to minimize the adverse environmental effects on the farmed wetland. No more than one primary residential structure per parcel shall be allowed.
- c. Restoration and enhancement projects.
- d. Nature study, aquaculture, and similar resource-dependent activities.
- e. Incidental public service purposes which may temporarily impact the resources of the area, such as burying cable and pipes.

6.B.4 The City shall ensure that expansion of public services and public service facilities, which is otherwise consistent with the provisions of this General Plan, does not reduce agricultural viability through increased assessment costs.

6.B.5 Consistent with the Coastal Act (California Resources Code Section 3025(a)), the City shall prohibit land division of existing agriculturally-designated land within the Coastal Zone, other than for leases for agricultural uses.

6.1 The City of Eureka, in consultation with the Department of Fish and Game, Coastal Conservancy, Coastal Commission, Wildlife Conservation Board, Humboldt County, Humboldt Bay Harbor, Recreation, and Conservation District, the Army Corps of Engineers, potentially affected landowners, and other interested parties shall prepare a detailed, comprehensive, and implementable program for wetlands management and restoration in and adjacent to the city. In the preparation and implementation of the wetlands program, Eureka shall seek the expert and financial assistance of the State Coastal Conservancy, the Wildlife Conservation Board, and Department of Fish and Game. The program shall include all of Eureka's restored and natural wetland areas and shall include development of a Wetland Mitigation Bank as a comprehensive tool for mitigating the loss of wetlands to development.

Analysis and Conclusion: The proposed text amendment applies primarily in the largely built-out "Service Commercial" Zone District (and does not apply in Natural Resource zones), which means that the majority of the above policies would not be affected by the proposed amendment. In addition, all cannabis-related projects that involve new construction would require a Coastal Development Permit and could be required through that process to provide enhanced Natural Resource protections where necessary. Accordingly, the IP Amendment to amend the text **does** conform with and **is** adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the Natural Resources section of the adopted and certified LUP.

Health and Safety

LUP Provisions:

7.B.2 The City shall ensure that development on or near the shoreline of Elk River, Humboldt Bay, and Eureka Slough neither contributes significantly to, nor is subject to, high risk of damage from shoreline erosion over the life span of the development.

7.B.3 Within the Coastal Zone the City shall prohibit alteration of cliffs, bluff tops, and gulch faces or bases by excavation or other means except to protect existing structures. Permitted development shall not require the construction of protective devices that would substantially alter natural landforms.

7.B.4 For all high density residential and other high occupancy development located in areas of significant liquefaction potential, the City shall, at the time project application, require a geology and soils report prepared by a registered geologist, professional civil engineer with expertise in soil mechanics or foundation engineering geologist, and shall consider, describe, and analyze the following:

- a. Geological conditions, including soil,, sediment, and rock types and characteristics in addition to structural features, such as bedding, joint and faults;
- b. Evidence of past or potential liquefaction conditions, and the implications of such conditions for the proposed development;
- c. Potential effects of seismic forces resulting from a maximum credible earthquake;
- d. Any other factors that might affect the development.

The report shall also detail mitigation measures for any potential impacts and outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the life-span of the project.

7.B.5 For all development proposed within areas subject to significant shoreline erosion, and which is otherwise consistent with the policies of this General Plan, the City shall, prior to project approval, require a geology and soils report prepared by a registered geologist, professional civil engineer with expertise in soil mechanics or foundation engineering, or by a certified engineering geologist, and shall consider, describe, and analyze the following:

- a. Site topography, extending the surveying work beyond the site as needed to depict unusual conditions that might affect the site;
- b. Historic, current and foreseeable shoreline erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and possible changes in shore configuration and sand transport;
- c. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joint and faults;
- d. Impact of construction activity on the stability of the site adjacent area;

- e. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction;
- f. Effects of marine erosion on shoreline areas;
- g. Potential effects of seismic forces resulting from a maximum credible earthquake;
- h. Any other factors that might affect slope stability.

The report shall evaluate the off-site impacts of development and the additional impacts that might occur due to the proposed development. The report shall also detail mitigation measures for any potential impacts and outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant onsite or offsite geologic instability throughout the life-span of the project.

7.D.1 The City shall prohibit high density residential and other high occupancy development, including new hospitals, schools, residential development with a gross density of 8 units per acre or more, office buildings 10,000 square feet in size or larger, or visitor-serving structural developments 5,000 square feet in size or larger, from locating in flood hazard areas, as designated on the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM), dated June 1, 1982, unless they are constructed with a finished foundation that extends above the 100-year flood level and meet all applicable drainage policies of this General Plan. Other development in flood hazard areas shall incorporate mitigation measures that minimize the potential for flood damage, including development siting and use of flood proofing techniques and materials, consistent with other land use plan policies.

Analysis and Conclusion: The proposed cannabis amendments are in conformance with the Health and Safety requirements as provided in the LUP. All cannabis-related projects that involve new construction would require a Coastal Development Permit and could be required through that process to provide enhanced Health and Safety protections where necessary. Accordingly, the IP Amendment to amend the text *does* conform with and *is* adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the Health and Safety section of the adopted and certified LUP.

Administration and Implementation

LUP Provisions: None

Analysis and Conclusion: There are no Administration and Implementation LUP provisions; therefore, the IP Amendment to amend the text will have no impact on the Administration and Implementation section of the adopted and certified LUP.

Summary: As discussed above, the proposed amendments are designed to align with new State regulations and protect the public health safety and welfare, and to establish healthy market conditions

for cannabis, the largest agricultural product in Humboldt County and an economic driver of employment and wages. The proposed amendments clearly support the objectives of Chapter 155 and Chapter 5.

There are no conflicts with the adopted Land Use Plan, and where coastal resources may be impacted, a Use Permit and Coastal Development permit process will be required. Therefore, the amendment conforms with and is adequate to carry out the certified Land Use Plan.

Staff Recommendation and Suggested Motion:

Adopt a Planning Commission Resolution finding that the proposed Text and Local Coastal Program amendments are consistent with the objectives of Title 15 Chapter 155 and Title 10 Chapter 5, and recommending the City Council adopt the Text and Local Coastal Program Amendments and direct Staff to forward the amendments to the Coastal Commission.

“I move that the Planning Commission adopt a Planning Commission Resolution finding that the proposed Text and Local Coastal Program amendments are consistent with the objectives of Title 15 Chapter 155 and Title 10 Chapter 5, and I further move that we forward a recommendation to the City Council that they adopt the Text and Local Coastal Program amendments, and direct Staff to forward the amendment to the Coastal Commission.”

Support Material:

- | | |
|--------------|--|
| Attachment 1 | Draft Ordinance Current Code strikeout |
| Attachment 2 | Draft Ordinance Current Code clean |
| Attachment 3 | Draft Ordinance Old Code strikeout |
| Attachment 4 | Draft Ordinance Old Code clean |
| Attachment 5 | Planning Commission Resolution |

ATTACHMENT 2

Draft Ordinance Current Code strikeout

AN ORDINANCE OF THE CITY OF EUREKA AMENDING TITLE XV CHAPTER 155 AND TITLE 10 CHAPTER 5 OF THE EUREKA MUNICIPAL CODE PERTAINING TO CANNABIS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

Title 15, Chapter 155, Section 155.051, [A Agricultural Districts], paragraph (C), [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Medical cannabis cultivation facilities, mixed light, not more than 10,000-square feet of cultivation area, subject to the provisions of Chapter 158		€
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Section 2.

Title 15, Chapter 155, Section 155.054, [OR Office and Multi-Family Residential Districts], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Lodging houses and bed and breakfast inns in which not more than 15 paying guests may be lodged or boarded	P	
Medical cannabis testing facilities subject to the provisions of Chapter 158		€
Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Chapter 158	P	
Mobile vendors	P	

Section 3.

Title 15, Chapter 155, Section 155.054, [OR Office and Multi-Family Residential Districts], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Administrative, business, and professional office, including medical offices, and any other use which is determined by the Commission, as provided in §§ 155.265 through 155.270 of this chapter, to be similar to an office use	P	
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<u>Cannabis distribution, transportation only, no cannabis on-site facilities subject to the provisions of Chapter 158</u>	<u>P</u>	
<u>Cannabis testing, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs facilities subject to the provisions of Chapter 158</u>		<u>C</u>
Charitable institutions		C

Section 4.

Title 15, Chapter 155, Section 155.055 [HM Hospital Medical District], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Medical and dental offices and clinics, including offices of physicians, dentists, podiatrists, osteopaths, chiropractors, optometrists, and physical therapists	P	
Medical cannabis dispensing facilities, subject to the provisions of Chapter 158		C
Medical cannabis testing facilities subject to the provisions of Chapter 158	P	
Mobile vendors	P	

Section 5.

Title 15, Chapter 155, Section 155.055 [HM Hospital Medical District], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Any use which is determined by the Commission, as provided in §§155.265 through 155.270 of this chapter, to be similar to the uses listed in this section	P	
<u>Cannabis retail facilities subject to the provisions of Chapter 158</u>		<u>C</u>
<u>Cannabis research and development facilities, may be either principally or conditionally permitted pursuant to §158.021(G)</u>	<u>P/C</u>	<u>P/C</u>
<u>Cannabis testing, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs facilities subject to the provisions of Chapter 158</u>	<u>P</u>	
Combinations of attached or detached dwelling units, including duplexes, multi-family dwellings, dwelling groups, row houses, or town houses		C

Section 6.

Title 15, Chapter 155, Section 155.078 [Permitted and conditional uses], paragraph (A),

is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

	<i>CN</i>	<i>CP</i>	<i>CC</i>	<i>CS</i>
Medical and orthopedic appliance stores	P	P	P	P
Medical cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158				€
Medical cannabis dispensing facilities subject to the provisions of Chapter 158	€		€	€
Medical cannabis distribution facilities subject to the provisions of Chapter 158				P
Medical cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158			MC	MC
Medical cannabis non-volatile manufacturing facilities, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158				€
Medical cannabis testing facilities where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Chapter 158			P	P
Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Chapter 158				P
Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Chapter 158	MC		P	P
Meeting halls		P	P	P

Section 7.

Title 15, Chapter 155, Section 155.078 [Permitted and conditional uses], paragraph (A), is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

	<i>CN</i>	<i>CP</i>	<i>CC</i>	<i>CS</i>
Candy stores	P	P	P	P
<u>Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158</u>				<u>C</u>
<u>Cannabis distribution, cannabis on site, with or without transportation facilities subject to the provisions of Chapter 158</u>				<u>P</u>

<u>Cannabis distribution, transportation only, no cannabis on-site facilities subject to the provisions of Chapter 158</u>	<u>MC</u>		<u>P</u>	<u>P</u>
<u>Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158</u>				<u>MC</u>
<u>Cannabis non-volatile manufacturing facilities, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158</u>				<u>C</u>
<u>Cannabis microbusiness facilities subject to the provisions of Chapter 158</u>	<u>C</u>		<u>C</u>	<u>C</u>
<u>Cannabis retail facilities subject to the provisions of Chapter 158</u>	<u>C</u>		<u>C</u>	<u>C</u>
<u>Cannabis research and development facilities, may be either principally or conditionally permitted pursuant to §158.021(F)</u>			<u>P/C</u>	<u>P/C</u>
<u>Cannabis testing facilities where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of medical cannabis occurs, subject to the provisions of Chapter 158</u>			<u>P</u>	<u>P</u>
Card rooms			P	P

Section 8.

Title 15, Chapter 155, Section 155.098 [Permitted uses], paragraph (A) [ML Limited Industrial Districts], subparagraph (1) [Light industrial and related uses, including only:] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

<i>ML PERMITTED USES</i>
Mattress manufacture
Medical cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158
Medical cannabis distribution facilities, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158
Medical cannabis testing facilities, subject to the provisions of Chapter 158
Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Chapter 158
Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Chapter 158

Metal finishing and plating

Section 9.

Title 15, Chapter 155, Section 155.098 [Permitted uses], paragraph (A) [ML Limited Industrial Districts], subparagraph (1) [Light industrial and related uses, including only:] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

<i>ML PERMITTED USES</i>
Bus depots
Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158
Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Chapter 158
Cannabis distribution facilities, transportation only, no cannabis on site, subject to the provisions of Chapter 158
Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158
Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis research and development facilities, subject to the provisions of §158.021 (G)
Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution, subject to the provisions of Chapter 158
Cold storage plants

Section 10.

Title 15, Chapter 155, Section 155.098 [Permitted Uses], paragraph (B) [MG General Industrial Districts] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

<i>MG PERMITTED USES</i>
Mattress manufacture
Medical cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158

Medical cannabis distribution facilities, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158
Medical cannabis testing facilities, where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Chapter 158
Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Chapter 158
Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Chapter 158
Metal finishing and plating

Section 11.

Title 15, Chapter 155, Section 155.098 [Permitted Uses], paragraph (B) [MG General Industrial Districts] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

<i>MG PERMITTED USES</i>
Bus depots
<u>Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158</u>
<u>Cannabis distribution, cannabis on site, with or without transportation facilities, subject to the provisions of Chapter 158</u>
<u>Cannabis distribution, transportation only, no cannabis on-site facilities, subject to the provisions of Chapter 158</u>
<u>Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158</u>
<u>Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158</u>
<u>Cannabis testing facilities, where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Chapter 158</u>
<u>Cannabis microbusiness facilities, subject to the provisions of Chapter 158</u>
<u>Cannabis research and development facilities, subject to the provisions of Chapter 158</u>

~~Cannabis testing, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Chapter 158~~

~~Cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Chapter 158~~

~~Cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Chapter 158~~

Cold storage plants

Section 12.

Title 15, Chapter 155, Section 155.099 [Conditional uses], paragraph (A) [ML Limited Industrial Districts] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

ML CONDITIONALLY PERMITTED USES
Live-work uses, only where the LW combining zone has been applied to the ML zone district
Medical cannabis dispensing facilities, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, volatile, 1,500 square feet or less of floor, subject to the provisions of Chapter 158
Motor vehicle wrecking yards and scrap metal yards

Section 13.

Title 15, Chapter 155, Section 155.099 [Conditional uses], paragraph (A) [ML Limited Industrial Districts] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

ML CONDITIONALLY PERMITTED USES
<p>Any of the Conditionally Permitted Uses requiring Additional Findings listed below provided that, on the basis of the use permit application and the evidence submitted, the Planning Commission makes the following findings, in addition to the findings prescribed in § 155.285 of this chapter:</p> <p>That consideration of all determinable characteristics of the use that is the subject of the application indicates that the use has the same essential characteristics as the uses listed in § 155.098(A)(1) of this subchapter with respect to the method of operation, type of process, materials, equipment, structures, storage, and appearance;</p> <p>That the use will conform with each of the required conditions prescribed for uses in the ML District in § 155.097 of this subchapter; and</p> <p>That the use will not create significantly more vehicular or rail traffic than the volumes normally created by the permitted uses listed in § 155.098(A)(1) of this subchapter.</p>

Cannabis manufacturing facilities, volatile, small, 1,500-square feet or less of floor, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis retail facilities, subject to the provisions of Chapter 158
Cannabis research and development facilities, subject to the provisions of §158.021(G)
Gymnastic schools and health clubs

Section 14.

Title 15, Chapter 155, Section 155.099 [Conditional uses], paragraph (A) [ML Limited Industrial Districts] table titled, “ML Conditionally Permitted uses requiring Additional Findings” is hereby amended to read as follows:

<i>ML CONDITIONALLY PERMITTED USES REQUIRING A MINOR USE PERMIT</i>
Medical eCannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis research and development facilities, subject to the provisions of §158.021(G)

Section 15.

Title 15, Chapter 155, Section 155.099 [MG General Industrial Districts] (B) [MG General Industrial Districts], subparagraph (1) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

MG CONDITIONALLY PERMITTED USES
Manure, peat, and topsoil processing and storage
Medical cannabis cultivation facilities, mixed light, not more than 10,000 square feet of cultivation area, subject to the provisions of Chapter 158
Medical cannabis dispensing facilities, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, volatile, more than 1,500 square feet of floor area, subject to the provisions of Chapter 158
Medical cannabis manufacturing facilities, volatile, 1,500 square feet or less of floor area, subject to the provisions of Chapter 158
Metal and metal ores reduction, refining, smelting, and alloying

Section 16.

Title 15, Chapter 155, Section 155.099 [MG General Industrial Districts] (B) [MG General

Industrial Districts], subparagraph (1) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

MG CONDITIONALLY PERMITTED USES
Asphalt and asphalt products manufacture
<u>Cannabis manufacturing facilities, volatile, largemore than 1,500 square feet of floor area, subject to the provisions of Chapter 158</u>
<u>Cannabis manufacturing facilities, volatile, small1,500 square feet or less of floor area, subject to the provisions of Chapter 158</u>
<u>Cannabis microbusiness facilities, subject to the provisions of §158.021(F)</u>
<u>Cannabis retail facilities, subject to the provisions of §158.021(G)</u>
<u>Cannabis research and development facilities, subject to the provisions of Chapter 158</u>
Cement, lime, gypsum, and plaster of paris manufacture

Section 17.

Title 15, Chapter 155, Section 155.099 [MG General Industrial Districts] (B) [MG General Industrial Districts], subparagraph (1) table titled, “MG Conditionally Permitted Uses” is hereby amended to read as follows:

MG CONDITIONALLY PERMITTED USES REQUIRING A MINOR USE PERMIT
Medical e Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Chapter 158
<u>Cannabis microbusiness facilities, subject to the provisions of §158.021(F)</u>
<u>Cannabis research and development facilities, subject to the provisions of §158.021(G)</u>

Section 18.

Title 15, Chapter 158, Section 158.001 [Findings and Purpose] is hereby amended to read as follows:

§ 158.001 FINDINGS AND PURPOSE.

(A) The City Council of the City of Eureka, based on evidence presented to it in the proceedings leading to the adoption of this chapter and subsequent amendments to this chapter, hereby finds that the illegal and unpermitted cultivation, processing and distribution of ~~medical~~ cannabis in the City has caused and is causing ongoing impacts to the community. These impacts include damage to buildings containing illegal and unpermitted indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have

also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.

(B) The City Council acknowledges that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of cannabis for medical purposes under the Compassionate Use Act, but that the Compassionate Use Act does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

(C) The City Council acknowledges that the California legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015 and that the act allows local jurisdictions to regulate medical marijuana commerce and a range of medical cannabis license types in their jurisdictions under the state regulatory framework provided in the law as amended.

(D) The City Council acknowledges that in 2016, the voters of the State of California legalized the possession, cultivation, and sale of marijuana for individuals over the age of 21 through the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA).

The City Council acknowledges that the California legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act. (MAUCRSA) in 2017 which repealed MCRSA and included certain provisions from MCRSA in the licensing provisions of AUMA, and generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity.

(F) The City Council acknowledges that sales of ~~medical~~ cannabis are subject to taxation by both the City and the state and that the California State Board of Equalization (BOE) is also requiring that businesses engaging in such retail transactions hold a seller's permit.

(GE) The purpose and intent of this chapter is to regulate the cultivation, processing, manufacturing, transporting, storage, distribution, and dispensing sale of ~~medical~~ cannabis and cannabis products for qualified patients with a valid physician's recommendation and for adults 21 years of age and over in a manner that protects the public health, safety and welfare of the community and mitigates for the costs to the community of the oversight of these activities.

Section 19.

Title 15, Chapter 158, Section 158.002 [Interpretation and Applicability] is hereby amended to read as follows:

§ 158.002 INTERPRETATION AND APPLICABILITY.

(A) No part of this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing, manufacturing, transport, ~~storage~~ing, distribution, and ~~dispensing~~ sale of ~~medical~~ cannabis in the City is controlled by the provisions of this chapter of the Eureka

Municipal Code. Accessory uses and home occupations, where ~~medical~~ cannabis is involved, shall be governed by the provisions of this chapter.

(B) Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

(C) Nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting cannabis cultivation, manufacturing, smoking or other related activities by tenants.

(D) Nothing in this chapter is intended, nor shall it be construed, to exempt any cannabis related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

(E) Nothing in this chapter is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of cannabis that is otherwise prohibited under California law.

(F) All cultivation, processing, manufacturing, testing, transport, ~~storage~~, distribution, or ~~dispensing sale~~ of ~~medical~~ cannabis within City limits shall be subject to the provisions of this chapter, regardless if the cultivation, processing manufacturing, testing, transport, ~~storage~~, distribution, or ~~sale~~ ~~dispensing~~ existed or occurred prior to adoption of this chapter or at the time of subsequent amendments to this chapter.

Section 20.

Title 15, Chapter 158, Section 158.003 [Release of Liability and Hold Harmless] is hereby amended to read as follows:

§ 158.003 RELEASE OF LIABILITY AND HOLD HARMLESS.

As a condition of approval of any use permit or cannabis license approved for a ~~medical~~ cannabis ~~cultivation, processing, manufacturing, transporting, distribution, dispensing, and/or testing~~ facility, the ~~owner or permittee~~ ~~licensee~~ of each ~~medical~~ cannabis facility shall indemnify and hold harmless the City and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the ~~medical~~ cannabis facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise ~~from out of the cultivation, processing, manufacturing, transporting, distribution, dispensing, and/or testing of~~ ~~medical~~ cannabis ~~activities~~.

Section 21.

Title 15, Chapter 158, Section 158.004 [Definitions] is hereby amended to read as follows:

§ 158.004 DEFINITIONS.

(A) For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

[AUMA. The Control, Regulate and Tax Adult Use of Marijuana Act, and any amendments thereto.](#)

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. **CANNABIS** also means the separated resin, whether crude or purified, obtained from marijuana. **CANNABIS** also means marijuana as defined by § 11018 of the Cal. Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. **CANNABIS** does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, **CANNABIS** does not mean "industrial hemp" as defined by § 81000 of the Cal. Food and Agricultural Code or § 11018.5 of the Cal. Health and Safety Code.

CANNABIS LICENSE. An annual license issued by the Department to allow the operation of a ~~medical~~-cannabis facility.

COMMISSION. The Planning Commission of the City.

DIRECTOR. The Director of Development Services of the City, or his or her designee.

DEPARTMENT. The Development Services Department of the City.

~~**ENFORCEMENT OFFICER.** Any City employee or agent authorized to enforce any provisions of this code or any code adopted by the City.~~

[MAUCRSA. The Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017, as amended.](#)

[MCRSA. Medical Cannabis Regulation and Safety Act of 2016, and anys amendments thereto, ed and formerly known as the Medical Marijuana Regulation and Safety Act \(MMRSA\) of 2015.](#)

~~**MEDICAL CANNABIS.** Cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).~~

PRIMARY CAREGIVER. As defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

QUALIFIED PATIENT. As defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

(B) For the purposes of this chapter, the following definitions shall apply to the personal use of ~~medical~~ cannabis unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

~~— **DWELLING UNIT.** A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.~~

~~**MEDICAL CANNABIS CULTIVATION AREA.** The maximum dimensions used for the cultivation of ~~medical~~ cannabis. For the purpose of § 158.010 of this chapter, the allowable cultivation area shall be the cumulative gross area used for cultivation of ~~medical~~ cannabis and shall be measured using either (a) the outward edge of the trays, pots or other containers used for cultivation or (b) the vegetative canopy, whichever is greater.~~

~~— **MEDICAL CANNABIS DISTRIBUTION or DISPENSING.** The supply to a qualified patient by any person, including a primary caregiver, of medical cannabis that is not grown in the qualified patient's residence.~~

~~**MEDICAL CANNABIS PROCESSING.** Includes, but is not limited to: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, rolling.~~

~~**MEDICAL CANNABIS PROCESSING AREA.** The maximum dimensions used for the processing of ~~medical~~ cannabis. For the purpose of this chapter, the allowable processing area shall be the cumulative gross floor area used for processing ~~medical~~ cannabis. ~~Where the processing area occupies the majority of a room or rooms, the processing area shall be calculated as the total gross floor area of the room or rooms used for processing medical cannabis.~~~~

~~**MEDICAL CANNABIS.** Cannabis, including, but not limited to, concentrates and extractions, intended to be cultivated or sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).~~

~~**RESIDENCE.** A legal dwelling unit consisting of a room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.~~

(C) For the purposes of this chapter, the following definitions shall apply to commercial ~~medical~~ cannabis, unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

~~**BATCH.** A specific quantity of ~~medical-homogeneous~~ cannabis or ~~medical~~-cannabis products that is and as defined in MAUCRSA, ~~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.~~

~~CANNABIS ACTIVITY.~~ ~~The commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, delivery, or sale of cannabis or a cannabis products.~~

~~CANNABIS PRODUCTS.~~ ~~Any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.~~

~~CULTIVATION.~~ The planting, growing, harvesting, drying, curing, grading, or trimming of cannabis ~~for use by medical cannabis patients.~~

~~CULTIVATION FACILITY.~~ A facility for ~~medical~~ cannabis cultivation for supply to a ~~medical~~ cannabis distributor or manufacturer, including a nursery that produces only clones, immature plants or seeds.

- ~~DELIVERY.~~ The commercial transfer of medical cannabis or medical cannabis products ~~from a dispensary, to a primary caregiver or qualified patient, a testing laboratory.~~ Delivery also includes the use by a dispensary of a third party that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer of medical cannabis or medical cannabis products customer.

~~— DELIVERY SERVICE. See TRANSPORTER.~~

~~— DISPENSING.~~ Any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

~~— DISPENSING FACILITY or DISPENSARY.~~ A physical retail establishment where medical cannabis or medical cannabis products are offered for retail sale as a medication upon recommendation by a physician, and are made available to or sold to a primary caregiver or a qualified patient in strict accordance with the Compassionate Use Act of 1996 (Cal. Health and Safety Code §§ 11362.5 et seq.).

~~DISTRIBUTION.~~ The procurement, sale, and transport of ~~medical~~ cannabis and ~~medical~~ cannabis products ~~purchased and sold~~ between licensed entities. ~~DISTRIBUTION~~ also includes the inspection, storage, including during quality assurance and batch testing processes, labeling, packaging and other processes ~~necessary or required~~ prior to transport to a licensed ~~medical~~ cannabis ~~dispensary retailer~~ or ~~medical~~ cannabis manufacturing facility.

EVENT. A public or social occasion.

FACILITY or **FACILITIES**. A facility, premise, tenant space, site or location where one or more types of ~~medical~~ cannabis activity is undertaken.

LICENSEE. A person who possesses both a state license and a cannabis license issued by the City to engage in commercial cannabis activity.

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 uniform character and quality within specified limits.~~

MANUFACTURING FACILITY. A facility for the production, preparation, propagation, or compounding of cannabis or 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, and includes a location that packages or repackages cannabis or cannabis products or labels or relabels its container.

MANUFACTURING FACILITY, NON-VOLATILE. A manufacturing facility which does not involve the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).

MANUFACTURING FACILITY, VOLATILE, LARGE. A manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2).

MANUFACTURING FACILITY, VOLATILE, SMALL. A manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities equal to or less than those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2), ~~and that has been issued both a local license or permit and a state license pursuant to this chapter.~~

MICROBUSINESS FACILITY. A facility where one licensee may conduct two or more of the following cannabis activities: indoor cultivation with a total cultivation area of not more than 2,500 square feet, distribution, non-volatile manufacturing and retail sales, distribution, non-

volatile manufacturing, retail sales, and indoor cultivation with a total cultivation area that does not exceed the maximum allowed in the zone district.

~~— **MCRSA.** Medical Cannabis Regulation and Safety Act, as amended and formerly known as the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015.~~

~~— **MEDICAL CANNABIS ACTIVITY.** The commercial cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product.~~

RESEARCH AND DEVELOPMENT FACILITY. A facility that offers or performs research and development of cannabis or cannabis products where no commercial cultivation, processing, distribution, wholesale, or retail sales of cannabis or cannabis products occurs. Growing of plants and the use of volatile solvents for the purpose of conducting the research and development may be allowed. **RESEARCH AND DEVELOPMENT** may include, but is not limited to, systematic activities intended to create new products, processes, patents; scientific assessment of the safety and efficacy of cannabis and cannabis compounds for research and product development purposes; and/or work directed toward the innovation, introduction and improvement of production, processes, and/or products.

RETAIL FACILITY or RETAILER. A physical retail establishment where cannabis or cannabis products are offered for retail sale and delivery to customers. A retail facility may be closed to the public, and the retailer may conduct sales exclusively by delivery.

TESTING FACILITY. A facility that offers or performs testing of ~~medical~~ cannabis or ~~medical~~ cannabis products where no commercial cultivation, processing, ~~dispensing or~~ distribution, ~~or sale of~~ ~~medical~~ cannabis or cannabis products occurs.

TRACK AND TRACE PROGRAM. A program or system that enables the ~~city~~City to track cannabis and cannabis products through the commercial ~~medical~~ cannabis supply chain ~~as described in MCRSA.~~

~~— **TRANSPORTER.** A service or business that transfers medical cannabis or medical cannabis products between facilities that have been issued a cannabis license pursuant to this chapter or from a dispensary to a qualified patient.~~

UNIQUE IDENTIFIER. A number, digital signature, stamp or combination thereof that allows for the identification of ~~medical~~ cannabis or ~~medical~~ cannabis products at the level of a batch, lot, or package labeled for individual sale.

VOLATILE SOLVENTS. As used only in this chapter, shall mean those solvents used in the manufacture of cannabis products determined to be volatile by the California Department of Public Health or the Humboldt Bay Fire Department.

Section 22.

Title 15, Chapter 158, Section 158.010 [Cultivation] is hereby amended to read as follows:

§ 158.010 CULTIVATION.

(A) A qualified patient and persons 21 years of age or over shall be allowed to cultivate ~~medical~~ cannabis for their own personal use. The ~~medical~~ cannabis cultivation area for each residence shall not cumulatively exceed 50 square feet per residence. Cultivation of ~~medical~~ cannabis for personal use shall be in conformance with the following standards:

(1) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. ~~Medical-C~~ cannabis cultivation shall remain at all times secondary to the residential use of the property;

~~—(2) The qualified patient shall reside in the residence where the medical cannabis cultivation occurs;~~

~~(23)~~ Cultivation of ~~medical~~ cannabis for personal use shall occur only ~~on the parcel either~~ within ~~the a private~~ residence ~~occupied by the qualified patient~~, or in a self-contained accessory building that is secured, locked, and fully enclosed and which is for the exclusive use of the ~~qualified patient resident~~. Cultivation of ~~medical~~ cannabis for personal use shall not displace required off-street parking;

~~(34)~~ ~~The medical-C~~ cannabis cultivated for personal use ~~in area shall not exceed 50 square feet and~~ shall not exceed ten feet in height per residence, regardless if cultivated within the residence or in an accessory building. An exception Request may be granted for medical cannabis pursuant to ~~is obtained per~~ § 158.010(B);

~~(45)~~ If required by Building or Fire Code, the wall(s) adjacent to the cultivation area shall be constructed with 5/8-inch Type X moisture-resistant drywall;

~~(56)~~ The ~~medical~~ cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

~~(67)~~ The cultivation of ~~medical~~ cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is cultivated, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, ~~odor,~~ smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes, and no odor shall be detectable outside the exterior walls of the individual residence or accessory structure where cannabis is cultivated;

~~(78)~~ ~~Medical-C~~ cannabis cultivation lighting shall not cumulatively exceed 1,200 watts. An Exception Request may be granted for medical cannabis pursuant to § 158.010(B); ~~unless an exception request is obtained per § 158.010(B);~~

~~(89)~~ All electrical equipment used in the cultivation of ~~medical~~ cannabis, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of

extension cords to supply power to electrical equipment used in the cultivation of ~~medical~~ cannabis is prohibited;

~~(910)~~ Any electrical wiring/rewiring shall first require an electrical permit from the Building Department;

~~(104)~~ The use of gas products (e.g., CO₂, butane, etc.) for ~~medical~~-cannabis cultivation is prohibited. -An Exception Request may be granted for medical cannabis pursuant to § 158.010(B); unless an exception request is obtained per § 158.010(B); and

~~(112)~~ From a public right-of-way, there shall be no exterior evidence of ~~medical~~-cannabis cultivation occurring at the property, including odor.

(B) Medical Cannabis Exception Request. The ~~medical-cannabis~~ cultivation area for medical cannabis may exceed the 50 square foot maximum per residence, up to a total of 100 square feet of cultivation area, or the standards in § 158.010(A)(~~34~~), (~~78~~) or (~~104~~) above may be modified, upon approval of an Exception Request issued by the Director ~~of Community Development~~. An Exception Request shall not allow more than a total medical cannabis cultivation area of 100 square feet per residence, regardless if cultivated within the residence or an accessory building.

~~(1)~~ ~~—(1)~~ An application for a medical cannabis

~~(1)(2)~~ Exception Request shall include the following information:

(a) Written permission from the property owner;

(b) An application fee set by resolution of the City Council;

(c) Adequate information and documentation, such as a physician's recommendation, or verification of more than one qualified patient living in the residence, to demonstrate why the cultivation area should be allowed to exceed 50 square feet;

(d) The ~~specified~~ location and size of the requested cannabis cultivation area ~~not to exceed 100 square feet and not to exceed ten feet in height~~;

(e) A materials storage, handling and disposal plan; and

(f) If the Exception Request includes a request to modify the standards prescribed in § 158.010(A)(~~34~~), (~~78~~) or (~~104~~), documentation and information shall be provided identifying which standards are proposed to be modified and why such modification would not detrimentally affect the use of the ~~dwelling unit~~ residence for its intended residential occupancy.

(3) If required by Building or Fire Code, the applicant shall make specified improvements to the residence with a Building Permit, if one is needed. Such improvements may include, but are not limited to, electrical system upgrades.

(4) The Director, in consultation with the Chief Building Official and Fire Marshal, shall review the submitted application and determine if the specific circumstances warrant granting an Exception Request.

(5) The Exception Request shall become void, and the cannabis cultivation area in excess of 50 square feet shall be removed one year following the date on which the Exception Request was issued, unless the Exception Request is renewed prior to expiration.

(C) ~~Medical-e~~Cannabis cultivation is prohibited as a home occupation. ~~Medical-C~~cannabis cultivation shall not be considered a residential accessory use. No distribution of cannabis cultivated for personal use shall be allowed.

Section 23.

Title 15, Chapter 158, Section 158.011 [Processing] is hereby amended to read as follows:

§ 158.011 PROCESSING.

(A) ~~A qualified patient shall be allowed to~~The processing area for medical cannabis cultivated within ~~his or her a~~ private residence or accessory structure. ~~The medical cannabis processing area~~ shall not cumulatively exceed 520 square feet per residence. Processing of ~~medical~~ cannabis cultivated at the residence shall be in conformance with the following standards:

(1) Only ~~medical~~ cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence;

(2) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. ~~Medical-e~~Cannabis processing shall remain at all times secondary to the residential use of the property;

(3) The ~~medical~~ cannabis processing area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(4) The use of gas products (e.g., CO₂, butane, etc.) for ~~medical~~ cannabis processing is prohibited; and

(5) The processing of ~~medical~~ cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, ~~odor~~, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes and all odor shall be contained within the exterior walls of the residence or accessory structure where cannabis is processed.

(B) ~~Medical~~Cannabis processing is prohibited as a home occupation. ~~Medical~~Cannabis processing shall not be considered a residential accessory use. No sale or distributing of ~~medical~~ cannabis processed for personal use shall be allowed.

Section 24.

Title 15, Chapter 158, Section 158.012 [Distributing or Dispensing] is hereby amended to read as follows:

§ 158.012 DISTRIBUTING OR ~~DISPENSING~~SALES.

~~Medical~~eCannabis cultivated or processed for personal use as provided for in this chapter shall not be distributed or ~~dispensed~~sold to any person unless specifically allowed under this chapter or by State law.

Section 25.

The title of this section is hereby amended as follows:

COMMERCIAL ~~MEDICAL~~CANNABIS - REQUIREMENTS AND REGULATIONS

Section 26.

Title 15, Chapter 158, Section 158.020 [Offices] is hereby amended to read as follows:

§ 158.020 ~~OFFICES~~.EVENTS.

~~—(A)—~~

~~No public or private event where cannabis ~~kept, displayed, or~~ offered in any manner, sold, furnished, transferred, given away, and/or consumed by any person shall be allowed outside a licensed cannabis facility. ~~Offices. Offices at which no cultivation, processing, storage, handling, dispensing or distribution of cannabis, in any form, occurs shall be allowed in any zoning district in which offices are allowed. Such offices shall be subject to all regulations and standards applicable to offices as prescribed in the Zoning Regulations of the Eureka Municipal Code.~~~~

~~—(B)— *Medical research labs and testing facilities.* ~~Medical cannabis research labs or medical cannabis testing facilities at which no cultivation, processing, or distribution of medical cannabis occurs shall be allowed in any zoning district in which laboratories or medical laboratories are permitted. Such facilities shall be subject to all regulations and standards applicable to labs or medical labs as prescribed in the Zoning Regulations of the Eureka Municipal Code.~~~~

Section 27.

Title 15, Chapter 158, Section 158.021 [Medical Cannabis Facilities] is hereby amended to read as follows:

§ 158.021 ~~MEDICAL~~COMMERCIAL-CANNABIS FACILITIES.

(A) ~~Medical-Commercial~~ cannabis activity shall be allowed at ~~medical-commercial~~ cannabis facilities as follows, provided P for permitted uses or C or MC, for conditional uses appears in the column below each district. Uses listed with a C or MC shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title.

Type of Facility	CC	CN	CS	CW	HM	MG	ML	OR	A/AC
Cultivation, mixed light, not more than 10,000 square feet of cultivation area						€			€
Cultivation, indoor, not more than 10,000 square feet of cultivation area						MC	MC		
Cultivation, indoor, not more than 5,000 square feet of cultivation area			C			P	P		
Dispensing	€	€	€		€	€	€		
Distribution, <u>cannabis on site, with or without transportation</u>			P			P	P		
<u>Distribution, transportation only, no cannabis on-site</u>	<u>P</u>	<u>MC</u>	<u>P</u>	<u>MC</u> <u>158.021(D)</u>		<u>P</u>	<u>P</u>	<u>P</u>	
Manufacturing, non- volatile, more than 5,000 square feet of <u>manufacturing</u> floor area			C			P	P		

Manufacturing, non- volatile, 5,000 square feet or less of <u>manufacturing</u> floor area	<u>MC</u>		MC			P	P		
Manufacturing, volatile, more than 1,500 square feet of manufacturing floor area <u>large</u>						C			
Manufacturing, volatile, 1,500 square feet or less of manufacturing floor area <u>small</u>						C	C		
<u>Microbusiness</u>	<u>158.021 (F)</u>	<u>158.021 (F)</u>	<u>158.021 (F)</u>			<u>158.021 (F)</u>	<u>158.021 (F)</u>		
<u>Retail</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>		
<u>Research and Development</u>	<u>158.021 (G)</u>		<u>158.021 (G)</u>	<u>158.021 (B) and (G)</u>	<u>158.021 (G)</u>	<u>158.021 (G)</u>	<u>158.021 (G)</u>		
Testing, where no <u>commercial</u> cultivation, processing, <u>manufacturing, wholesale, retail,</u> or distribution of medical cannabis occurs	P		P	C 158.021(CB)	P	P	P	C	
Transporter, co-located with a distribution facility			P			P	P		
Transporter, located separate from a distribution facility	P	MC	P	MC 158.021(C)		P	P	P	

(B) In the Waterfront Commercial (CW) zoning district, ~~medical~~ cannabis ~~testing~~ research and development facilities with no plants and/or no manufacturing processes occur may be allowed above the ground floor of commercial structures with a use permit granted pursuant to §§ 155.280 through 155.299 of this title. ~~C~~Medical cannabis ~~testing~~ research and development facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

~~—(C) In the Waterfront Commercial (CW) zoning district, medical cannabis transportation facilities that are located separate from a medical cannabis distribution facility may be allowed above the ground floor of commercial structures with a minor use permit granted pursuant to §§ 155.280 through 155.299 of this title. Medical cannabis transportation facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.~~

(CB) In the Waterfront Commercial (CW) zoning district, cannabis testing facilities may be allowed above the ground floor of commercial structures with a use permit granted pursuant to §§ 155.280 through 155.299 of this title. Cannabis testing facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(DC) In the Waterfront Commercial (CW) zoning district, medical cannabis ~~transportation-distribution~~ facilities that only transport cannabis, and where no cannabis is located on site ~~that are located separate from a medical cannabis distribution facility~~ may be allowed above the ground floor of commercial structures with a minor use permit granted pursuant to §§ 155.280 through 155.299 of this title. Medical cannabis ~~transportation-distribution~~ facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(ED) The cultivation area for commercial ~~medical~~ cannabis shall be the cumulative gross floor area of the room or rooms where cannabis plants are grown, ~~used for cultivation of medical cannabis and shall be measured using the gross floor area where cannabis plants are grown.~~

(F) Microbusiness Facilities.

(1) A Microbusiness Facility shall be allowed in zone districts where all proposed uses are allowed. For example, a Microbusiness for distribution and retail can be allowed in any zone district in which both distribution AND retail are allowed. A Microbusiness for non-volatile manufacturing, distribution and retail shall only be allowed in a zone district in which all three uses are allowed.

(2) Microbusiness Facilities for cultivation and/or non-volatile manufacturing shall utilize the same size limitations prescribed for a cultivation or manufacturing facility in the corresponding zone district.

(3) A Microbusiness Facility shall be principally permitted, except when located in a zone where one or more uses requires a Conditional (C) or Minor Conditional (MC) use permit, in which case the Microbusiness Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Microbusiness Facility shall obtain a Conditional (C) use permit.

(4) The use of volatile solvents is prohibited in a Microbusiness Facility.

(G) Research and Development Facilities.

- (1) A Research and Development Facility may be allowed in the zone district.
- (2) A Research and Development Facility that utilizes manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where the corresponding type of manufacturing facility is allowed and shall utilize the same size limitations prescribed for the corresponding facility in the zone district.
- (3) A Research and Development Facility with plants (cultivation) shall only be approved in a zone district where cultivation is allowed and shall utilize the same size limitations prescribed for the cultivation facility allowed in the zone district.
- (4) A Research and Development Facility utilizing both plants (cultivation) and manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where both cultivation and manufacturing facilities are allowed and shall utilize the same size limitations prescribed for the corresponding type of facility in the zone district.

- (5) A Research and Development Facility shall be principally permitted, except when the use corresponds to a cultivation or manufacturing facility use requiring a Conditional (C) or Minor Conditional (MC) use permit, in which case the Research and Development Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Research and Development Facility shall obtain a Conditional (C) use permit.

Section 28.

Title 15, Chapter 158, Section 158.022 [Dispensing Facilities] is hereby amended to read as follows:

§ 158.022 ~~DISPENSING-RETAIL~~ FACILITIES.

(A) ~~The~~A maximum number of ~~six dispensing-retail~~ facilities ~~allowed within~~ City ~~limits~~ shall be ~~set by Resolution of the City Council~~ ~~allowed within~~ City ~~limits~~.

(B) Only those medical cannabis ~~dispensing-retail~~ facilities invited by the City Council may submit an application for a use permit. The City Council may elect to invite fewer applicants than the number ~~pre~~described in § 158.022(A). The City shall:

(1) Release a Request for Qualification (RFQ) for medical cannabis ~~dispensing-retail~~ facilities within the City, and including a deadline for acceptance of RFQ responses; and

(2) A staff-led committee shall review and evaluate all responsive RFQ's submitted by the deadline to determine which respondents best meet the City's criteria for a ~~dispensing-retail~~ facility as set forth in the Scope of Work included in the RFQ; and

(a) The criteria upon which the committee shall base their review and evaluation shall include at a minimum, but shall not be limited to, a business plan, the business experience and qualifications of the respondent, and the information required in § 158.030(D); and

(3) The committee shall return to Council with ranked recommendations regarding facility invitations.

(C) No more than two conditional use permits to operate a ~~medical-retail~~ cannabis ~~dispensary~~ facility shall be issued in a six month period.

(D) Mobile ~~dispensing-sales~~ of ~~medical~~-cannabis is prohibited within City limits.

Section 29.

Title 15, Chapter 158, Section 158.023 [Delivery Services] is hereby amended to read as follows:

§ 158.023 DELIVERY SERVICES.

(A) A ~~medical~~-cannabis delivery service that is associated with a permitted ~~dispensing-retail~~ facility located within City limits and for which delivery originates from the ~~dispensing-retail~~ facility shall only be allowed when the delivery service is described and included in the use permit for the ~~dispensing-retail~~ facility.

(B) ~~Medical-C~~cannabis ~~delivery~~ ~~services~~ originating from outside City limits and delivering ~~medical~~-cannabis or ~~medical~~-cannabis products within City limits shall only be allowed upon the granting of a mobile business license.

Section 30.

Title 15, Chapter 158, Section 158.024 [Required Conditions and Findings] is hereby amended to read as follows:

§ 158.024 REQUIRED CONDITIONS AND FINDINGS.

(A) Whether or not a use permit is required, all ~~medical~~-cannabis facilities ~~and offices~~ shall:

(1) Obtain a cannabis license issued by the City on an annual basis pursuant to §§ 158.030 through 158.032 of this chapter;

(2) Obtain a business license issued by the City on an annual basis pursuant to Chapter 110 of the Eureka Municipal Code; and

~~(32)~~ Conform to the regulations prescribed by, and cConsist of a business form that satisfies this chapter and Sstate law; and

~~(43)~~ Diligently pursue and obtain licensure by the state within six months of being permitted to operate in the City.

(B) Each entrance to a ~~medical~~-cannabis facility shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises, except for qualified patients, unless accompanied by a parent or legal guardian.

(C) No new permit or license to operate shall be issued for any facility that is located within a 600 foot the radius ~~or distance prescribed in Cal. Health and Safety Code § 11362.768~~ of an existing public charter or K-12 school. A public charter or K-12 school that locates within 600 feet of an existing cannabis facility shall not be grounds to deny the annual renewal at that location of a previously granted cannabis facility permit or license.

(D) The operation of ~~medical~~-cannabis facilities shall not adversely affect the health or safety of the facility occupants or employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, ~~odor~~, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes, and no odor shall be detectible outside the walls of the facility.

~~—(E) Pursuant to the MCRSA, Cal. Health and Safety Code § 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with § 1140) of Division 2 of the Cal. Labor Code), to the extent not prohibited by law."~~

(E) *Signs.* No signs are allowed.

(F) *Off-street parking.* Off-street parking facilities shall be provided for each use as set forth in §§ 155.115 through 155.124 of this chapter and as follows:-

<u>Type of Cannabis Facility</u>	<u>Parking Use</u>
<u>Cultivation</u> <u>Distribution</u> <u>Research and development with plants and manufacturing</u>	<u>Warehousing and distribution</u>
<u>Manufacturing</u> <u>Research and development with manufacturing</u>	<u>Manufacturing plants and other industrial uses</u>
<u>Research and development</u> <u>Retail</u> <u>Testing</u>	<u>Retail sales and service</u>

(G) *Off-street loading.* Off-street loading facilities shall be provided for each use as set forth in §§ 155.135 through 155.141 of this chapter.

(H) ~~Medical-e~~Cannabis facility operators shall refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA). Any uses of pesticide products shall be in compliance with state pesticide laws and regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.

(I) Operators of ~~medical~~ cannabis facilities, ~~and laboratories and testing facilities~~ shall maintain active enrollment and participate in a track and trace program as approved by the ~~city~~City. The cityCity may require participation in a track and trace program separate from the State's track and trace program. Any separate program shall be in addition to and not instead of the State's track and trace program.

(J) Applicants for a cannabis license and/or cannabis facility use permit or minor use permit shall undergo a background investigation as prescribed by the City.

(K) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial change in the mode or character of business operation.

(L) *Findings.* The Director shall make the following findings before granting a cannabis license:

(1) That the applicant and the premises for which a license is applied meet all the requirements and qualify for licensure under this chapter; and

(2) That the applicant has not been convicted of a felony as prescribed in MAUCRSA, or as amended.

Section 31.

Title 15, Chapter 158, Section 158.030 [Permits and Licensing] is hereby amended to read as follows:

§ 158.030—APPLICATIONS, USE PERMITS, AND LICENSES, AND FEESING.

~~(A) *Cannabis license required.* All medical cannabis facilities and offices shall obtain a cannabis license and shall comply with the provisions of this chapter and with the requirements of the MCRSA, or as amended.~~

~~(B)~~ *Cannabis license applications.* Applications for cannabis licenses shall be filed with the Director. The Director shall issue a cannabis license upon finding that the ~~medical~~ cannabis facility ~~or office~~ meets, ~~or in the case of the state license requirements, will meet,~~ all of the requirements of this chapter.

~~(B)~~ *Lapse of cannabis license.* A cannabis license shall lapse and shall become void one year following the date on which the cannabis license became effective unless the cannabis license is renewed pursuant to § 158.032 of this chapter or unless the cannabis license is revoked for a violation of the terms of the cannabis license application.

~~(C)~~ *Use permit applications.* Applications for use permits ~~shall be~~ shall be filed with the Director.

~~(D)~~ *Data to be furnished.* Applications for use permits and cannabis licenses shall be on forms provided by the Department and shall include all information required in the use permit application and the supplemental application packet, which. ~~Required information may include,~~ but is not limited to:

(1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

(2) Text and graphic materials showing the site and floor plan for the ~~medical~~ cannabis facility including the use of each room or building on the premises. ~~The material shall also describe or illustrate the location and uses of adjacent structures and properties;~~

(3) The hours and days of the week the ~~medical~~ cannabis facility will operate~~be open~~;

(4) The number of persons, per shift, who will be working at the ~~medical~~ cannabis facility;

(5) The security measures that will be employed at the premises, ~~including but not limited to: lighting, alarms, and automatic law enforcement notification;~~

(6) The odor control measures that will be employed at the premises;

(7) The chemicals stored or used at the premises, including cumulative quantities of each chemical;

(8) The type and quantity of all effluent discharged into the City's wastewater and/or stormwater system and a copy of the applicant's submitted discharge application or approved discharge permit, if applicable;

~~—(9) The name, location and operator of the medical cannabis facility(ies) supplying the medical cannabis to the facility;~~

~~(10)~~ A detailed operations manual containing, at a minimum:

(a) The staff screening process including appropriate background checks;

(b) The process for tracking ~~medical~~ cannabis quantities and inventory controls;

(c) For medical cannabis retailers:

(i) A description of the screening, registration and validation process for qualified patients;

(ii) A description of qualified patient _____ records acquisition and retention procedures; and

~~(iii)~~ The process for tracking medical cannabis quantities and inventory controls including on-site cultivation, processing, and/or medical cannabis products received from outside sources;

~~(11)~~ A detailed Cannabis Safety Program, which includes at a minimum, the following,

(a) The process for documenting the chain of custody of all ~~medical~~ cannabis and ~~medical~~ cannabis products from farm to patient/consumer;

(b) The procedure and documentation process for assuring the safety and quality of all ~~medical~~ cannabis and ~~medical~~ cannabis products; and

(c) The procedure and documentation process for determining ~~patient dosage quantity~~ including testing for the major active agents in the ~~medical~~-cannabis (e.g., cannabinoids THC, CBD and CBN).

(E) State License Submittal. An applicant for a cannabis facility license shall submit an electronic copy of the completed and submitted State application and all attachments, either along with the City's cannabis facility license application, or within five days of the date the application is submitted to the State Bureau of Cannabis Control, whichever is later.

(FE) Fees. Applications shall be accompanied by a fee established by resolution of the Council to cover the cost of handling the application as prescribed in this chapter.

Section 32.

Title 15, Chapter 158, Section 158.031 [Costs and Taxes] is hereby amended to read as follows:

§ 158.031 COSTS AND TAXES.

The costs to the City arising from the processing and oversight of Exception Requests under § 158.010(B) and use permits, cannabis licenses, business licenses, and unique identifiers for a required track and trace program for ~~medical~~-cannabis facilities, and the costs of monitoring and ensuring compliance with this chapter, including investigations, enforcement actions, and disciplinary or abatement proceedings, will be offset through application fees, annual renewal fees, and fees for unique identifiers, ~~to be as~~ adopted by the City Council by resolution and updated as necessary from time-to-time. In the administration of the permitting or licensing requirements under this chapter, the City Manager, or his or her designee, may require as a condition ~~of~~ granting ~~and or~~ renewing ~~of the use~~ permits or licenses, any information reasonably necessary to implement the intent of this chapter, to ensure that the cannabis handled under the use permit or license is grown, tested, processed, manufactured, distributed and/or ~~dispensed~~ sold in a manner not in conflict with this chapter, and to ensure that any and all related sales taxes are being properly reported and paid.

Section 33.

Title 15, Chapter 158, Section 158.032 [Inspection and Monitoring] is hereby amended to read as follows:

§ 158.032 INSPECTION AND MONITORING.

(A) Inspectors with the Development Services, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility, and may examine the records of a licensee to ensure compliance with the terms of the ~~medical~~-cannabis license at any time during normal operating hours ~~as specified in the license application~~.

(B) A cannabis licensee shall submit to the Department an inspection fee set by resolution of the City Council and shall make a request to the Department for an inspection of each ~~medical~~

cannabis facility not more than 90 days and not less than 30 days prior to the annual expiration of the cannabis license to assure compliance with the terms of the ~~medical~~ cannabis license. Inspectors with the Development Services, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility. All records kept pursuant to the cannabis license shall be open for visual inspection.

(C) If the cannabis licensee fails to submit the inspection fee or request an inspection within the specified time frame, refuses inspection, or if the inspection finds that the facility is not operated in compliance with the approved license application, the cannabis license shall be subject to revocation and upon cannabis license revocation the facility shall immediately cease operation.

(D) Within ten business days of the inspection date ~~Following inspection~~ pursuant to division (B) above, the City shall either provide a written statement of non-compliance and a timeline for attaining compliance, or shall renew the cannabis license ~~within ten business days of the inspection date~~.

(E) Within ten days after issuance of a statement of non-compliance, the determination of non-compliance may be appealed by any interested party to the Commission pursuant to § 155.377 of this title. The appeal shall be made, in writing, on a form provided by the City Clerk, along with a fee set by resolution of the City Council. The City reserves the right to determine whether the facility shall continue to operate during the appeal process.

Section 34.

Title 15, Chapter 158, Section 158.033 [Enforcement] is hereby amended to read as follows:

§ 158.033 ENFORCEMENT, SUSPENSION, REVOCATION, AND HEARING.

(A) A person engaging in commercial cannabis activity without a license required by this chapter, and/or aAny violation of this chapter is subject to administrative, civil, or criminal penalties, as set out in Eureka Municipal Code § 10.99, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. Daily monetary penalties of up to three times the amount of the license fee for each violation may be assessed, and a court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this chapter. A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation. This is a chapter adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.

(B) Whenever an enforcement officer as defined in Eureka Municipal Code § 10.38 determines a cannabis facility or licensee has failed to comply with the regulations set forth in this chapter, or determines an action, or inaction by a cannabis facility or licensee threatens or

negatively impacts, or may, in the opinion of the enforcement officer, threaten or negatively impact the public health, safety, and/or welfare, the enforcement officer may issue a notice of violation which provides a timeline for compliance, and may, at his or her discretion, require all or part of the facility's operations be immediately modified, or may immediately issue a notice of suspension to suspend a cannabis facility license. Suspension of a cannabis facility license shall mean all operations shall immediately cease, and shall not be resumed unless or until the suspended license is re-instated.

(C) Provided the enforcement officer determines that all violations have been corrected within the time specified in the notice of violation, a hearing pursuant to this section shall not be held, and following written notice from the enforcement officer, operations may resume. If the enforcement officer determines that any or all violations listed in the notice of violation have not been corrected within the time specified, the cannabis facility license shall be suspended, and the enforcement officer shall provide a written notice of suspension to the licensee.

(D) Whenever a cannabis facility license is suspended, a hearing pursuant to the administrative citation hearing procedures set forth in Chapter 10 of the Eureka Municipal Code will be held.

(E) After considering all of the testimony and evidence admitted at the hearing, the hearing officer shall issue a written decision to reinstate the license, reinstate the license with modifications, or may revoke the license, and shall state in the decision the reasons therefor.

(F) The decision of the hearing officer shall be final and shall be provided to the Cannabis Facility or Licensee within 15 days following the date of the hearing.

(G) When a cannabis facility license has been permanently revoked pursuant to §§ 158.032 or 158.033, the same or substantially the same applicant(s) shall not apply for or be granted a new cannabis license.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2017 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS

Marian Brady, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2017, and hereby approved.

Frank J. Jager, Mayor

Approved as to Administration:

Approved as to form:

Greg L. Sparks, City Manager

Cyndy Day-Wilson, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the _____
day of _____, 2017.

Pamela J. Powell, City Clerk

ATTACHMENT 3

Draft Ordinance Current Code clean

AN ORDINANCE OF THE CITY OF EUREKA AMENDING TITLE XV CHAPTER 155 AND TITLE 10 CHAPTER 5 OF THE EUREKA MUNICIPAL CODE PERTAINING TO CANNABIS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

Title 15, Chapter 155, Section 155.051, [A Agricultural Districts], paragraph (C), [Permitted and conditional uses], is hereby amended to read as follows *(the remainder of the text in the table is unchanged and is omitted)*:

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Section 2.

Title 15, Chapter 155, Section 155.054, [OR Office and Multi-Family Residential Districts], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows *(the remainder of the text in the table is unchanged and is omitted)*:

Lodging houses and bed and breakfast inns in which not more than 15 paying guests may be lodged or boarded	P	
Mobile vendors	P	

Section 3.

Title 15, Chapter 155, Section 155.054, [OR Office and Multi-Family Residential Districts], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows *(the remainder of the text in the table is unchanged and is omitted)*:

Administrative, business, and professional office, including medical offices, and any other use which is determined by the Commission, as provided in §§ 155.265 through 155.270 of this chapter, to be similar to an office use	P	
Cannabis distribution, transportation only, no cannabis on-site facilities subject to the provisions of Chapter 158	P	

Cannabis testing, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs facilities subject to the provisions of Chapter 158		C
Charitable institutions		C

Section 4.

Title 15, Chapter 155, Section 155.055 [HM Hospital Medical District], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Medical and dental offices and clinics, including offices of physicians, dentists, podiatrists, osteopaths, chiropractors, optometrists, and physical therapists	P	
Mobile vendors	P	

Section 5.

Title 15, Chapter 155, Section 155.055 [HM Hospital Medical District], paragraph (C) [Permitted and conditional uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Any use which is determined by the Commission, as provided in §§155.265 through 155.270 of this chapter, to be similar to the uses listed in this section	P	
Cannabis retail facilities subject to the provisions of Chapter 158		C
Cannabis research and development facilities, may be either principally or conditionally permitted pursuant to §158.021(G)	P/C	P/C
Cannabis testing, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs facilities subject to the provisions of Chapter 158	P	
Combinations of attached or detached dwelling units, including duplexes, multi-family dwellings, dwelling groups, row houses, or town houses		C

Section 6.

Title 15, Chapter 155, Section 155.078 [Permitted and conditional uses], paragraph (A), is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

	<i>CN</i>	<i>CP</i>	<i>CC</i>	<i>CS</i>
Medical and orthopedic appliance stores	P	P	P	P
Meeting halls		P	P	P

Section 7.

Title 15, Chapter 155, Section 155.078 [Permitted and conditional uses], paragraph (A), is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

	<i>CN</i>	<i>CP</i>	<i>CC</i>	<i>CS</i>
Candy stores	P	P	P	P
Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158				C
Cannabis distribution, cannabis on site, with or without transportation facilities subject to the provisions of Chapter 158				P
Cannabis distribution, transportation only, no cannabis on-site facilities subject to the provisions of Chapter 158	MC		P	P
Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158				MC
Cannabis non-volatile manufacturing facilities, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158				C
Cannabis microbusiness facilities subject to the provisions of Chapter 158	C		C	C
Cannabis retail facilities subject to the provisions of Chapter 158	C		C	C

Cannabis research and development facilities, may be either principally or conditionally permitted pursuant to §158.021(F)			P/C	P/C
Cannabis testing facilities where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of medical cannabis occurs, subject to the provisions of Chapter 158			P	P
Card rooms			P	P

Section 8.

Title 15, Chapter 155, Section 155.098 [Permitted uses], paragraph (A) [ML Limited Industrial Districts], subparagraph (1) [Light industrial and related uses, including only:] is hereby amended to read as follows *(the remainder of the text in the table is unchanged and is omitted)*:

<i>ML PERMITTED USES</i>
Mattress manufacture
Metal finishing and plating

Section 9.

Title 15, Chapter 155, Section 155.098 [Permitted uses], paragraph (A) [ML Limited Industrial Districts], subparagraph (1) [Light industrial and related uses, including only:] is hereby amended to read as follows *(the remainder of the text in the table is unchanged and is omitted)*:

<i>ML PERMITTED USES</i>
Bus depots
Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158

table is unchanged and is omitted):

<i>MG PERMITTED USES</i>
Bus depots
Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Chapter 158
Cannabis distribution, cannabis on site, with or without transportation facilities, subject to the provisions of Chapter 158
Cannabis distribution, transportation only, no cannabis on-site facilities, subject to the provisions of Chapter 158
Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Chapter 158
Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158
Cannabis testing facilities, where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of Chapter 158
Cannabis research and development facilities, subject to the provisions of Chapter 158
Cannabis testing, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Chapter 158
Cold storage plants

Section 12.

Title 15, Chapter 155, Section 155.099 [Conditional uses], paragraph (A) [ML Limited Industrial Districts] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

ML CONDITIONALLY PERMITTED USES
Live-work uses, only where the LW combining zone has been applied to the ML zone district
Motor vehicle wrecking yards and scrap metal yards

Section 13.

Title 15, Chapter 155, Section 155.099 [Conditional uses], paragraph (A) [ML Limited Industrial Districts] is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

ML CONDITIONALLY PERMITTED USES
Any of the Conditionally Permitted Uses requiring Additional Findings listed below provided that, on the basis of the use permit application and the evidence submitted, the Planning Commission makes the following findings, in addition to the findings prescribed in § 155.285 of this chapter: That consideration of all determinable characteristics of the use that is the subject of the application indicates that the use has the same essential characteristics as the uses listed in § 155.098(A)(1) of this subchapter with respect to the method of operation, type of process, materials, equipment, structures, storage, and appearance; That the use will conform with each of the required conditions prescribed for uses in the ML District in § 155.097 of this subchapter; and That the use will not create significantly more vehicular or rail traffic than the volumes normally created by the permitted uses listed in § 155.098(A)(1) of this subchapter.
Cannabis manufacturing facilities, volatile, small, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis retail facilities, subject to the provisions of Chapter 158
Cannabis research and development facilities, subject to the provisions of §158.021(G)
Gymnastic schools and health clubs

Section 14.

Title 15, Chapter 155, Section 155.099 [Conditional uses], paragraph (A) [ML Limited Industrial Districts] table titled, “ML Conditionally Permitted uses requiring Additional Findings” is hereby amended to read as follows:

ML CONDITIONALLY PERMITTED USES REQUIRING A MINOR USE PERMIT
Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis research and development facilities, subject to the provisions of §158.021(G)

Section 15.

Title 15, Chapter 155, Section 155.099 [MG General Industrial Districts] (B) [MG General Industrial Districts], subparagraph (1) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

MG CONDITIONALLY PERMITTED USES
Manure, peat, and topsoil processing and storage
Metal and metal ores reduction, refining, smelting, and alloying

Section 16.

Title 15, Chapter 155, Section 155.099 [MG General Industrial Districts] (B) [MG General Industrial Districts], subparagraph (1) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

MG CONDITIONALLY PERMITTED USES
Asphalt and asphalt products manufacture
Cannabis manufacturing facilities, volatile, large, subject to the provisions of Chapter 158
Cannabis manufacturing facilities, volatile, small, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis retail facilities, subject to the provisions of §158.021(G)
Cannabis research and development facilities, subject to the provisions of Chapter 158
Cement, lime, gypsum, and plaster of paris manufacture

Section 17.

Title 15, Chapter 155, Section 155.099 [MG General Industrial Districts] (B) [MG General Industrial Districts], subparagraph (1) table titled, “MG Conditionally Permitted Uses” is hereby amended to read as follows:

MG CONDITIONALLY PERMITTED USES REQUIRING A MINOR USE PERMIT
Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Chapter 158
Cannabis microbusiness facilities, subject to the provisions of §158.021(F)
Cannabis research and development facilities, subject to the provisions of §158.021(G)

Section 18.

Title 15, Chapter 158, Section 158.001 [Findings and Purpose] is hereby amended to read as follows:

§ 158.001 FINDINGS AND PURPOSE.

(A) The City Council of the City of Eureka, based on evidence presented to it in the proceedings leading to the adoption of this chapter and subsequent amendments to this chapter, hereby finds that the illegal and unpermitted cultivation, processing and distribution of cannabis in the City has caused and is causing ongoing impacts to the community. These impacts include damage to buildings containing illegal and unpermitted indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.

(B) The City Council acknowledges that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of cannabis for medical purposes under the Compassionate Use Act, but that the Compassionate Use Act does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

(C) The City Council acknowledges that the California legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015 and that the act allows local jurisdictions to regulate medical marijuana commerce and a range of medical cannabis license types in their jurisdictions under the state regulatory framework provided in the law as amended.

(D) The City Council acknowledges that in 2016, the voters of the State of California legalized the possession, cultivation, and sale of marijuana for individuals over the age of 21 through the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA).

(E) The City Council acknowledges that the California legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act. (MAUCRSA) in 2017 which repealed MCRSA and included certain provisions from MCRSA in the licensing provisions of AUMA, and generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity.

(F) The City Council acknowledges that sales of cannabis are subject to taxation by both the City and the state and that the California State Board of Equalization (BOE) is also requiring that businesses engaging in such retail transactions hold a seller's permit.

(G) The purpose and intent of this chapter is to regulate the cultivation, processing, manufacturing, transport, storage, distribution, and sale of cannabis and cannabis products for qualified patients with a valid physician's recommendation and for adults 21 years of age and

over in a manner that protects the public health, safety and welfare of the community and mitigates for the costs to the community of the oversight of these activities.

Section 19.

Title 15, Chapter 158, Section 158.002 [Interpretation and Applicability] is hereby amended to read as follows:

§ 158.002 INTERPRETATION AND APPLICABILITY.

(A) No part of this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing, manufacturing, transport, storage, distribution, and sale of cannabis in the City is controlled by the provisions of this chapter of the Eureka Municipal Code. Accessory uses and home occupations, where cannabis is involved, shall be governed by the provisions of this chapter.

(B) Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

(C) Nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting cannabis cultivation, manufacturing, smoking or other related activities by tenants.

(D) Nothing in this chapter is intended, nor shall it be construed, to exempt any cannabis related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

(E) Nothing in this chapter is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of cannabis that is otherwise prohibited under California law.

(F) All cultivation, processing, manufacturing, testing, transport, storage, distribution, or sale of cannabis within City limits shall be subject to the provisions of this chapter, regardless if the cultivation, processing manufacturing, testing, transport, storage, distribution, or sale existed or occurred prior to adoption of this chapter or at the time of subsequent amendments to this chapter.

Section 20.

Title 15, Chapter 158, Section 158.003 [Release of Liability and Hold Harmless] is hereby amended to read as follows:

§ 158.003 RELEASE OF LIABILITY AND HOLD HARMLESS.

As a condition of approval of any use permit or cannabis license approved for a cannabis facility, the licensee of each cannabis facility shall indemnify and hold harmless the City and its

agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cannabis facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise from cannabis activities.

Section 21.

Title 15, Chapter 158, Section 158.004 [Definitions] is hereby amended to read as follows:

§ 158.004 DEFINITIONS.

(A) For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUMA. The Control, Regulate and Tax Adult Use of Marijuana Act, and any amendments thereto.

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ***CANNABIS*** also means the separated resin, whether crude or purified, obtained from marijuana. ***CANNABIS*** also means marijuana as defined by § 11018 of the Cal. Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. ***CANNABIS*** does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, ***CANNABIS*** does not mean "industrial hemp" as defined by § 81000 of the Cal. Food and Agricultural Code or § 11018.5 of the Cal. Health and Safety Code.

CANNABIS LICENSE. An annual license issued by the Department to allow the operation of a cannabis facility.

COMMISSION. The Planning Commission of the City.

DIRECTOR. The Director of Development Services of the City, or his or her designee.

DEPARTMENT. The Development Services Department of the City.

ENFORCEMENT OFFICER. Any City employee or agent authorized to enforce any provisions of this code or any code adopted by the City.

MAUCRSA. The Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017, as amended.

MCRSA. Medical Cannabis Regulation and Safety Act of 2016, and any amendments thereto, and formerly known as the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015.

PRIMARY CAREGIVER. As defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

QUALIFIED PATIENT. As defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

(B) For the purposes of this chapter, the following definitions shall apply to the personal use of cannabis unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

CANNABIS CULTIVATION AREA. The maximum dimensions used for the cultivation of cannabis. For the purpose of § 158.010 of this chapter, the allowable cultivation area shall be the cumulative gross area used for cultivation of cannabis and shall be measured using either (a) the outward edge of the trays, pots or other containers used for cultivation or (b) the vegetative canopy, whichever is greater.

CANNABIS PROCESSING. Includes, but is not limited to: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, rolling.

CANNABIS PROCESSING AREA. The maximum dimensions used for the processing of cannabis. For the purpose of this chapter, the allowable processing area shall be the cumulative gross floor area used for processing cannabis.

MEDICAL CANNABIS. Cannabis, including, but not limited to, concentrates and extractions, intended to be cultivated or sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).

RESIDENCE. A legal dwelling unit consisting of a room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

(C) For the purposes of this chapter, the following definitions shall apply to commercial cannabis, unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

BATCH. A specific quantity of homogeneous cannabis or cannabis products and as defined in MAUCRSA.

CANNABIS ACTIVITY. The commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, delivery, or sale of cannabis or a cannabis products.

CANNABIS PRODUCTS. Any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

CULTIVATION. The planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

CULTIVATION FACILITY. A facility for cannabis cultivation for supply to a cannabis distributor or manufacturer, including a nursery that produces only clones, immature plants or seeds.

DELIVERY. The commercial transfer of medical cannabis or medical cannabis products to a customer.

DISTRIBUTION. The procurement, sale, and transport of cannabis and cannabis products between licensed entities. **DISTRIBUTION** also includes the inspection, storage, including during quality assurance and batch testing processes, labeling, packaging and other processes required prior to transport to a licensed cannabis retailer or cannabis manufacturing facility.

EVENT. A public or social occasion.

FACILITY or **FACILITIES.** A facility, premise, tenant space, site or location where one or more types of cannabis activity is undertaken.

LICENSEE. A person who possesses both a state license and a cannabis license issued by the City to engage in commercial cannabis activity.

LOT. A batch, or a specifically identified portion of a batch.

MANUFACTURING FACILITY. A facility for the production, preparation, propagation, or compounding of cannabis or 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, and includes a location that packages or repackages cannabis or cannabis products or labels or relabels its container.

MANUFACTURING FACILITY, NON-VOLATILE. A manufacturing facility which does not involve the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).

MANUFACTURING FACILITY, VOLATILE, LARGE. A manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed in control areas complying with

CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2).

MANUFACTURING FACILITY, VOLATILE, SMALL. A manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities equal to or less than those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2)..

MICROBUSINESS FACILITY. A facility where one licensee may conduct two or more of the following cannabis activities: distribution, non-volatile manufacturing, retail sales, and indoor cultivation with a total cultivation area that does not exceed the maximum allowed in the zone district.

RESEARCH AND DEVELOPMENT FACILITY. A facility that offers or performs research and development of cannabis or cannabis products where no commercial cultivation, processing, distribution, wholesale, or retail sales of cannabis or cannabis products occurs. Growing of plants and the use of volatile solvents for the purpose of conducting the research and development may be allowed. **RESEARCH AND DEVELOPMENT** may include, but is not limited to, systematic activities intended to create new products, processes, patents; scientific assessment of the safety and efficacy of cannabis and cannabis compounds for research and product development purposes; and/or work directed toward the innovation, introduction and improvement of production, processes, and/or products.

RETAIL FACILITY or RETAILER. A physical retail establishment where cannabis or cannabis products are offered for retail sale and delivery to customers. A retail facility may be closed to the public, and the retailer may conduct sales exclusively by delivery.

TESTING FACILITY. A facility that offers or performs testing of cannabis or cannabis products where no commercial cultivation, processing, distribution, or sale of cannabis or cannabis products occurs.

TRACK AND TRACE PROGRAM. A program or system that enables the City to track cannabis and cannabis products through the commercial cannabis supply chain.

UNIQUE IDENTIFIER. A number, digital signature, stamp or combination thereof that allows for the identification of cannabis or cannabis products at the level of a batch, lot, or package labeled for individual sale.

VOLATILE SOLVENTS. As used only in this chapter, shall mean those solvents used in the manufacture of cannabis products determined to be volatile by the California Department of Public Health or the Humboldt Bay Fire Department.

Section 22.

Title 15, Chapter 158, Section 158.010 [Cultivation] is hereby amended to read as follows:

§ 158.010 CULTIVATION.

(A) A qualified patient and persons 21 years of age or over shall be allowed to cultivate cannabis for their own personal use. The cannabis cultivation area for each residence shall not cumulatively exceed 50 square feet per residence. Cultivation of cannabis for personal use shall be in conformance with the following standards:

(1) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Cannabis cultivation shall remain at all times secondary to the residential use of the property;

(2) Cultivation of cannabis for personal use shall occur only within a private residence, or in a self-contained accessory building that is secured, locked, and fully enclosed and which is for the exclusive use of the resident. Cultivation of cannabis for personal use shall not displace required off-street parking;

(3) Cannabis cultivated for personal use shall not exceed ten feet in height per residence, regardless if cultivated within the residence or in an accessory building. An Exception Request may be granted for medical cannabis pursuant to § 158.010(B);

(4) If required by Building or Fire Code, the wall(s) adjacent to the cultivation area shall be constructed with 5/8-inch Type X moisture-resistant drywall;

(5) The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(6) The cultivation of cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is cultivated, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes, and no odor shall be detectable outside the exterior walls of the individual residence or accessory structure where cannabis is cultivated;

(7) Cannabis cultivation lighting shall not cumulatively exceed 1,200 watts. An Exception Request may be granted for medical cannabis pursuant to § 158.010(B);

(8) All electrical equipment used in the cultivation of cannabis, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation of cannabis is prohibited;

(9) Any electrical wiring/rewiring shall first require an electrical permit from the Building Department;

(10) The use of gas products (e.g., CO₂, butane, etc.) for cannabis cultivation is prohibited. An Exception Request may be granted for medical cannabis pursuant to § 158.010(B); and

(11) From a public right-of-way, there shall be no exterior evidence of cannabis cultivation occurring at the property, including odor.

(B) *Medical Cannabis Exception Request.* The cultivation area for medical cannabis may exceed the 50 square foot maximum per residence, up to a total of 100 square feet of cultivation area, or the standards in § 158.010(A)(3), (7) or (10) above may be modified, upon approval of an Exception Request issued by the Director. An Exception Request shall not allow more than a total medical cannabis cultivation area of 100 square feet per residence, regardless if cultivated within the residence or an accessory building.

(1) An application for a medical cannabis

(2) Exception Request shall include the following information:

(a) Written permission from the property owner;

(b) An application fee set by resolution of the City Council;

(c) Adequate information and documentation, such as a physician's recommendation, or verification of more than one qualified patient living in the residence, to demonstrate why the cultivation area should be allowed to exceed 50 square feet;

(d) The location and size of the requested cannabis cultivation area;

(e) A materials storage, handling and disposal plan; and

(f) If the Exception Request includes a request to modify the standards prescribed in § 158.010(A)(3), (7) or (10), documentation and information shall be provided identifying which standards are proposed to be modified and why such modification would not detrimentally affect the use of the residence for its intended residential occupancy.

(3) If required by Building or Fire Code, the applicant shall make specified improvements to the residence with a Building Permit, if one is needed. Such improvements may include, but are not limited to, electrical system upgrades.

(4) The Director, in consultation with the Chief Building Official and Fire Marshal, shall review the submitted application and determine if the specific circumstances warrant granting an Exception Request.

(5) The Exception Request shall become void, and the cannabis cultivation area in excess of 50 square feet shall be removed one year following the date on which the Exception Request was issued, unless the Exception Request is renewed prior to expiration.

(C) Cannabis cultivation is prohibited as a home occupation. Cannabis cultivation shall not be considered a residential accessory use. No distribution of cannabis cultivated for personal use shall be allowed.

Section 23.

Title 15, Chapter 158, Section 158.011 [Processing] is hereby amended to read as follows:

§ 158.011 PROCESSING.

(A) The processing area for cannabis cultivated within a private residence or accessory structure, shall not cumulatively exceed 50 square feet per residence. Processing of cannabis cultivated at the residence shall be in conformance with the following standards:

(1) Only cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence;

(2) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Cannabis processing shall remain at all times secondary to the residential use of the property;

(3) The cannabis processing area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(4) The use of gas products (e.g., CO₂, butane, etc.) for cannabis processing is prohibited; and

(5) The processing of cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes and all odor shall be contained within the exterior walls of the residence or accessory structure where cannabis is processed.

(B) Cannabis processing is prohibited as a home occupation. Cannabis processing shall not be considered a residential accessory use. No sale or distributing of cannabis processed for personal use shall be allowed.

Section 24.

Title 15, Chapter 158, Section 158.012 [Distributing or Dispensing] is hereby amended to read as follows:

§ 158.012 DISTRIBUTING OR SALES.

Cannabis cultivated or processed for personal use as provided for in this chapter shall not be distributed or sold to any person unless specifically allowed under this chapter or by State law.

Section 25.

The title of this section is hereby amended as follows:

COMMERCIAL CANNABIS - REQUIREMENTS AND REGULATIONS

Section 26.

Title 15, Chapter 158, Section 158.020 [Offices] is hereby amended to read as follows:

§ 158.020 EVENTS.

No public or private event where cannabis offered in any manner, sold, furnished, transferred, given away, and/or consumed by any person shall be allowed outside a licensed cannabis facility.

Section 27.

Title 15, Chapter 158, Section 158.021 [Medical Cannabis Facilities] is hereby amended to read as follows:

§ 158.021 COMMERCIAL CANNABIS FACILITIES.

(A) Commercial cannabis activity shall be allowed at commercial cannabis facilities as follows, provided P for permitted uses or C or MC, for conditional uses appears in the column below each district. Uses listed with a C or MC shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title.

Type of Facility	CC	CN	CS	CW	HM	MG	ML	OR	A/AC
Cultivation, indoor, not more than 10,000 square feet of cultivation area						MC	MC		
Cultivation, indoor, not more than 5,000 square feet of cultivation area			C			P	P		
Distribution, cannabis on site, with or without transportation			P			P	P		
Distribution, transportation only, no cannabis on-site	P	MC	P	MC 158.021(D)		P	P	P	
Manufacturing, non- volatile, more than 5,000 square feet of manufacturing floor area			C			P	P		
Manufacturing, non- volatile, 5,000 square feet or less of manufacturing floor area			MC			P	P		
Manufacturing, volatile, large						C			
Manufacturing, volatile, small						C	C		

Microbusiness	158.021 (F)	158.021 (F)	158.021 (F)			158.021 (F)	158.021 (F)		
Retail	C	C	C		C	C	C		
Research and Development	158.021 (G)		158.021 (G)	158.021 (B) and (G)	158.021 (G)	158.021 (G)	158.021 (G)		
Testing, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs	P		P	C 158.021(C)	P	P	P	C	

(B) In the Waterfront Commercial (CW) zoning district, cannabis research and development facilities with no plants and/or no manufacturing processes occur may be allowed above the ground floor of commercial structures with a use permit granted pursuant to §§ 155.280 through 155.299 of this title. Cannabis research and development facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(C) In the Waterfront Commercial (CW) zoning district, cannabis testing facilities may be allowed above the ground floor of commercial structures with a use permit granted pursuant to §§ 155.280 through 155.299 of this title. Cannabis testing facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(D) In the Waterfront Commercial (CW) zoning district, medical cannabis distribution facilities that only transport cannabis, and where no cannabis is located on site may be allowed above the ground floor of commercial structures with a minor use permit granted pursuant to §§ 155.280 through 155.299 of this title. Medical cannabis distribution facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(E) The cultivation area for commercial cannabis shall be the cumulative gross floor area of the room or rooms where cannabis plants are grown.

(F) *Microbusiness Facilities.*

(1) A Microbusiness Facility shall be allowed in zone districts where all proposed uses are allowed. For example, a Microbusiness for distribution and retail can be allowed in any zone district in which both distribution AND retail are allowed. A Microbusiness for non-volatile manufacturing, distribution and retail shall only be allowed in a zone district in which all three uses are allowed.

(2) Microbusiness Facilities for cultivation and/or non-volatile manufacturing shall utilize the same size limitations prescribed for a cultivation or manufacturing facility in the corresponding zone district.

(3) A Microbusiness Facility shall be principally permitted, except when located in a zone where one or more uses requires a Conditional (C) or Minor Conditional (MC) use permit, in which case the Microbusiness Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Microbusiness Facility shall obtain a Conditional (C) use permit.

(4) The use of volatile solvents is prohibited in a Microbusiness Facility.

(G) Research and Development Facilities.

(1) A Research and Development Facility may be allowed in the zone district.

(2) A Research and Development Facility that utilizes manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where the corresponding type of manufacturing facility is allowed and shall utilize the same size limitations prescribed for the corresponding facility in the zone district.

(3) A Research and Development Facility with plants (cultivation) shall only be approved in a zone district where cultivation is allowed and shall utilize the same size limitations prescribed for the cultivation facility allowed in the zone district.

(4) A Research and Development Facility utilizing both plants (cultivation) and manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where both cultivation and manufacturing facilities are allowed and shall utilize the same size limitations prescribed for the corresponding type of facility in the zone district.

(5) A Research and Development Facility shall be principally permitted, except when the use corresponds to a cultivation or manufacturing facility use requiring a Conditional (C) or Minor Conditional (MC) use permit, in which case the Research and Development Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Research and Development Facility shall obtain a Conditional (C) use permit.

Section 28.

Title 15, Chapter 158, Section 158.022 [Dispensing Facilities] is hereby amended to read as follows:

§ 158.022 RETAIL FACILITIES.

(A) The maximum number of retail facilities allowed within City limits shall be set by Resolution of the City Council City.

(B) Only those medical cannabis retail facilities invited by the City Council may submit an application for a use permit. The City Council may elect to invite fewer applicants than the number prescribed in § 158.022(A). The City shall:

(1) Release a Request for Qualification (RFQ) for medical cannabis retail facilities within the City, and including a deadline for acceptance of RFQ responses; and

(2) A staff-led committee shall review and evaluate all responsive RFQ's submitted by the deadline to determine which respondents best meet the City's criteria for a retail facility as set forth in the Scope of Work included in the RFQ; and

(a) The criteria upon which the committee shall base their review and evaluation shall include at a minimum, but shall not be limited to, a business plan, the business experience and qualifications of the respondent, and the information required in § 158.030(D); and

(3) The committee shall return to Council with ranked recommendations regarding facility invitations.

(C) No more than two conditional use permits to operate a retail cannabis facility shall be issued in a six month period.

(D) Mobile sales of cannabis is prohibited within City limits.

Section 29.

Title 15, Chapter 158, Section 158.023 [Delivery Services] is hereby amended to read as follows:

§ 158.023 DELIVERY SERVICES.

(A) A cannabis delivery service that is associated with a permitted retail facility located within City limits and for which delivery originates from the retail facility shall only be allowed when the delivery service is described and included in the use permit for the retail facility.

(B) Cannabis deliveries originating from outside City limits and delivering cannabis or cannabis products within City limits shall only be allowed upon the granting of a mobile business license.

Section 30.

Title 15, Chapter 158, Section 158.024 [Required Conditions and Findings] is hereby amended to read as follows:

§ 158.024 REQUIRED CONDITIONS AND FINDINGS.

(A) Whether or not a use permit is required, all cannabis facilities shall:

(1) Obtain a cannabis license issued by the City on an annual basis pursuant to §§ 158.030 through 158.032 of this chapter;

(2) Obtain a business license issued by the City on an annual basis pursuant to Chapter 110 of the Eureka Municipal Code; and

(3) Conform to the regulations prescribed by, and consist of a business form that satisfies this chapter and State law; and

(4) Diligently pursue and obtain licensure by the state within six months of being permitted to operate in the City.

(B) Each entrance to a cannabis facility shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises, except for qualified patients, unless accompanied by a parent or legal guardian.

(C) No new permit or license to operate shall be issued for any facility that is located within a 600 foot radius of an existing public charter or K-12 school. A public charter or K-12 school that locates within 600 feet of an existing cannabis facility shall not be grounds to deny the annual renewal at that location of a previously granted cannabis facility permit or license.

(D) The operation of cannabis facilities shall not adversely affect the health or safety of the facility occupants or employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes, and no odor shall be detectible outside the walls of the facility.

(E) *Signs.* No signs are allowed.

(F) *Off-street parking.* Off-street parking facilities shall be provided for each use as set forth in §§ 155.115 through 155.124 of this chapter and as follows:

Type of Cannabis Facility	Parking Use
Cultivation Distribution Research and development with plants and manufacturing	Warehousing and distribution

Manufacturing Research and development with manufacturing	Manufacturing plants and other industrial uses
Research and development Retail Testing	Retail sales and service

(G) *Off-street loading.* Off-street loading facilities shall be provided for each use as set forth in §§ 155.135 through 155.141 of this chapter.

(H) Cannabis facility operators shall refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA). Any uses of pesticide products shall be in compliance with state pesticide laws and regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.

(I) Operators of cannabis facilities shall maintain active enrollment and participate in a track and trace program as approved by the City. The City may require participation in a track and trace program separate from the State's track and trace program. Any separate program shall be in addition to and not instead of the State's track and trace program.

(J) Applicants for a cannabis license and/or cannabis facility use permit or minor use permit shall undergo a background investigation as prescribed by the City.

(K) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial change in the mode or character of business operation.

(L) *Findings.* The Director shall make the following findings before granting a cannabis license:

(1) That the applicant and the premises for which a license is applied meet all the requirements and qualify for licensure under this chapter; and

(2) That the applicant has not been convicted of a felony as prescribed in MAUCRSA, or as amended.

Section 31.

Title 15, Chapter 158, Section 158.030 [Permits and Licensing] is hereby amended to

read as follows:

§ 158.030 APPLICATIONS, USE PERMITS, LICENSES, AND FEES.

(A) *Cannabis license applications.* Applications for cannabis licenses shall be filed with the Director. The Director shall issue a cannabis license upon finding that the cannabis facility meets all of the requirements of this chapter.

(B) *Lapse of cannabis license.* A cannabis license shall lapse and shall become void one year following the date on which the cannabis license became effective unless the cannabis license is renewed pursuant to § 158.032 of this chapter or unless the cannabis license is revoked for a violation of the terms of the cannabis license application.

(C) *Use permit applications.* Applications for use permits shall be filed with the Director.

(D) *Data to be furnished.* Applications for use permits and cannabis licenses shall be on forms provided by the Department and shall include all information required in the use permit application and the supplemental application packet, which includes, but is not limited to:

(1) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;

(2) Text and graphic materials showing the site and floor plan for the cannabis facility including the use of each room or building on the premises;

(3) The hours and days of the week the cannabis facility will operate;

(4) The number of persons, per shift, who will be working at the cannabis facility;

(5) The security measures that will be employed at the premises;

(6) The odor control measures that will be employed at the premises;

(7) The chemicals stored or used at the premises, including cumulative quantities of each chemical;

(8) The type and quantity of all effluent discharged into the City's wastewater and/or stormwater system and a copy of the applicant's submitted discharge application or approved discharge permit, if applicable;

(9) A detailed operations manual containing, at a minimum:

(a) The staff screening process including appropriate background checks;

(b) The process for tracking cannabis quantities and inventory controls;

(c) For medical cannabis retailers:

(i) A description of the screening, registration and validation process for qualified patients;

(ii) A description of qualified patient records acquisition and retention procedures; and

(iii) The process for tracking medical cannabis quantities and inventory controls including on-site cultivation, processing, and/or medical cannabis products received from outside sources;

(10) A detailed Cannabis Safety Program, which includes at a minimum, the following,

(a) The process for documenting the chain of custody of all cannabis and cannabis products from farm to consumer;

(b) The procedure and documentation process for assuring the safety and quality of all cannabis and cannabis products; and

(c) The procedure and documentation process for determining quantity including testing for the major active agents in the cannabis (e.g., cannabinoids THC, CBD and CBN).

(E) *State License Submittal.* An applicant for a cannabis facility license shall submit an electronic copy of the completed and submitted State application and all attachments, either along with the City's cannabis facility license application, or within five days of the date the application is submitted to the State Bureau of Cannabis Control, whichever is later.

(F) *Fees.* Applications shall be accompanied by a fee established by resolution of the Council to cover the cost of handling the application as prescribed in this chapter.

Section 32.

Title 15, Chapter 158, Section 158.031 [Costs and Taxes] is hereby amended to read as follows:

§ 158.031 COSTS AND TAXES.

The costs to the City arising from the processing and oversight of Exception Requests under § 158.010(B) and use permits, cannabis licenses, business licenses, and unique identifiers for a required track and trace program for cannabis facilities, and the costs of monitoring and ensuring compliance with this chapter, including investigations, enforcement actions, and disciplinary or abatement proceedings, will be offset through application fees, annual renewal fees, and fees for unique identifiers, as adopted by the City Council by resolution and updated as necessary from time-to-time. In the administration of the permitting or licensing requirements under this chapter, the City Manager, or his or her designee, may require as a condition of granting or renewing use permits or licenses, any information reasonably necessary to implement the intent of this chapter,

to ensure that the cannabis handled under the use permit or license is grown, tested, processed, manufactured, distributed and/or sold in a manner not in conflict with this chapter, and to ensure that any and all related sales taxes are being properly reported and paid.

Section 33.

Title 15, Chapter 158, Section 158.032 [Inspection and Monitoring] is hereby amended to read as follows:

§ 158.032 INSPECTION AND MONITORING.

(A) Inspectors with the Development Services, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility, and may examine the records of a licensee to ensure compliance with the terms of the cannabis license at any time during normal operating hours.

(B) A cannabis licensee shall submit to the Department an inspection fee set by resolution of the City Council and shall make a request to the Department for an inspection of each cannabis facility not more than 90 days and not less than 30 days prior to the annual expiration of the cannabis license to assure compliance with the terms of the cannabis license. Inspectors with the Development Services, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility. All records kept pursuant to the cannabis license shall be open for visual inspection.

(C) If the cannabis licensee fails to submit the inspection fee or request an inspection within the specified time frame, refuses inspection, or if the inspection finds that the facility is not operated in compliance with the approved license application, the cannabis license shall be subject to revocation and upon cannabis license revocation the facility shall immediately cease operation.

(D) Within ten business days of the inspection date pursuant to division (B) above, the City shall either provide a written statement of non-compliance and a timeline for attaining compliance, or shall renew the cannabis license.

(E) Within ten days after issuance of a statement of non-compliance, the determination of non-compliance may be appealed by any interested party to the Commission pursuant to § 155.377 of this title. The appeal shall be made, in writing, on a form provided by the City Clerk, along with a fee set by resolution of the City Council. The City reserves the right to determine whether the facility shall continue to operate during the appeal process.

Section 34.

Title 15, Chapter 158, Section 158.033 [Enforcement] is hereby amended to read as follows:

§ 158.033 ENFORCEMENT, SUSPENSION, REVOCATION, AND HEARING.

(A) A person engaging in commercial cannabis activity without a license required by this chapter, and/or any violation of this chapter is subject to administrative, civil, or criminal penalties, as set out in Eureka Municipal Code § 10.99, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. Daily monetary penalties of up to three times the amount of the license fee for each violation may be assessed, and a court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this chapter. A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation. This is a chapter adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.

(B) Whenever an enforcement officer as defined in Eureka Municipal Code § 10.38 determines a cannabis facility or licensee has failed to comply with the regulations set forth in this chapter, or determines an action, or inaction by a cannabis facility or licensee threatens or negatively impacts, or may, in the opinion of the enforcement officer, threaten or negatively impact the public health, safety, and/or welfare, the enforcement officer may issue a notice of violation which provides a timeline for compliance, and may, at his or her discretion, require all or part of the facility's operations be immediately modified, or may immediately issue a notice of suspension to suspend a cannabis facility license. Suspension of a cannabis facility license shall mean all operations shall immediately cease, and shall not be resumed unless or until the suspended license is re-instated.

(C) Provided the enforcement officer determines that all violations have been corrected within the time specified in the notice of violation, a hearing pursuant to this section shall not be held, and following written notice from the enforcement officer, operations may resume. If the enforcement officer determines that any or all violations listed in the notice of violation have not been corrected within the time specified, the cannabis facility license shall be suspended, and the enforcement officer shall provide a written notice of suspension to the licensee.

(D) Whenever a cannabis facility license is suspended, a hearing pursuant to the administrative citation hearing procedures set forth in Chapter 10 of the Eureka Municipal Code will be held.

(E) After considering all of the testimony and evidence admitted at the hearing, the hearing officer shall issue a written decision to reinstate the license, reinstate the license with modifications, or may revoke the license, and shall state in the decision the reasons therefor.

(F) The decision of the hearing officer shall be final and shall be provided to the Cannabis Facility or Licensee within 15 days following the date of the hearing.

(G) When a cannabis facility license has been permanently revoked pursuant to §§ 158.032 or 158.033, the same or substantially the same applicant(s) shall not apply for or be granted a new cannabis license.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2017 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS

Marian Brady, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2017, and hereby approved.

Frank J. Jager, Mayor

Approved as to Administration:

Approved as to form:

Greg L. Sparks, City Manager

Cyndy Day-Wilson, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the ____ day of _____, 2017.

Pamela J. Powell, City Clerk

ATTACHMENT 4

Draft Ordinance Old Code ~~strikeout~~

**AN ORDINANCE OF THE CITY OF EUREKA
AMENDING TITLE 10, CHAPTER 5 OF THE EUREKA MUNICIPAL CODE
PERTAINING TO CANNABIS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

Title 10, Article 4 [A Agricultural Districts], Section 10-5.403 [Permitted uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

(o) Accessory structures and uses located on the same site with a permitted use, including barns, stables, coops, tank houses, storage tanks, windmills, silos, other farm outbuildings, private garages and carports, one guest house or accessory living quarters without a kitchen for each dwelling on the site, storehouses, garden structures, greenhouses, recreation rooms and hobby shops, and the storage of petroleum products for the use of persons residing on the site, ~~and~~
~~(p) Medical cannabis cultivation facilities, mixed light, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 (Medical Cannabis).~~

Section 2.

Title 10, Article 7 [OR Office and Multi-Family Residential Districts], Section 10-5.703. Permitted office/multi-family residential (OR) uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(e) Accessory structure and uses located on the same site as a permitted use.
(f) Cannabis distribution ~~Medical cannabis transportation~~ facilities, where no cannabis is on-site, located separate from a distribution facility, subject to the provisions of Article 30 (~~Medical~~ Cannabis).

Section 3.

Title 10, Article 7, [OR Office and Multi-Family Residential Districts], Section 10-5.704. Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(m) Timber harvest of less than three (3) acres; and
~~(n) Medical cannabis testing facilities subject to the provisions of Article 30 (Medical Cannabis).~~ (n) Cannabis testing facilities where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 (Cannabis).

Section 4.

Title 10, Article 8, [HM Hospital-Medical Districts], Section 10-5.803. Permitted uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(f) Parking facilities, including fee parking facilities improved in conformity with the standards prescribed for required parking facilities in Section 10-5.1504 of Article 15 of this chapter (Standards of off-street parking facilities);

(g) Accessory structures and uses located on the same site as a permitted use; and

~~(h) Medical cannabis testing facilities subject to the provisions of Article 30 of this chapter (Medical Cannabis).~~ (h) Cannabis research and development facilities, subject to the provisions of Article 30 Section 10-5.3007.2 of this chapter (Cannabis); and

(i) Cannabis testing facilities where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis).

Section 5.

Title 10, Article 8, [HM Hospital-Medical Districts], Section 10-5.804. Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(g) Timber harvest of less than three (3) acres; and

(h) ~~Medical eCannabis dispensing retail~~ facilities subject to the provisions of Article 30 of this chapter (~~Medical Cannabis~~); ~~and-~~

(i) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis).

Section 6.

Title 10, Article 9 [C Commercial Districts] Section 10-5.903 [Permitted and conditional uses], Subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

(a) The following uses shall be permitted uses or conditional uses in a C District provided the symbol P, for permitted use, or C or MC, for conditional use appears in the column beneath each C District. Conditional uses shall be permitted upon the granting of a use permit (C), or a minor use permit (MC) in accord with the provisions of Article 24 (Conditional Uses) of this chapter, and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 (Conditional Uses) of this chapter:

	CN	CP	CC	CW	CS
Medical and orthopedic appliance stores	P	P	P	P	P
Medical cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30.					€
Medical cannabis dispensing facilities subject to the provisions of Article 30.	€		€		€
Medical cannabis distribution facilities subject to the provisions of Article 30.					P
Medical cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30.			MC		MC
Medical cannabis non-volatile manufacturing facilities, more than 5,000 square feet of floor area, subject to the provisions of Article 30.					€
Medical cannabis testing facilities where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Article 30			P		P
Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30					P
Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30	MC		P		P
Meeting halls		P	P	P	P

Section 7.

Title 10, Article 9 [C Commercial Districts] Section 10-5.903 [Permitted and conditional uses], Subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

(a) The following uses shall be permitted uses or conditional uses in a C District provided the symbol P, for permitted use, or C or MC, for conditional use appears in the column beneath each C District. Conditional uses shall be permitted upon the granting of a use permit (C), or a minor use permit (MC) in accord with the provisions of Article 24 (Conditional Uses) of this chapter, and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 (Conditional Uses) of this chapter:

	CN	CP	CC	CW	CS
Candy stores	P	P	P	P	P
<u>Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30.</u>					<u>C</u>

<u>Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30.</u>				<u>P</u>
<u>Cannabis distribution facilities, transportation only, where no cannabis is on-site, subject to the provisions of Article 30</u>	<u>MC</u>		<u>P</u>	<u>P</u>
<u>Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of manufacturing floor area, subject to the provisions of Article 30.</u>				<u>MC</u>
<u>Cannabis microbusiness facilities, subject to the provisions of Article 30</u>	158.021 (F)10- 5.3007.1	158.021 (F)10- 5.3007.1		158.021 (F)10- 5.3007.1
<u>Cannabis non-volatile manufacturing facilities, more than 5,000 square feet of manufacturing floor area, subject to the provisions of Article 30.</u>				<u>C</u>
<u>Cannabis research and development facilities with research and development plants, indoor, not more than 5,000 square feet of floor area, where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30</u>			<u>10-</u> <u>5.3007.2</u>	<u>10-</u> <u>5.3007.2</u>
<u>Cannabis retail facilities subject to the provisions of Article 30</u>	<u>C</u>		<u>C</u>	<u>C</u>
<u>Cannabis testing facilities where no cultivation, processing, manufacturing, wholesale, retail, or distribution of medical cannabis occurs, subject to the provisions of Article 30</u>			<u>P</u>	<u>P</u>
<u>Cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30</u>	<u>MC</u>		<u>P</u>	<u>MC*</u> <u>P</u>
Card rooms			<u>P</u>	<u>P</u> <u>P</u>

Section 8.

Title 10, Article 10. M Industrial Districts, Section 10-5.1003.1 ML Limited Industrial Districts is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

~~(30.117.1)~~ ~~Medical-e~~Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 (~~Medical~~Cannabis);

~~(30.217.2)~~ ~~Medical-e~~Cannabis distribution, cannabis on site, with or without transportation facilities, subject to the provisions of Article 30 (~~Medical~~Cannabis);

(17.3) Cannabis distribution, transportation only, no cannabis on site facilities, subject to the provisions of Article 30 (Cannabis);

~~(30.317.4) Medical eCannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 (Medical Cannabis);~~

~~(30.417.5) Medical eCannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 (Medical Cannabis);~~

~~(17.6) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 (Cannabis);~~

~~(30.517.7) Medical eCannabis testing facilities, where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 (Medical Cannabis);~~

~~(17.8) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 (Cannabis);~~

~~(30.6) Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30 (Medical Cannabis);~~

~~(30.7) Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30 (Medical Cannabis);~~

Section 9.

Title 10, Article 10. M Industrial Districts, Section 10-5.1004.1 ML Limited Industrial Districts is hereby amended to read as follows *(the remainder of the text in the section is unchanged and is omitted)*:

(g) Gymnastics schools, and health clubs;

~~(h) Cannabis manufacturing facilities, volatile, small, subject to the provisions of Article 30 of this chapter (Cannabis).~~

~~(ih) Medical eCannabis dispensing retail facilities, subject to the provisions of Article 30 of this chapter (Medical Cannabis); and~~

~~Medical cannabis manufacturing facilities, volatile, 1,500 square feet or less of floor, subject to the provisions of Article 30 of this chapter (Medical Cannabis).~~

Section 10.

Title 10, Article 10. M Industrial Districts, Section 10-5.1004.2 MG General Industrial Districts subparagraph (a) is hereby amended to read as follows *(the remainder of the text in the section is unchanged and is omitted)*:

(23) Manure, peat, and topsoil processing and storage;

~~(23.1) Medical cannabis cultivation facilities, mixed light, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Medical Cannabis)~~

~~(23.2) Medical cannabis dispensing facilities, subject to the provisions of Article 30 of this chapter (Medical Cannabis)~~

~~(23.3) Medical cannabis manufacturing facilities, volatile, more than 1,500 square feet of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis)~~

~~(23.4) Medical cannabis manufacturing facilities, volatile, 1,500 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis)~~

- (24) Metal and metal ores reduction, refining, smelting, and alloying;

Section 11.

Title 10, Article 10. M Industrial Districts, Section 10-5.1003.2 MG General Industrial Districts subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

- (2) Asphalt and asphalt products manufacture;

(2.1) Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.2) Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.3) Cannabis distribution facilities, transportation only, no cannabis on-site, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.4) Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of manufacturing floor area, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.5) Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of manufacturing floor area, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.6) Cannabis testing or research and development facilities, where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis)

- (3) Cement, lime, gypsum, and plaster of paris manufacture;

Section 12.

Title 10, Article 10. M Industrial Districts, Section 10-5.1004.2 MG General Industrial Districts subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

- (2) Asphalt and asphalt products manufacture;

(2.1) Cannabis manufacturing facilities, volatile, largemore than 1,500 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.2) Cannabis manufacturing facilities, volatile, small1,500 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.3) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis)

(2.4) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis).

(2.5) Cannabis retail facilities, subject to the provisions of Article 30 of this chapter (Cannabis).

- (3) Cement, lime, gypsum, and plaster of paris manufacture;

Section 13.

Title 10, Article 10. Section 10-5.1004.1.1 ML Limited Industrial Districts is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is*

omitted):

10-5.1004.1.13. Minor Use Permit

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses), and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 of this chapter (Conditional Uses):

(a) ~~Medical e~~Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (~~Medical~~Cannabis).

Section 14.

The following subsection is hereby added to Title 10, Article 10, Section 1004.2. MG General Industrial Districts:

10-5.1004.2.2 Minor Use Permit

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses), and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 of this chapter (Conditional Uses):

(a) ~~Medical e~~Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (~~Medical~~Cannabis).

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1

(c) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis).

Section 15.

Title 10, Article 29 Coastal Development Permit Procedures Part 7. AC – Coastal Agricultural District Section 10-5.2972 Permitted uses, is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Timber harvest;~~and~~
~~Medical cannabis cultivation facilities, mixed light, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Medical Cannabis).~~

Section 16.

Title 10, Article 29 Coastal Development Permit Procedures, Part 10 OR – Office and Multi Family Residential Districts, Section 10-5.29102 Permitted uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(e) Accessory structure and uses located on the same site as a permitted use.

(f) Cannabis distribution, transportation only, no cannabis on-site, subject to the provisions of Article 30 (Cannabis).

Section 17.

Title 10, Article 29 Coastal Development Permit Procedures, Part 10 OR – Office and Multi Family Residential Districts, Section 10-5.29103 Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(m) Timber harvest of less than three (3) acres; ~~and~~

~~(n) Medical cannabis testing facilities, where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Article 30 of this chapter (Medical Cannabis).~~

Section 18.

Title 10, Article 29 Coastal Development Permit Procedures, Part 10 OR – Office and Multi Family Residential Districts, Section 10-5.29103 Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(e) Family care homes and halfway houses;

(e.1) Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis).

(f) Charitable institutions;

Section 19.

Title 10, Article 29 Coastal Development Permit Procedures, Part 11 CW – Waterfront Commercial Districts, Section 10-5.29113 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Medical and orthopedic appliance stores;

~~Medical cannabis testing facilities located above the ground floor of commercial structures, and where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Article 30 of this chapter (Medical Cannabis).~~

Section 20.

Title 10, Article 29 Coastal Development Permit Procedures, Part 11 CW – Waterfront Commercial Districts, Section 10-5.29113 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Business, professional, and trade schools and colleges;

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs, located above the ground floor of commercial structures subject to the provisions of Article 30 of this chapter (Cannabis);

Section 21.

The following subsection is hereby added to Title 10, Article 29 Coastal Development Permit Procedures, Part 11 CW – Waterfront Commercial Districts, Section 10-5.29113 Conditional uses (*the remainder of the text is unchanged and is omitted*):

Sec. 10-5.29113.1 Minor user permits.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses). The application shall demonstrate and the City shall find that granting of a minor use permit will not diminish recreational or visitor-serving opportunities.

(a) ~~Medical e~~Cannabis distribution, transportation only, no cannabis on site facilities located separate from a distribution facility and located above the ground floor of commercial structures, and subject to the provisions of Article 30 of this chapter (~~Medical~~Cannabis).

(b) Cannabis research and development facilities subject to the provisions of Article 30, Section 10-5.3007 (c) and 10-5.3007.1 of this chapter (Cannabis).

Section 22.

Title 10, Article 29 Coastal Development Permit Procedures, Part 12 CN – Neighborhood Commercial Districts, Section 10-5.29123 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Service stations, not including automobile, truck, and trailer rentals as accessory uses, provided all operations, except the sale of gasoline and oil and the washing of cars, shall be conducted within a building enclosed on at least three (3) sides; ~~and~~

~~Medical cannabis dispensing facilities subject to the provisions of Article 30 of this chapter (Medical Cannabis).~~

Section 23.

Title 10, Article 29 Coastal Development Permit Procedures, Part 12 CN – Neighborhood Commercial Districts, Section 10-5.29123 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Business, professional and trade schools and colleges;

Cannabis retail facilities subject to the provisions of Article 30 of this chapter (Cannabis);

Section 24.

The following section is hereby added to Title 10, Article 29 Coastal Development Permit Procedures, Part 12 CN – Neighborhood Commercial Districts:

Sec. 10-5.29123.1 Minor use permits.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses). The application shall demonstrate and the City shall find that granting of a minor use permit will not diminish recreational or visitor-serving opportunities.

(a) ~~Medical e~~Cannabis distribution facilities, transportation only, no cannabis on site, facilities, located separate from a distribution facility, subject to the provisions of Article 30 of this chapter (~~Medical~~Cannabis);

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis).

Section 25.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29132 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Medical and orthopedic appliance stores;

~~Medical cannabis distribution facilities, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis testing facilities, where no cultivation, processing, or distribution of medical cannabis occurs, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

Meeting halls;

Section 26.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29132 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Candy shops;

Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, transportation only, no cannabis on-site, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis);

Carpenter shops;

Section 27.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29133 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Light industrial uses permitted in the ML Limited Industrial District:

~~Medical cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis dispensing facilities subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

Mobilehome parks in accordance with the regulations prescribed in Article 21 of this chapter (Manufactured Homes, Mobilehomes, Commercial Coaches, Mobilehome Parks and Recreational Vehicle Parks);

Section 28.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29133 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Automobile and motorcycle racing stadiums and drag strips:

Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis retail facilities subject, to the provisions of Article 30 of this chapter (Cannabis);

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Charitable institutions;

Section 29.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29133.1 is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Sec. 10-5.29133.1. Minor use permits.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses):

(a) ~~Medical e~~Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (~~Medical~~Cannabis).

Section 30.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML – Limited Industrial Districts, Section 10-5.29162 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Mattress manufacture;

~~Medical cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis distribution facilities, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis testing facilities subject to the provisions of Article 30;~~

~~Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

Metal finishing and plating;

Section 31.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML – Limited Industrial Districts, Section 10-5.29162 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Bus depots;

~~Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis);~~

~~Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis);~~

~~Cannabis distribution facilities, transportation only, no cannabis on site, subject to the provisions of Article 30 of this chapter (Cannabis);~~

~~Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);~~

Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30 of this chapter (Cannabis);

Cold storage plants;

Section 32.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML – Limited Industrial Districts, Section 10-5.29163 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Accessory structures and uses located on the same site as a conditional use;

~~Medical-c~~Cannabis ~~retail~~~~dispensing~~ facilities, subject to the provisions of Article 30 of this chapter (~~Medical-Cannabis~~);

~~Medical-c~~Cannabis manufacturing facilities, volatile, ~~small~~~~1,500 square feet or less of floor area~~, subject to the provisions of Article 30 of this chapter (~~Medical-Cannabis~~);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Section 33.

The following section is hereby added to Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML Limited Industrial Districts:

Sec. 10-5.29163.1 Minor use permit.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses):

(a) ~~Medical-c~~Cannabis cultivation facilities, indoor with 10,000 square feet or less of cultivation area, subject to the provisions of Article 30 of this chapter (~~Medical-Cannabis~~).

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

(c) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Section 34.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29172 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Meat products processing and packaging, not including slaughtering and glue and size manufacture;

~~Medical cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis distribution facilities subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis testing facilities subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

Metal alloys and foil manufacture, including solder, pewter, brass, bronze, and tin, lead, and gold foil;

Section 35.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29172 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Candle manufacturing, not including rendering;

Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, transportation only, no cannabis on site, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis research and development facilities subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Carpet and rug manufacture;

Section 36.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29173 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Manure, peat, and topsoil processing and storage;

~~Medical cannabis cultivation facilities, mixed light, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis dispensing facilities subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, volatile, more than 1,500 square feet of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

~~Medical cannabis manufacturing facilities, volatile, 1,500 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Medical Cannabis);~~

Metal and metal ores reduction, refining, smelting, and alloying;

Section 37.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29173 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Asphalt and asphalt products manufacture;

Cannabis retail sales facilities subject to the provisions of Article 30 of this chapter (Cannabis);

~~Cannabis manufacturing facilities, volatile, largemore than 1,500 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);~~

~~Cannabis manufacturing facilities, volatile, small1,500 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);~~

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Cement, lime, gypsum, and plaster of paris manufacture;

Section 38.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 MG – Limited

Industrial Districts, Section 10-5.29173.1 is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Sec. 10-5.29173.1 Minor use permit.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses):

(a) ~~Medical~~ Cannabis cultivation facilities, indoor, 10,000 square feet or less of cultivation area, subject to the provisions of Article 30 of this chapter (~~Medical~~ Cannabis).

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

(c) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Section 39.

Title 10, Chapter 5, Article 30. Medical Cannabis Cultivation is hereby amended to read as follows:

Article 30. ~~Medical~~ Cannabis

Section 40.

Title 10, Chapter 5, Article 30. Cannabis Section 10-5.3001 is hereby amended to read as follows:

Sec. 10-5.3001. Findings and Purpose~~Cultivation.~~

(a) The City Council of the City of Eureka, based on evidence presented to it in the proceedings leading to the adoption of this article and subsequent amendments to this article, hereby finds that the illegal and unpermitted cultivation, processing and distribution of ~~medical~~ cannabis in the City has caused and is causing ongoing impacts to the community. These impacts include damage to buildings containing illegal and unpermitted indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home- invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.

(b) The City Council acknowledges that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of cannabis for medical purposes under the Compassionate Use Act, but that the Compassionate Use Act does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

(c) The City Council acknowledges that the California legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015 and that the act allows local jurisdictions to regulate medical marijuana commerce and a range of medical cannabis license types in their jurisdictions under the state regulatory framework provided in the law as amended.

(d) The City Council acknowledges that in 2016, the voters of the State of California legalized the possession, cultivation, and sale of marijuana for individuals over the age of 21 through the

Control, Regulate and Tax Adult Use of Marijuana Act (AUMA).

(e) The City Council acknowledges that the California legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act- (MAUCRSA) in 2017 which repealed MCRSA and included certain provisions from MCRSA in the licensing provisions of AUMA, and generally imposed the same requirements on both commercial medicinal and commercial adult-use cannabis activity.

(f) The City Council acknowledges that sales of medicinal-cannabis are subject to taxation by both the City and the State and that the California State Board of Equalization (BOE) is also requiring that businesses engaging in such retail transactions hold a seller's permit.

(g) The purpose and intent of this chapter is to regulate the cultivation, processing, manufacturing, transporting, storage, distribution and sale of medicinal-cannabis and cannabis products for qualified patients with a valid physician's recommendation and for adults 21 years of age and over in a manner that protects the public health, safety and welfare of the community and mitigates for the costs to the community of the oversight of these activities.

Section 41.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3002 is hereby amended to read as follows:

Sec. 10-5.3002 Interpretation and Applicability.

(a) No part of this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing, manufacturing, transporting, storage, distribution and sale of medicinal-cannabis in the City is controlled by the provisions of this chapter of the Eureka Municipal Code. Accessory uses and home occupations, where medicinal-cannabis is involved, shall be governed by the provisions of this chapter.

(b) Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

(c) Nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting cannabis cultivation, manufacturing, smoking or other related activities by tenants.

(d) Nothing in this chapter is intended, nor shall it be construed, to exempt any cannabis related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

(e) Nothing in this chapter is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of cannabis that is otherwise prohibited under California law.

(f) All cultivation, processing, manufacturing, testing, transporting, storage, distribution or sale of medicinal-cannabis within City limits shall be subject to the provisions of this chapter, regardless if the cultivation, processing, manufacturing, testing, transporting, storage, distribution or sale existed or occurred prior to adoption of this chapter or at the time of subsequent amendments to this chapter.

Section 42.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003 Definitions is hereby amended to read as follows:

Sec. 10.5.3003 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) “AUMA shall mean the Control, Regulate and Tax Adult Use of Marijuana Act, and any amendments thereto.

(~~ba~~) “Cannabis” shall mean 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” shall also mean the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” shall also mean marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, “Cannabis” shall 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.

(~~cb~~) “Cannabis license” shall mean an annual license issued by the Department to allow the operation of a ~~medical~~-cannabis facility.

(~~de~~) “Commission” shall mean the Planning Commission of the City.

(~~ed~~) “Director” shall mean the Director of Planning of the City, or his or her designee.

(~~fe~~) “Department” shall mean the Development Services Department of the City.

~~(f) “Medical cannabis” shall mean cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).~~

(g) “Enforcement officer” shall mean any City employee or agent authorized to enforce any provisions of this code or any code adopted by the City.

(h) “MAUCRSA” shall mean the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 as amended.

(i) “MCRSA” shall mean the Medical Cannabis Regulation and Safety Act of 2016, and any amendments thereto, and formerly known as the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015.

(jg) “Primary caregiver” shall be as defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

(kh) “Qualified patient” shall be as defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

Section 43.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003.1 Personal Use Definitions is hereby amended to read as follows:

Sec. 10.5.3003.1 Personal Use Definitions.

For the purposes of this chapter, the following definitions shall apply to the personal use of medical cannabis unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

~~(a) “Dwelling unit” shall mean a room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.~~

(ab) “~~Medical e~~Cannabis cultivation area” shall mean the maximum dimensions used for the cultivation of ~~medical~~ cannabis. For the purpose of §~~10-5.3005+58.040~~ of this chapter, the allowable cultivation area shall be the cumulative gross area used for cultivation of ~~medical~~ cannabis and shall be measured using either (a) the outward edge of the trays, pots or other containers used for cultivation or (b) the vegetative canopy, whichever is greater.

~~(c) “Medical cannabis distribution” or “dispensing” shall mean the supply to a qualified patient by any person, including a primary caregiver, of medical cannabis that is not grown in the qualified patient’s residence.~~

(bd) “~~Medical e~~Cannabis processing” shall include, but is not limited to: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, rolling.

(ce) “~~Medical e~~Cannabis processing area” shall mean the maximum dimensions used for the processing of ~~medical~~ cannabis. For the purpose of this chapter, the allowable processing area shall be the cumulative gross floor area used for processing ~~medical~~ cannabis. ~~Where the processing area occupies the majority of a room or rooms, the processing area shall be calculated as the total gross floor area of the room or rooms used for processing medical cannabis.~~

(d) “Medical Cannabis” shall ~~mean cannabis, includinge,~~ but not ~~be~~ limited to concentrates and extractions, intended to be cultivated or sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).

(ef) “Residence” shall mean a legal dwelling unit consisting of a room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

Section 44.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003.2 Commercial Use Definitions is hereby amended to read as follows:

Sec. 10.5.3003.2 Commercial Use Definitions.

For the purposes of this chapter, the following definitions shall apply to commercial ~~medical~~ cannabis, unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

(a) ~~(a)~~ “Batch” shall mean a specific quantity of homogeneous medical cannabis or ~~medical~~ cannabis products and as defined in MAUCRSA.

~~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.~~

(b) “Cannabis activity” shall mean the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, delivery or sale of cannabis or cannabis products.

(c) “Cannabis products” shall mean any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

~~(d)~~ (db) “Cultivation” shall mean the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis ~~for use by medical cannabis patients.~~

(ee) “Cultivation facility” shall mean a facility for ~~medical~~ cannabis cultivation for supply to a ~~medical~~ cannabis distributor or manufacturer, including a nursery that produces only clones, immature plants or seeds.

(fe) “Delivery” shall mean the commercial transfer of medical cannabis or medical cannabis products ~~from a dispensary, to a primary caregiver or qualified patient, a testing laboratory. Delivery also includes the use by a dispensary of a third party that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer of medical cannabis or medical cannabis products~~ customer.

~~(e)~~ (e) “Delivery service” see “Transporter.” ~~(f)~~ (f) “Dispensing” shall mean any activity involving the retail sale of medical cannabis or medical cannabis products ~~from a dispensary.~~

~~(g)~~ (g) “Dispensing facility” or “dispensary” shall mean a physical retail establishment where medical cannabis or medical cannabis products are offered for retail sale as a medication upon recommendation by a physician, and are made available to or sold to a primary caregiver or a qualified patient in strict accordance with the Compassionate Use Act of 1996 (Cal. Health and Safety Code §§ 11362.5 et seq.).

(gh) “Distribution” shall mean the procurement, sale, and transport of ~~medical~~ cannabis and ~~medical~~ cannabis products purchased and sold between licensed entities. DISTRIBUTION also includes the inspection, storage, including during quality assurance and batch testing processes, labeling, packaging and other processes ~~required necessary occur~~ prior to transport to a licensed ~~medical~~ cannabis retailer ~~dispensary~~ or ~~medical~~ cannabis manufacturing facility.

(ih) “Event” shall mean a public or social occasion.

(i) “Facility” or “facilities” shall mean a facility, premise, tenant space, site or location where one or more types of ~~medical~~-cannabis activity is undertaken.

(j) “Licensee” shall mean a person who possesses both a state license and a cannabis license issued by the City to engage in commercial cannabis activity.

(k) “Lot” shall mean 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” shall also mean a specifically identified amount produced in a unit of time or a quantity in a manner that ensures uniform character and quality within specified limits.~~

(l) “Manufacturing facility” shall mean a facility for the production, preparation, propagation, or compounding of cannabis or 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, and includes a location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(m) “Manufacturing facility, non-volatile” shall mean a manufacturing facility which does not involve the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).

(n) “Manufacturing facility, volatile, large” shall mean a manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2).

(o) “Manufacturing facility, volatile, small” shall mean a manufacturing facility ~~the production, preparation, propagation, or compounding of 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, and includes a location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container~~ which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities equal to or less than those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2), and that has been issued both a local license or permit and a state license pursuant to this chapter.

(p) “Microbusiness facility” shall mean a facility where one licensee may conduct two or more of the following cannabis activities: indoor cultivation with a total cultivation area of not more than 2,500 square feet, distribution, non-volatile manufacturing, and retail sales, distribution, non-volatile manufacturing, retail sales, and indoor cultivation with a total cultivation area that does not exceed the maximum allowed in the zone district.

(m) ~~“MCRSA” shall mean the Medical Cannabis Regulation and Safety Act, as amended and formerly known as the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015.~~

(n) ~~“Medical cannabis activity” shall mean the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product.~~

(q) “Research and development facility” shall mean a facility that offers or performs research and development of cannabis or cannabis products where no commercial cultivation, processing, dispensing, distribution or sale of cannabis or cannabis products occurs. Growing of plants and the use of volatile solvents for the purpose of conducting the research and development may be allowed. Research and Development may include, but is not limited to, systematic activities intended to create new products, processes, patents; scientific assessment of the safety and efficacy of cannabis and cannabis compounds for research and product development purposes; and/or work directed toward the innovation, introduction and improvement of production, processes, and/or products.

(r) “Retail facility” or “Retailer” shall mean a physical retail establishment where cannabis or cannabis products are offered for retail sale and delivery to customers. A retail facility may be closed to the public, and the retailer may conduct sales exclusively by delivery.

(se) “Testing facility” shall mean a facility that offers or performs testing of ~~medical~~ cannabis or ~~medical~~ cannabis products where no commercial cultivation, processing, dispensing, distribution or ~~sale~~ distribution of ~~medical~~ cannabis or cannabis products occurs.

(tp) “Track and trace program” shall mean a program or system that enables the [State of California and the City](#) to track cannabis and cannabis products through the commercial ~~medical~~ cannabis supply chain. ~~as described in MCRSA.~~

~~(q) —“Transporter” shall mean a service or business that transfers medical cannabis or medical cannabis products between facilities that have been issued a cannabis license pursuant to this chapter or from a dispensary to a qualified patient.~~

(uf) “Unique identifier” shall mean a number, digital signature, stamp or combination thereof that allows for the identification of ~~medical~~ cannabis or ~~medical~~ cannabis products at the level of a batch, lot, or package labeled for individual sale.

(vs) “Volatile solvents” shall mean, as used only in this chapter, those solvents used in the manufacture of cannabis products determined to be volatile by the California Department of Public Health or the Humboldt Bay Fire Department.

Section 45.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3005 Personal Use is hereby amended to read as follows:

(a) A qualified patient and persons 21 years of age or over shall be allowed to cultivate ~~medical~~ cannabis for their own personal use. The ~~medical~~ cannabis cultivation area for each residence shall not cumulatively exceed 50 square feet per residence. Cultivation of ~~medical~~ cannabis for personal use shall be in conformance with the following standards:

(i) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. ~~Medical~~ cannabis cultivation shall remain at all times secondary to the residential use of the property;

~~—(ii) The qualified patient shall reside in the residence where the medical cannabis cultivation occurs;~~

(ii) Cultivation of ~~medical~~ cannabis for personal use shall occur only on the parcel either within the a private residence occupied by the qualified patient, or in a self-contained accessory building that is

secured, locked, and fully enclosed and which is for the exclusive use of the qualified patient resident. Cultivation of medical cannabis for personal use shall not displace required off-street parking;

(iii) ~~The medical~~ Cannabis cultivated for personal use ion area shall not exceed 50 square feet and shall not exceed ten feet in height per residence, regardless if cultivated within the residence or in an accessory building. An unless an eException ~~R~~Request may be granted for medical cannabis pursuant to is obtained per § 10-5.3005.1(b);

(iv) If required by Building or Fire Code, the wall(s) adjacent to the cultivation area shall be constructed with 5/8-inch Type X moisture-resistant drywall;

(v) The medical cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(vi) The cultivation of medical cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is cultivated, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, ~~odor~~, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes and no odor shall be detectable outside the exterior walls of the individual residence or accessory structure where cannabis is cultivated;

(vii) ~~Medical~~ Cannabis cultivation lighting shall not cumulatively exceed 1,200 watts. An unless an EException ~~R~~Request may be granted for medical cannabis pursuant to is obtained per § 10-5.3005.1(b);

(viii) All electrical equipment used in the cultivation of medical cannabis, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation of medical cannabis is prohibited;

(ix) Any electrical wiring/rewiring shall first require an electrical permit from the Building Department;

(x) The use of gas products (e.g., CO₂, butane, etc.) for medical cannabis cultivation is prohibited, ~~unless a~~ An EException ~~R~~Request may be granted for medical cannabis pursuant to is obtained per § 10-5.3005.1.1; and

(xi) From a public right-of-way, there shall be no exterior evidence of medical cannabis cultivation occurring at the property, including odor.

10-5.3005.1.1

The ~~medical cannabis~~ cultivation area for medical cannabis may exceed the 50 square foot maximum per residence, up to a total of 100 square feet of cultivation area, or the standards in § 10-5.3.005.1(a)(iv), (viii) or (xi) above may be modified, upon approval of an Exception Request issued by the Director of Community Development. An Exception Request shall not allow more than a total medical cannabis

cultivation area of 100 square feet per residence regardless if cultivated within the residence or an accessory building.

(a) An application for a medical cannabis Exception Request shall include the following information:

(i) Written permission from the property owner;

(ii) An application fee set by resolution of the City Council;

(iii) Adequate information and documentation, such as a physician's recommendation, or verification of more than one qualified patient living in the residence, to demonstrate why the cultivation area should be allowed to exceed 50 square feet;

(iv) The specified location and size of the requested cannabis cultivation area ~~not to exceed 100 square feet and not to exceed ten feet in height~~;

(v) A materials storage, handling and disposal plan; and

(vi) If the Exception Request includes a request to modify the standards prescribed in § 10-5.3005.1(a)(iv), (viii) or (xi), documentation and information shall be provided identifying which standards are proposed to be modified and why such modification would not detrimentally affect the use of the ~~residence~~dwelling unit for its intended residential occupancy.

(b) If required by Building or Fire Code, the applicant shall make specified improvements to the residence with a Building Permit, if one is needed. Such improvements may include, but are not limited to, electrical system upgrades.

(c) The Director of Community Development, in consultation with the Chief Building Official and Fire Marshal, shall review the submitted application and determine if the specific circumstances warrant granting an Exception Request.

(d) The Exception Request shall become void, and the cannabis cultivation area in excess of 50 square feet shall be removed one year following the date on which the Exception Request was issued, unless the Exception Request is renewed prior to expiration.

10-5.3005.1.2

(a) ~~Medical-c~~Cannabis cultivation is prohibited as a home occupation. ~~Medical-c~~Cannabis cultivation shall not be considered a residential accessory use. No distribution of ~~medical~~-cannabis cultivated for personal use shall be allowed.

Section 46

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3005.2 is hereby amended to read as follows:

10-5.3005.2 Processing.

(a) ~~A qualified patient shall be allowed to~~The processing area for medical cannabis cultivated within ~~his or her~~ private residence ~~or accessory structure.~~The medical cannabis processing area shall not cumulatively exceed 20-50 square feet per residence. Processing of ~~medical~~ cannabis cultivated at the residence shall be in conformance with the following standards:

(i) Only ~~medical~~ cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence;

(ii) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. ~~Medical-c~~annabis processing shall remain at all times secondary to the residential use of the property;

(iii) The ~~medical~~ cannabis processing area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(iv) The use of gas products (e.g., CO₂, butane, etc.) for ~~medical~~ cannabis processing is prohibited; and

(v) The processing of ~~medical~~ cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, ~~odor~~, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes and all odor shall be contained within the exterior walls of the residence or accessory structure where cannabis is processed.

(b) ~~Medical-c~~annabis processing is prohibited as a home occupation. ~~Medical-c~~annabis processing shall not be considered a residential accessory use. No sale or distributing of ~~medical~~ cannabis processed for personal use shall be allowed.

Section 47.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3005.3 is hereby amended to read as follows:

10-5.3005.3 Distribution or ~~Sales~~Dispensing.

~~Medical-c~~annabis cultivated or processed for personal use as provided for in this chapter shall not be distributed or ~~sold~~dispensed to any person unless specifically allowed under this chapter or by State law.

Section 48.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3006 is hereby amended to read as follows:

10-5.3006. Commercial-~~medical~~ cannabis – requirements and regulations

Section 49.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3006.1 Offices and labs is hereby amended to read as following:

10-5.3006.1 Events~~Offices~~.

No public or private event where cannabis is kept, displayed, or offered in any manner, sold, furnished, transferred, given away, and/or consumed by any person shall be allowed outside a licensed cannabis facility.

~~(a) *Offices.* Offices at which no cultivation, processing, storage, handling, dispensing or distribution of cannabis, in any form, occurs shall be allowed in any zoning district in which offices are allowed. Such offices shall be subject to all regulations and standards applicable to offices as prescribed in the Zoning Regulations of the Eureka Municipal Code.~~

Section 50.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3007 is hereby amended to read as follows:

10-5.3007 ~~Medical-Commercial~~ cannabis facilities.

~~Medical-Commercial~~ cannabis activity shall be allowed at ~~medical-commercial~~ cannabis facilities as follows, provided P for permitted uses or C or MC, for conditional uses appears in the column below each district. Uses listed with a C or MC shall be permitted upon the granting of a use permit in accord with the provisions of Article 24 (Conditional Uses):

Type of Facility	CC	CN	CS	CW	HM	MG	ML	OR	A
Cultivation, mixed light, not more than 10,000 square feet of cultivation area						€			
Cultivation, indoor, not more than 10,000 square feet of cultivation area						MC	MC		
Cultivation, indoor, not more than 5,000 square feet of cultivation area			C			P	P		
Dispensing	€	€	€		€	€	€		
Distribution, cannabis on site, with or without transportation			P			P	P		
Distribution, transportation only, no cannabis on-site	P	MC	P	10-5.3007(c)		P	P	P	
Manufacturing, non-volatile, more than 5,000 square feet of <u>manufacturing</u> floor area			C			P	P		
Manufacturing, non-volatile, 5,000 square feet or less of <u>manufacturing</u> floor area	MC		MC			P	P		
Manufacturing, volatile, more than 1,500 square feet of floor area large						C			
Manufacturing, volatile, 1,500 square feet or less of floor area small						C	C		
<u>Microbusiness</u>	10-5.3007.1	10-5.3007.1	10-5.3007.1			10-5.3007.1	10-5.3007.1		
<u>Retail</u>	C	C	C		C	C	C		
<u>Research and development</u>	10-5.3007.2		10.5.3007.2	10-5.3007 (c) and 10-5.3007.1	10-5.3007.2	10-5.3007.2	10-5.3007.2		
Research and development with volatile solvents, with or without plants						10-5.3007.2	10-5.3007.2		
Testing, where no <u>commercial</u> cultivation, processing, <u>manufacturing</u> , <u>wholesale</u> , <u>retail</u> or distribution of <u>medical</u> cannabis occurs	P		P	C 10-5.3007 (b)	P	P	P	C	

Transporter, co-located with a distribution facility			P			P	P	
Transporter, located separate from a distribution facility	P	MC	P	MC 10-5.3007(e)		P	P	P

~~(ab)~~ In the Waterfront Commercial (CW) zoning district, ~~medical~~ cannabis testing facilities may be allowed above the ground floor of commercial structures with a use permit granted pursuant to Article 24 of this chapter (Conditional Uses). ~~Medical-c~~Cannabis testing facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(be) In the Waterfront Commercial (CW) zoning district, cannabis research and development facilities where no plants and/or no manufacturing processes occur may be allowed above the ground floor of commercial structures with a use permit granted pursuant to Article 24 of this chapter (Conditional Uses). Cannabis research and development facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

~~(cde)~~ In the Waterfront Commercial (CW) zoning district, ~~medical~~ cannabis ~~transportation-distribution~~ facilities that only transport cannabis, and where no cannabis is located on site~~are located separate from a medical cannabis distribution facility~~ may be allowed above the ground floor of commercial structures with a minor use permit granted pursuant to Article 24 of this chapter (Conditional Uses). ~~Medical-c~~Cannabis ~~transportation-distribution~~ facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

~~(ded)~~ The cultivation area for commercial medical cannabis shall be the cumulative gross floor area of the room or rooms used for cultivation of medical cannabis ~~and shall be measured using the gross floor area~~ where cannabis plants are grown.

10.5.3007.1 Microbusiness Facilities.

(a) A Microbusiness Facility shall be allowed in zone districts where all proposed uses are allowed. For example, a Microbusiness for distribution and retail can be allowed in any zone district in which both distribution AND retail are allowed. A Microbusiness for non-volatile manufacturing, distribution and retail shall only be allowed in a zone district in which all three uses are allowed.

(b) Microbusiness Facilities for cultivation and/or non-volatile manufacturing shall utilize the same size limitations prescribed for a cultivation or manufacturing facility in the corresponding zone district.

(c) A Microbusiness Facility shall be principally permitted, except when located in a zone where one or more uses requires a Conditional (C) or Minor Conditional (MC) use permit, in which case the Microbusiness Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Microbusiness Facility shall obtain a Conditional (C) use permit.

(d) The use of volatile solvents is prohibited in a Microbusiness Facility.

10.5.3007.2 Research and Development Facilities.

(a) A Research and Development Facility may be allowed in the zone district.

(b) A Research and Development Facility that utilizes manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where the corresponding type of manufacturing facility is allowed and shall utilize the same size limitations prescribed for the corresponding facility in the zone district.

(c) A Research and Development Facility with plants (cultivation) shall only be approved in a zone district where cultivation is allowed and shall utilize the same size limitations prescribed for the cultivation facility allowed in the zone district.

(d) A Research and Development Facility utilizing both plants (cultivation) and manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where both cultivation and manufacturing facilities are allowed and shall utilize the same size limitations prescribed for the corresponding type of facility in the zone district.

(e) A Research and Development Facility shall be principally permitted, except when the use corresponds to a cultivation or manufacturing facility use requiring a Conditional (C) or Minor Conditional (MC) use permit, in which case the Research and Development Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Research and Development Facility shall obtain a Conditional (C) use permit.

Section 51.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3008 Dispensing facilities is hereby amended to read as follows:

10-5.3008 Dispensing facilities.

(a) ~~The~~A maximum number of ~~six dispensing-retail~~ facilities ~~shall be~~ allowed within City limits shall be set by Resolution of the City Council.

(b) Only those ~~medical~~-cannabis ~~dispensing-retail~~ facilities invited by the City Council may submit an application for a use permit. The City Council may elect to invite fewer applicants than the number described in Section 10-5.3008(a). The City shall:

(1) Release a Request for Qualification (RFQ) for ~~medical~~-cannabis ~~dispensing-retail~~ facilities within the City, and including a deadline for acceptance of RFQ responses; and

(2) A staff-led committee shall review and evaluate all responsive RFQ's submitted by the deadline to determine which respondents best meet the City's criteria for a ~~dispensing-retail~~ facility as set forth in the Scope of Work included in the RFQ; and

(3) The criteria upon which the committee shall base their review and evaluation shall include at a minimum, but shall not be limited to, a business plan, the business experience and qualifications of the respondent, and the information required in Section 10-5.3011; and

(4) The committee shall return to Council with ranked recommendations regarding facility invitations.

(c) No more than two conditional use permits to operate a ~~medical~~-cannabis ~~dispensary-retail facility~~ shall be issued in a six month period.

(d) Mobile ~~dispensing-sales~~ of ~~medical~~-cannabis is prohibited within City limits.

Section 52.

Title 10, Chapter 5, Article 30. Medical Cannabis Cultivation Section 10-5.3009 is hereby amended to read as follows:

10-5.3009 Delivery services.

(a) A ~~medical~~-cannabis delivery service that is associated with a permitted ~~dispensing-retail~~ facility located within City limits and for which delivery originates from the ~~dispensing-retail~~ facility shall only be allowed when the delivery service is described and included in the use permit for the ~~dispensing-retail~~ facility.

(b) ~~Medical~~-cannabis ~~delivery-services~~ originating from outside City limits and delivering ~~medical~~-cannabis or ~~medical~~-cannabis products within City limits shall only be allowed upon the granting of a mobile business license.

Section 53.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3010 Required conditions and findings is hereby amended to read as follows:

10-5.3010 Required conditions and findings.

(a) Whether or not a use permit is required, all ~~medical~~ cannabis facilities ~~and offices~~ shall:

(1) Obtain a cannabis license issued by the City on an annual basis pursuant to ~~Sec. 10-5.3011 §§ 158.030 through 158.032 of this chapter;~~

(2) Obtain a business license issued by the City on an annual basis pursuant to Title 6 Chapter 1 (Business Licensing); and

(3) Conform to the regulations prescribed by, and consist of a business form that satisfies State law; and

~~(4)~~ Diligently pursue licensure by the State within six months of being permitted to operate in the ~~city~~City.

(b) Each entrance to a ~~medical~~ cannabis facility shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises, except for qualified patients, unless accompanied by a parent or legal guardian.

(c) No new permit or license to operate shall be issued for any facility that is located within a 600 foot the radius ~~or distance prescribed in Health and Safety Code §11362.768-600 feet~~ of an existing public K-12 school. A public charter or K-12 school that locates within 600 feet of an existing cannabis facility shall not grounds to deny the annual renewal at that location of a previously granted cannabis facility permit or license.

(d) The operation of ~~medical~~ cannabis facilities shall not adversely affect the health or safety of the facility occupants or employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, ~~odor~~, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes, and no odor shall be detectible outside the walls of the facility.

~~—(e) Pursuant to the MCRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall “provide a statement declaring the applicant is an ‘agricultural employer,’ as defined in the Alatorre Zenovich Dunlap Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.”~~

~~(f)~~ Signs. No signs are allowed.

~~(g)~~ Off-street parking. Off-street parking facilities shall be provided for each use as set forth in Article 15 of this chapter (Off-Street Parking Facilities) and as follows:-

<u>Type of Cannabis Facility</u>	<u>Parking Use</u>
<u>Cultivation</u> <u>Distribution</u> <u>Research and development with live plants</u> <u>Transportation- co-located with Distribution</u>	<u>Warehousing and distribution</u>
<u>Manufacturing</u> <u>Research and development with volatile solvents</u>	<u>Manufacturing plants and other industrial uses</u>
<u>Research and development</u> <u>Retail</u> <u>Testing</u> <u>Transportation- located separate from Distribution</u>	<u>Retail sales and service</u>

~~(h)~~ Off-street loading. Off-street loading facilities shall be provided for each use as set forth in Article 16 of this chapter (Off-Street Loading Facilities).

~~(i)~~ ~~Medical e~~Cannabis facility operators shall refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA). Any uses of pesticide products shall be in compliance with State pesticide laws and regulations enforced by the County Agricultural Commissioner’s Office and the California Department of Pesticide Regulation.

(ij) Operators of ~~medical~~ cannabis facilities, ~~and laboratories and testing facilities~~ shall maintain active enrollment and participate in a track and trace program as approved by the City. The City may require participation in a track and trace program separate from the State's track and trace program. Any separate program shall be in addition to and not instead of the State's track and trace program.

(jk) Applicants for a cannabis license and/or cannabis facility use permit or minor use permit shall undergo a background investigation as prescribed by the City.

(k) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial change in the mode or character of business operation.

(l) *Findings.* The Director shall make the following findings before granting a cannabis license:

- (1) That the applicant and the premises for which a license is applied meet all the requirements and qualify for licensure under this chapter; and
- (2) That the applicant has not been convicted of a felony as prescribed in MAUCRSA, or as amended.

Section 54.

Title 10, Chapter 5, Article 30. Cannabis Section 10-5.3011 Permits and licensing is hereby amended to read as follows:

10-5.3011 Applications, Use Permits, and licensing Licenses and Fees.

~~10-5.3011.1 Cannabis license required.~~

~~All medical cannabis facilities and offices shall obtain a cannabis license and shall comply with the provisions of this chapter and with the requirements of the MCRSA, or as amended.~~

10-5.3011.12 Cannabis license applications.

Applications for cannabis licenses shall be filed with the Director. The Director shall issue a cannabis license upon finding that the ~~medical~~ cannabis facility ~~or office~~ meets, ~~or in the case of the state license requirements, will meet,~~ all of the requirements of this ~~Article~~chapter.

10-5.3011.3 Lapse of cannabis license.

A cannabis license shall lapse and shall become void one year following the date on which the cannabis license became effective unless the cannabis license is renewed pursuant to Sec. 10-5.3014 (Inspection and Monitoring)~~§158.032~~ of this ~~Article~~chapter or unless the cannabis license is revoked for a violation of the terms of the cannabis license application.

10-5.3011.34 Use permit applications.

Applications for use permits shall be shall be filed with the Director.

10-5.3011.45 Data to be furnished.

Applications for use permits and cannabis licenses shall be on forms provided by the Department and shall include all information required in the use permit application and the supplemental application packet, ~~which Required information may~~ includes, but is not limited to:

- (a) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;
- (b) Text and graphic materials showing the site and floor plan for the ~~medical~~ cannabis facility including the use of each room or building on the premises. ~~The material shall also describe or illustrate the location and uses of adjacent structures and properties;~~
- (c) The hours and days of the week the ~~medical~~ cannabis facility will ~~operate~~be open;
- (d) The number of persons, per shift, who will be working at the ~~medical~~ cannabis facility;
- (e) The security measures that will be employed at the premises, ~~including but not limited to: lighting, alarms, and automatic law enforcement notification;~~
- (f) The odor control measures that will be employed at the premises;
- (g) The chemicals stored or used at the premises, including cumulative quantities of each chemical;
- (h) The type and quantity of all effluent discharged into the City's wastewater and/or stormwater system and a copy of the applicant's submitted or approved discharge permit, if applicable;
 - ~~(i) The name, location and operator of the medical cannabis facility(ies) supplying the medical cannabis to the facility;~~
 - ~~(j)~~ A detailed operations manual containing, at a minimum:
 - (1) The staff screening process including appropriate background checks;
 - (2) The process for tracking ~~medical~~ cannabis quantities and inventory controls;
 - (3) For medical cannabis retailers:
 - (i) A description of the screening, registration and validation process for qualified patients;
 - ~~(ii)~~4 A description of qualified patient records acquisition and retention procedures; and
 - ~~(iii)~~5 The process for tracking ~~medical~~ cannabis quantities and inventory controls including on-site cultivation, processing, and/or ~~medical~~ cannabis products received from outside sources;
 - ~~(k)~~ A detailed Cannabis Safety Program, which includes at a minimum, the following,
 - (1) The process for documenting the chain of custody of all ~~medical~~-cannabis and ~~medical~~ cannabis products from farm to ~~patient~~consumer;
 - (2) The procedure and documentation process for assuring the safety and quality of all ~~medical~~-cannabis and ~~medical~~-cannabis products; and
 - ~~(3)~~ (3) ~~—~~ ~~(3)~~ The procedure and documentation process for determining patient dosage quantity including testing for the major active agents in the ~~medical~~-cannabis (e.g., cannabinoids THC, CBD and CBN).

10-5.3011.6 State License Submittal

An applicant for a cannabis facility license shall submit to the Department an electronic copy of the completed and submitted State application and all attachments, either along with the City's cannabis facility license application, or within five days of the date the application is submitted to the State Bureau of Cannabis Control, whichever is later.

10-5.3011.6 Fees.

Applications shall be accompanied by a fee established by resolution of the Council to cover the cost of handling the application as prescribed in this chapter.

Section 55.

Title 10, Chapter 5, Article 30. Cannabis Section 10-5.3012 Enforcement is hereby amended to read as follows:

Sec. 10-5.3012 Enforcement, Suspension, Revocation, and Hearing.

(a) —A person engaging in commercial cannabis activity without a license required by this chapter, and or aAny violation of this chapter is subject to administrative, civil, or criminal penalties, as set out in ~~Eureka Municipal Code § 10.99 Chapter 2 (Penalty Provisions)~~, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. Daily monetary penalties of up to three times the amount of the license fee for each violation may be assessed, and a court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this chapter. A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation. This is a chapter adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.

(b) Whenever an enforcement officer determines a cannabis facility or licensee has failed to comply with the regulations set forth in this chapter, or determines an action, or inaction by a cannabis facility or licensee threatens or negatively impacts, or may, in the opinion of the enforcement officer, threaten or negatively impact the public health, safety, and/or welfare, the enforcement officer may issue a notice of violation which provides a timeline for compliance, and may, at his or her discretion, require all or part of the facility's operations be immediately modified, or may issue a notice of suspension to suspend a cannabis facility license. Suspension of a cannabis facility license shall mean all operations shall immediately cease, and shall not be resumed unless or until the suspended license is re-instated following hearing pursuant to this section.

(c) Provided the enforcement officer determines that all violations have been corrected within the time specified in the notice of violation, a hearing pursuant to this section shall not be held, and following written notice to the licensee from the enforcement officer, operations may resume. If the enforcement officer determines that any or all violations listed in the notice of violation have not been corrected within the time specified, the cannabis facility license shall be suspended, and the enforcement officer shall provide a written notice of suspension to the licensee.

(d) Upon suspension of a cannabis facility license, a date for an administrative hearing shall be set which is not less than 15 nor more than 60 days from the date the suspension became effective. Written notice of the date, time, and location of that hearing shall be provided to the licensee at least 15 days prior to the hearing date.

(e) A copy of all written material intended to be submitted at the hearing shall be provided to the licensee at least five days prior to the date of the hearing.

(f) *Hearing officer.* The City Manager shall designate one or more persons qualified by education and experience to serve as hearing officers for administrative hearings conducted under this section.

(g) *Conduct of hearings.*

(i) *Evidentiary rules.* At the hearing, the notice of suspension shall constitute prima facie evidence of the respective facts contained in the notice. The licensee and the enforcement officer shall be given the opportunity to testify and to present evidence concerning the violation(s). Such evidence may include the testimony of other witnesses, or the introduction of documents or other evidence. Such testimony, written documents, or other evidence sought to be introduced shall not be limited to any legal rules of evidence, save and except for the rule that it shall be relevant and material to the issues of whether the violation alleged in the notices of violation and suspension occurred.

(ii) *Waiver of personal appearance at hearing.* Instead of appearing at an administrative hearing in person or by an authorized representative, a licensee may request that the hearing officer decide the matter based on the face of the notice of suspension, and any other documentary evidence submitted by the licensee or the enforcement officer prior to the date of the hearing.

(iii) *Failure to appear at hearing.* The failure of a licensee to appear at the hearing in person or by an authorized representative shall be deemed to be a waiver of the right to be personally present at the hearing and the hearing officer shall decide the matter based upon the notice, any written materials which have previously been submitted in anticipation of the hearing, and any other evidence which may be presented at the hearing by the enforcement officer.

(iv) *Attendance of enforcement officer.* The enforcement officer who issued the notice of suspension may, but is not required to, attend the administrative hearing. If the enforcement officer does not attend, he or she may, prior to the hearing date, submit to the hearing officer reports, photographs or other documentation regarding the violation(s) for consideration at the hearing.

(i) *Continuation of hearings.* The hearing officer may continue any hearing and request additional information from the enforcement officer or the licensee prior to issuing a written decision.

(h) After considering all of the testimony and evidence admitted at the hearing, the hearing officer shall issue a written decision to reinstate the license, reinstate the license with modifications, or may revoke the license, and shall state in the decision the reasons therefor.

(i) The decision of the hearing officer shall be final and shall be provided to the licensee within 15 days following the date of the hearing.

(j) When a cannabis facility license has been permanently revoked pursuant to this section, the same or substantially the same applicant(s) shall not apply for or be granted a new cannabis license.

(k) *Right to judicial review.* Any person aggrieved by the decision of a hearing officer on a notice of suspension may obtain review of the administrative decision by filing an appeal with

the Superior Court of California, County of Humboldt, Eureka Courthouse, in accordance with the procedures and within the time set forth in Cal. Gov't Code § 53069.4.

Section 56.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3013 Costs and taxes is hereby amended to read as follows:

Sec 10-5.3013. Costs and taxes.

The costs to the City arising from the processing and oversight of Exception Requests under § 10-5.3005.1 and use permits, cannabis licenses, business licenses, and unique identifiers for a required track and trace program for ~~medical~~ cannabis facilities, and the costs of monitoring and ensuring compliance with this chapter, including investigations, enforcement actions, and disciplinary or abatement proceedings, will be offset through application fees, annual renewal fees, and fees for unique identifiers, ~~to be as~~ adopted by the City Council by resolution and updated as necessary from time-to-time. In the administration of the permitting or licensing requirements under this chapter, the City Manager, or his or her designee, may require as a condition ~~of~~ granting ~~and~~ renewing of the permits or licenses any information reasonably necessary to implement the intent of this chapter, to ensure that the cannabis handled under the use permit or license is grown, tested, processed, manufactured, distributed and/or ~~sold~~ dispensed in a manner not in conflict with this chapter, and to ensure that any and all related sales taxes are being properly reported and paid.

~~**Section 45.**~~

~~The following section is hereby added to Title 10, Chapter 5, Article 30. Cannabis:~~

~~**Sec. 10-5.3014. Release of liability and Hold harmless.**~~

~~As a condition of approval of any use permit or cannabis license approved for a cannabis facility, the licensee of each cannabis facility shall indemnify and hold harmless the City and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cannabis facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise from cannabis activities.~~

Section 57.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3014 Inspection and monitoring is hereby amended to read as follows:

Sec. 10-5.3014 Inspection and monitoring.

(a) Inspectors with the Community Development Services, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility, and may examine the records of a licensee to ensure compliance with the terms of the ~~medical~~ cannabis license at any time during normal operating hours ~~as specified in the license application.~~

(b) A cannabis licensee shall submit to the Department an inspection fee set by resolution of the City Council and shall make a request to the Department for an inspection of each ~~medical~~ cannabis facility not more than 90 days and not less than 30 days prior to the annual expiration of the cannabis license to assure compliance with the terms of the ~~medical~~-cannabis license. Inspectors with the Community Development Services, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility. All records kept pursuant to the cannabis license shall be open for visual inspection.

(c) If the cannabis licensee fails to submit the inspection fee or request an inspection within the specified time frame, refuses inspection, or if the inspection finds that the facility is not operated in compliance with the approved license application, the cannabis license shall be subject to revocation and upon cannabis license revocation the facility shall immediately cease operation.

(d) ~~Within ten business days of the inspection date~~Following inspection pursuant to (b) above, the City shall either provide a written statement of non-compliance and a timeline for attaining compliance, or shall renew the cannabis license ~~within 10 business days of the inspection date~~.

(e) Within 10 days after issuance of a statement of non-compliance, the determination of non-compliance may be appealed by any interested party to the Commission pursuant to Article 28 of this chapter (Administration and Enforcement). The appeal shall be made, in writing, on a form provided by the City Clerk, along with a fee set by resolution of the City Council. The City reserves the right to determine whether the facility shall continue to operate during the appeal process.

Section 58.

The following section is hereby added to Title 10, Chapter 5, Article 30. Cannabis:

Sec.10-5.30154. Release of liability and Hold harmless.

As a condition of approval of any use permit or cannabis license approved for a cannabis facility, the licensee of each cannabis facility shall indemnify and hold harmless the ~~city~~City and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cannabis facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise from cannabis activities.

Section 59.

The following section is hereby added to Title 10, Chapter 5, Article 30. Cannabis:

Sec. 10-5.30165 Severability.

If any part of this ~~section~~Article is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ~~chapter~~Article.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County

of Humboldt, State of California, on the 20th day of September, 2016 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS

Linda Atkins, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2016,
and hereby approved.

Frank J. Jager, Mayor

Approved as to Administration:

Approved as to form:

Greg L. Sparks, City Manager

Cyndy Day-Wilson, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the _____
day of _____, 2016.

Pamela J. Powell, City Clerk

ATTACHMENT 5

Draft Ordinance Old Code clean

**AN ORDINANCE OF THE CITY OF EUREKA
AMENDING TITLE 10, CHAPTER 5 OF THE EUREKA MUNICIPAL CODE
PERTAINING TO CANNABIS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

Title 10, Article 4 [A Agricultural Districts], Section 10-5.403 [Permitted uses], is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

(o) Accessory structures and uses located on the same site with a permitted use, including barns, stables, coops, tank houses, storage tanks, windmills, silos, other farm outbuildings, private garages and carports, one guest house or accessory living quarters without a kitchen for each dwelling on the site, storehouses, garden structures, greenhouses, recreation rooms and hobby shops, and the storage of petroleum products for the use of persons residing on the site.

Section 2.

Title 10, Article 7 [OR Office and Multi-Family Residential Districts], Section 10-5.703. Permitted office/multi-family residential (OR) uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- (e) Accessory structure and uses located on the same site as a permitted use.
- (f) Cannabis distribution facilities, where no cannabis is on-site, subject to the provisions of Article 30 (Cannabis).

Section 3.

Title 10, Article 7, [OR Office and Multi-Family Residential Districts], Section 10-5.704. Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- (m) Timber harvest of less than three (3) acres; and
- (n) Cannabis testing facilities where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 (Cannabis).

Section 4.

Title 10, Article 8, [HM Hospital-Medical Districts], Section 10-5.803. Permitted uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is*

omitted):

(f) Parking facilities, including fee parking facilities improved in conformity with the standards prescribed for required parking facilities in Section 10-5.1504 of Article 15 of this chapter (Standards of off-street parking facilities);

(g) Accessory structures and uses located on the same site as a permitted use; and

(h) Cannabis research and development facilities, subject to the provisions of Article 30 Section 10-5.3007.2 of this chapter (Cannabis); and

(i) Cannabis testing facilities where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis).

Section 5.

Title 10, Article 8, [HM Hospital-Medical Districts], Section 10-5.804. Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(g) Timber harvest of less than three (3) acres; and

(h) Cannabis retail facilities subject to the provisions of Article 30 of this chapter (Cannabis); and

(i) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis).

Section 6.

Title 10, Article 9 [C Commercial Districts] Section 10-5.903 [Permitted and conditional uses], Subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

(a) The following uses shall be permitted uses or conditional uses in a C District provided the symbol P, for permitted use, or C or MC, for conditional use appears in the column beneath each C District. Conditional uses shall be permitted upon the granting of a use permit (C), or a minor use permit (MC) in accord with the provisions of Article 24 (Conditional Uses) of this chapter, and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 (Conditional Uses) of this chapter:

	CN	CP	CC	CW	CS
Medical and orthopedic appliance stores	P	P	P	P	P

Meeting halls

P P P P

Section 7.

Title 10, Article 9 [C Commercial Districts] Section 10-5.903 [Permitted and conditional uses], Subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

(a) The following uses shall be permitted uses or conditional uses in a C District provided the symbol P, for permitted use, or C or MC, for conditional use appears in the column beneath each C District. Conditional uses shall be permitted upon the granting of a use permit (C), or a minor use permit (MC) in accord with the provisions of Article 24 (Conditional Uses) of this chapter, and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 (Conditional Uses) of this chapter:

	CN	CP	CC	CW	CS
Candy stores	P	P	P	P	P
Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30.					C
Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30.					P
Cannabis distribution facilities, transportation only, where no cannabis is on-site, subject to the provisions of Article 30	MC		P		P
Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of manufacturing floor area, subject to the provisions of Article 30.					MC
Cannabis microbusiness facilities, subject to the provisions of Article 30	10-5.3007.1		10-5.3007.1		10-5.3007.1
Cannabis non-volatile manufacturing facilities, more than 5,000 square feet of manufacturing floor area, subject to the provisions of Article 30.					C
Cannabis research and development facilities with research and development plants, indoor, not more than 5,000 square feet of floor area, where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30			10-5.3007.2		10-5.3007.2

Cannabis retail facilities subject to the provisions of Article 30	C	C		C
Cannabis testing facilities where no cultivation, processing, manufacturing, wholesale, retail, or distribution of medical cannabis occurs, subject to the provisions of Article 30		P		P
Cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30	MC	P	MC*	P
Card rooms		P	P	P

Section 8.

Title 10, Article 10. M Industrial Districts, Section 10-5.1003.1 ML Limited Industrial Districts is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

(17.1) Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 (Cannabis);

(17.2) Cannabis distribution, cannabis on site, with or without transportation facilities, subject to the provisions of Article 30 (Cannabis);

(17.3) Cannabis distribution, transportation only, no cannabis on site facilities, subject to the provisions of Article 30 (Cannabis);

(17.4) Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 (Cannabis);

(17.5) Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 (Cannabis);

(17.6) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 (Cannabis);

(17.7) Cannabis testing facilities, where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 (Cannabis);

(17.8) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 (Cannabis);

Section 9.

Title 10, Article 10. M Industrial Districts, Section 10-5.1004.1 ML Limited Industrial Districts is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

(g) Gymnastics schools, and health clubs;

(h) Cannabis manufacturing facilities, volatile, small, subject to the provisions of Article 30 of this chapter (Cannabis).

- (i) Cannabis retail facilities, subject to the provisions of Article 30 of this chapter (Cannabis); and

Section 10.

Title 10, Article 10. M Industrial Districts, Section 10-5.1004.2 MG General Industrial Districts subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

- (23) Manure, peat, and topsoil processing and storage;
- (24) Metal and metal ores reduction, refining, smelting, and alloying;

Section 11.

Title 10, Article 10. M Industrial Districts, Section 10-5.1003.2 MG General Industrial Districts subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

- (2) Asphalt and asphalt products manufacture;
 - (2.1) Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis)
 - (2.2) Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis)
 - (2.3) Cannabis distribution facilities, transportation only, no cannabis on-site, subject to the provisions of Article 30 of this chapter (Cannabis)
 - (2.4) Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of manufacturing floor area, subject to the provisions of Article 30 of this chapter (Cannabis)
 - (2.5) Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of manufacturing floor area, subject to the provisions of Article 30 of this chapter (Cannabis)
 - (2.6) Cannabis testing or research and development facilities, where no cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis)
- (3) Cement, lime, gypsum, and plaster of paris manufacture;

Section 12.

Title 10, Article 10. M Industrial Districts, Section 10-5.1004.2 MG General Industrial Districts subparagraph (a) is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

- (2) Asphalt and asphalt products manufacture;
 - (2.1) Cannabis manufacturing facilities, volatile, large, subject to the provisions of Article 30 of this chapter (Cannabis)
 - (2.2) Cannabis manufacturing facilities, volatile, small, subject to the provisions of Article 30 of this chapter (Cannabis)

(2.3) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis)

(2.4) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis).

(2.5) Cannabis retail facilities, subject to the provisions of Article 30 of this chapter (Cannabis).

(3) Cement, lime, gypsum, and plaster of paris manufacture;

Section 13.

Title 10, Article 10. Section 10-5.1004.1.1 ML Limited Industrial Districts is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

10-5.1004.1.1 Minor Use Permit

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses), and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 of this chapter (Conditional Uses):

(a) Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis).

Section 14.

The following subsection is hereby added to Title 10, Article 10, Section 1004.2. MG General Industrial Districts:

10-5.1004.2.2 Minor Use Permit

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses), and the Director of Planning or Planning Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in Article 24 of this chapter (Conditional Uses):

(a) Cannabis cultivation facilities, indoor, not more than 10,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis).

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1

(c) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis).

Section 15.

Title 10, Article 29 Coastal Development Permit Procedures Part 7. AC – Coastal Agricultural District Section 10-5.2972 Permitted uses, is hereby amended to read as follows (*the remainder of the text in the table is unchanged and is omitted*):

Timber harvest.

Section 16.

Title 10, Article 29 Coastal Development Permit Procedures, Part 10 OR – Office and Multi Family Residential Districts, Section 10-5.29102 Permitted uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- (e) Accessory structure and uses located on the same site as a permitted use.
- (f) Cannabis distribution, transportation only, no cannabis on-site, subject to the provisions of Article 30 (Cannabis).

Section 17.

Title 10, Article 29 Coastal Development Permit Procedures, Part 10 OR – Office and Multi Family Residential Districts, Section 10-5.29103 Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- (m) Timber harvest of less than three (3) acres.

Section 18.

Title 10, Article 29 Coastal Development Permit Procedures, Part 10 OR – Office and Multi Family Residential Districts, Section 10-5.29103 Conditional uses, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- (e) Family care homes and halfway houses;
 - (e.1) Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis).
- (f) Charitable institutions;

Section 19.

Title 10, Article 29 Coastal Development Permit Procedures, Part 11 CW – Waterfront Commercial Districts, Section 10-5.29113 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- Medical and orthopedic appliance stores;

Section 20.

Title 10, Article 29 Coastal Development Permit Procedures, Part 11 CW – Waterfront Commercial Districts, Section 10-5.29113 Conditional uses is hereby amended to read

as follows (*the remainder of the text is unchanged and is omitted*):

Business, professional, and trade schools and colleges;

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs, located above the ground floor of commercial structures subject to the provisions of Article 30 of this chapter (Cannabis);

Section 21.

The following subsection is hereby added to Title 10, Article 29 Coastal Development Permit Procedures, Part 11 CW – Waterfront Commercial Districts, Section 10-5.29113 Conditional uses (*the remainder of the text is unchanged and is omitted*):

Sec. 10-5.29113.1 Minor user permits.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses). The application shall demonstrate and the City shall find that granting of a minor use permit will not diminish recreational or visitor-serving opportunities.

(a) Cannabis distribution, transportation only, no cannabis on site facilities located separate from a distribution facility and located above the ground floor of commercial structures, and subject to the provisions of Article 30 of this chapter (Cannabis).

(b) Cannabis research and development facilities subject to the provisions of Article 30, Section 10-5.3007 (c) and 10-5.3007.1 of this chapter (Cannabis).

Section 22.

Title 10, Article 29 Coastal Development Permit Procedures, Part 12 CN – Neighborhood Commercial Districts, Section 10-5.29123 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Service stations, not including automobile, truck, and trailer rentals as accessory uses, provided all operations, except the sale of gasoline and oil and the washing of cars, shall be conducted within a building enclosed on at least three (3) sides.

Section 23.

Title 10, Article 29 Coastal Development Permit Procedures, Part 12 CN – Neighborhood Commercial Districts, Section 10-5.29123 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Business, professional and trade schools and colleges;

Cannabis retail facilities subject to the provisions of Article 30 of this chapter (Cannabis);

Section 24.

The following section is hereby added to Title 10, Article 29 Coastal Development Permit Procedures, Part 12 CN – Neighborhood Commercial Districts:

Sec. 10-5.29123.1 Minor use permits.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses). The application shall demonstrate and the City shall find that granting of a minor use permit will not diminish recreational or visitor-serving opportunities.

(a) Cannabis distribution facilities, transportation only, no cannabis on site, subject to the provisions of Article 30 of this chapter (Cannabis);

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis).

Section 25.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29132 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Medical and orthopedic appliance stores;
Meeting halls;

Section 26.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29132 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Candy shops;
Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis);
Cannabis distribution facilities, transportation only, no cannabis on-site, subject to the provisions of Article 30 of this chapter (Cannabis);
Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis);
Carpenter shops;

Section 27.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29133 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Light industrial uses permitted in the ML Limited Industrial District:

Mobilehome parks in accordance with the regulations prescribed in Article 21 of this chapter (Manufactured Homes, Mobilehomes, Commercial Coaches, Mobilehome Parks and Recreational Vehicle Parks);

Section 28.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29133 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- Automobile and motorcycle racing stadiums and drag strips;
- Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis);
- Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);
- Cannabis retail facilities subject, to the provisions of Article 30 of this chapter (Cannabis);
- Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);
- Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);
- Charitable institutions;

Section 29.

Title 10, Article 29 Coastal Development Permit Procedures, Part 13 CS – Service Commercial District, Section 10-5.29133.1 is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Sec. 10-5.29133.1. Minor use permits.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses):

- (a) Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis).

Section 30.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML – Limited Industrial Districts, Section 10-5.29162 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

- Mattress manufacture;
- Metal finishing and plating;

Section 31.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML – Limited Industrial Districts, Section 10-5.29162 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Bus depots;

Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, transportation only, no cannabis on site, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis transportation facilities, co-located with a distribution facility, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis transportation facilities, located separate from a distribution facility, subject to the provisions of Article 30 of this chapter (Cannabis);

Cold storage plants;

Section 32.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML – Limited Industrial Districts, Section 10-5.29163 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Accessory structures and uses located on the same site as a conditional use;

Cannabis retail facilities, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, volatile, small, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Section 33.

The following section is hereby added to Title 10, Article 29 Coastal Development Permit Procedures, Part 16 ML Limited Industrial Districts:

Sec. 10-5.29163.1 Minor use permit.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses):

- (a) Cannabis cultivation facilities, indoor with 10,000 square feet or less of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis).
- (b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);
- (c) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Section 34.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29172 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Meat products processing and packaging, not including slaughtering and glue and size manufacture;

Metal alloys and foil manufacture, including solder, pewter, brass, bronze, and tin, lead, and gold foil;

Section 35.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29172 Permitted uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Candle manufacturing, not including rendering;

Cannabis cultivation facilities, indoor, not more than 5,000 square feet of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, cannabis on site, with or without transportation, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis distribution facilities, transportation only, no cannabis on site, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, more than 5,000 square feet of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

Cannabis testing facilities, where no commercial cultivation, processing, manufacturing, wholesale, retail, or distribution of cannabis occurs subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis research and development facilities subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Carpet and rug manufacture;

Section 36.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29173 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Manure, peat, and topsoil processing and storage;

Metal and metal ores reduction, refining, smelting, and alloying;

Section 37.

Title 10, Article 29 Coastal Development Permit Procedures, Part 17 MG – General Industrial Districts, Section 10-5.29173 Conditional uses is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Asphalt and asphalt products manufacture;

Cannabis retail sales facilities subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, volatile, large, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis manufacturing facilities, volatile, small, subject to the provisions of Article 30 of this chapter (Cannabis);

Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Cement, lime, gypsum, and plaster of paris manufacture;

Section 38.

Title 10, Article 29 Coastal Development Permit Procedures, Part 16 MG – Limited Industrial Districts, Section 10-5.29173.1 is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

Sec. 10-5.29173.1 Minor use permit.

The following conditional uses shall be permitted upon the granting of a minor use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses):

(a) Cannabis cultivation facilities, indoor, 10,000 square feet or less of cultivation area, subject to the provisions of Article 30 of this chapter (Cannabis).

(b) Cannabis microbusiness facilities, subject to the provisions of Article 30, Section 10-5.3007.1 of this chapter (Cannabis);

(c) Cannabis research and development facilities, subject to the provisions of Article 30, Section 10-5.3007.2 of this chapter (Cannabis);

Section 39.

Title 10, Chapter 5, Article 30. Medical Cannabis Cultivation is hereby amended to read as follows:

Article 30. Cannabis

Section 40.

Title 10, Chapter 5, Article 30. Cannabis Section 10-5.3001 is hereby amended to read as follows:

Sec. 10-5.3001. Findings and Purpose

(a) The City Council of the City of Eureka, based on evidence presented to it in the proceedings leading to the adoption of this article and subsequent amendments to this article, hereby finds that the illegal and unpermitted cultivation, processing and distribution of cannabis in the City has caused and is causing ongoing impacts to the community. These impacts include damage to buildings containing illegal and unpermitted indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home- invasion robberies and similar crimes, and that many of these impacts have fallen disproportionately on residential neighborhoods. These impacts have also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.

(b) The City Council acknowledges that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of cannabis for medical purposes under the Compassionate Use Act, but that the Compassionate Use Act does not address land use or building code impacts or issues arising from the resulting increase in cannabis cultivation within the City.

(c) The City Council acknowledges that the California legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015 and that the act allows local jurisdictions to regulate medical marijuana commerce and a range of medical cannabis license types in their jurisdictions under the state regulatory framework provided in the law as amended.

(d) The City Council acknowledges that in 2016, the voters of the State of California legalized the possession, cultivation, and sale of marijuana for individuals over the age of 21 through the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA).

(e) The City Council acknowledges that the California legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) in 2017 which repealed MCRSA and included certain provisions from MCRSA in the licensing provisions of AUMA, and generally imposed the same requirements on both commercial medicinal and commercial adult-use cannabis activity.

(f) The City Council acknowledges that sales of cannabis are subject to taxation by both the City and the State and that the California State Board of Equalization (BOE) is also requiring

that businesses engaging in such retail transactions hold a seller's permit.

(g) The purpose and intent of this chapter is to regulate the cultivation, processing, manufacturing, transport, storage, distribution and sale of cannabis and cannabis products for qualified patients with a valid physician's recommendation and for adults 21 years of age and over in a manner that protects the public health, safety and welfare of the community and mitigates for the costs to the community of the oversight of these activities.

Section 41.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3002 is hereby amended to read as follows:

Sec. 10-5.3002 Interpretation and Applicability.

(a) No part of this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation, processing, manufacturing, transport, storage, distribution and sale of cannabis in the City is controlled by the provisions of this chapter of the Eureka Municipal Code. Accessory uses and home occupations, where cannabis is involved, shall be governed by the provisions of this chapter.

(b) Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.

(c) Nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting cannabis cultivation, manufacturing, smoking or other related activities by tenants.

(d) Nothing in this chapter is intended, nor shall it be construed, to exempt any cannabis related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

(e) Nothing in this chapter is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of cannabis that is otherwise prohibited under California law.

(f) All cultivation, processing, manufacturing, testing, transport, storage, distribution or sale of cannabis within City limits shall be subject to the provisions of this chapter, regardless if the cultivation, processing, manufacturing, testing, transport, storage, distribution or sale existed or occurred prior to adoption of this chapter or at the time of subsequent amendments to this chapter.

Section 42.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003 Definitions is hereby amended to read as follows:

Sec. 10.5.3003 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) “AUMA shall mean the Control, Regulate and Tax Adult Use of Marijuana Act, and any amendments thereto.

(b) “Cannabis” shall mean 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” shall also mean the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” shall also mean marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “Cannabis” shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, “Cannabis” shall 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.

(c) “Cannabis license” shall mean an annual license issued by the Department to allow the operation of a cannabis facility.

(d) “Commission” shall mean the Planning Commission of the City.

(e) “Director” shall mean the Director of Planning of the City, or his or her designee.

(f) “Department” shall mean the Development Services Department of the City.

(g) “Enforcement officer” shall mean any City employee or agent authorized to enforce any provisions of this code or any code adopted by the City.

(h) “MAUCRSA” shall mean the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 as amended.

(i) “MCRSA” shall mean the Medical Cannabis Regulation and Safety Act of 2016, and any amendments thereto, and formerly known as the Medical Marijuana Regulation and Safety Act (MMRSA) of 2015.

(j) “Primary caregiver” shall be as defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

(k) “Qualified patient” shall be as defined in Cal. Health and Safety Code §§ 11362.7 et seq., and as it may be amended from time to time.

Section 43.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003.1 Personal Use Definitions is hereby amended to read as follows:

Sec. 10.5.3003.1 Personal Use Definitions.

For the purposes of this chapter, the following definitions shall apply to the personal use of medical cannabis unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

(a) “Cannabis cultivation area” shall mean the maximum dimensions used for the cultivation of cannabis. For the purpose of §10-5.3005 of this chapter, the allowable cultivation area shall be the cumulative gross area used for cultivation of cannabis and shall be measured using either (a) the outward edge of the trays, pots or other containers used for cultivation or (b) the vegetative canopy, whichever is greater.

(b) “Cannabis processing” shall include, but is not limited to: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, rolling.

(c) “Cannabis processing area” shall mean the maximum dimensions used for the processing of cannabis. For the purpose of this chapter, the allowable processing area shall be the cumulative gross floor area used for processing cannabis.

(d) “Medical Cannabis” shall mean cannabis, including, but not limited to concentrates and extractions, intended to be cultivated or sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215).

(e) “Residence” shall mean a legal dwelling unit consisting of a room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

Section 44.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003.2 Commercial Use Definitions is hereby amended to read as follows:

Sec. 10.5.3003.2 Commercial Use Definitions.

For the purposes of this chapter, the following definitions shall apply to commercial cannabis, unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be the same as the definitions in MAUCRSA.

(a) “Batch” shall mean a specific quantity of homogeneous cannabis or cannabis products and as defined in MAUCRSA.

(b) “Cannabis activity” shall mean the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, delivery or sale of cannabis or cannabis products.

(c) “Cannabis products” shall mean any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

(d) “Cultivation” shall mean the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(e) “Cultivation facility” shall mean a facility for cannabis cultivation for supply to a cannabis distributor or manufacturer, including a nursery that produces only clones, immature plants or seeds.

(f) “Delivery” shall mean the commercial transfer of medical cannabis or medical cannabis products to a customer.

(g) “Distribution” shall mean the procurement, sale, and transport of cannabis and cannabis products purchased and sold between licensed entities. DISTRIBUTION also includes the inspection, storage, including during quality assurance and batch testing processes, labeling, packaging and other processes required prior to transport to a licensed cannabis retailer or cannabis manufacturing facility.

(h) “Event” shall mean a public or social occasion.

(i) “Facility” or “facilities” shall mean a facility, premise, tenant space, site or location where one or more types of cannabis activity is undertaken.

(j) “Licensee” shall mean a person who possesses both a state license and a cannabis license issued by the City to engage in commercial cannabis activity.

(k) “Lot” shall mean a batch, or a specifically identified portion of a batch.

(l) “Manufacturing facility” shall mean a facility for the production, preparation, propagation, or compounding of cannabis or 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, and includes a location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(m) “Manufacturing facility, non-volatile” shall mean a manufacturing facility which does not involve the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).

(n) “Manufacturing facility, volatile, large” shall mean a manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2).

(o) “Manufacturing facility, volatile, small” shall mean a manufacturing facility which involves the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard in quantities equal to or less than those allowed in control areas complying with CBC Section 414, based on the maximum allowable quantity limits for control areas set forth in CBC Tables 307.1(1) and 307.1(2)..

(p) “Microbusiness facility” shall mean a facility where one licensee may conduct two or more of the following cannabis activities: distribution, non-volatile manufacturing, retail sales, and indoor cultivation with a total cultivation area that does not exceed the maximum allowed in the zone district.

(q) “Research and development facility” shall mean a facility that offers or performs research and development of cannabis or cannabis products where no commercial cultivation, processing, dispensing, distribution or sale of cannabis or cannabis products occurs. Growing of plants and the use of volatile solvents for the purpose of conducting the research and development may be allowed. Research and Development may include, but is not limited to, systematic activities intended to create new products, processes, patents; scientific assessment of

the safety and efficacy of cannabis and cannabis compounds for research and product development purposes; and/or work directed toward the innovation, introduction and improvement of production, processes, and/or products.

(r) “Retail facility” or “Retailer” shall mean a physical retail establishment where cannabis or cannabis products are offered for retail sale and delivery to customers. A retail facility may be closed to the public, and the retailer may conduct sales exclusively by delivery.

(s) “Testing facility” shall mean a facility that offers or performs testing of cannabis or cannabis products where no commercial cultivation, processing, dispensing, distribution or sale of cannabis or cannabis products occurs.

(t) “Track and trace program” shall mean a program or system that enables the State of California and the City to track cannabis and cannabis products through the commercial cannabis supply chain.

(u) “Unique identifier” shall mean a number, digital signature, stamp or combination thereof that allows for the identification of cannabis or cannabis products at the level of a batch, lot, or package labeled for individual sale.

(v) “Volatile solvents” shall mean, as used only in this chapter, those solvents used in the manufacture of cannabis products determined to be volatile by the California Department of Public Health or the Humboldt Bay Fire Department.

Section 45.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3005 Personal Use is hereby amended to read as follows:

(a) A qualified patient and persons 21 years of age or over shall be allowed to cultivate cannabis for their own personal use. The cannabis cultivation area for each residence shall not cumulatively exceed 50 square feet per residence. Cultivation of cannabis for personal use shall be in conformance with the following standards:

(i) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Cannabis cultivation shall remain at all times secondary to the residential use of the property;

(ii) Cultivation of cannabis for personal use shall occur only within a private residence, or in a self-contained accessory building that is secured, locked, and fully enclosed and which is for the exclusive use of the resident. Cultivation of cannabis for personal use shall not displace required off-street parking;

(iii) Cannabis cultivated for personal use shall not exceed ten feet in height per residence, regardless if cultivated within the residence or in an accessory building. An Exception Request may be granted for medical cannabis pursuant to § 10-5.3005.1(b);

(iv) If required by Building or Fire Code, the wall(s) adjacent to the cultivation area shall be constructed with 5/8-inch Type X moisture-resistant drywall;

(v) The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(vi) The cultivation of cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is cultivated, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes and no odor shall be detectable outside the exterior walls of the individual residence or accessory structure where cannabis is cultivated;

(vii) Cannabis cultivation lighting shall not cumulatively exceed 1,200 watts. An Exception Request may be granted for medical cannabis pursuant to § 10-5.3005.1(b);

(viii) All electrical equipment used in the cultivation of cannabis, (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation of cannabis is prohibited;

(ix) Any electrical wiring/rewiring shall first require an electrical permit from the Building Department;

(x) The use of gas products (e.g., CO₂, butane, etc.) for cannabis cultivation is prohibited. An Exception Request may be granted for medical cannabis pursuant to § 10-5.3005.1.1; and

(xi) From a public right-of-way, there shall be no exterior evidence of medical cannabis cultivation occurring at the property, including odor.

10-5.3005.1.1

The cultivation area for medical cannabis may exceed the 50 square foot maximum per residence, up to a total of 100 square feet of cultivation area, or the standards in § 10-5.3.005.1(a)(iv), (viii) or (xi) above may be modified, upon approval of an Exception Request issued by the Director of Community Development. An Exception Request shall not allow more than a total medical cannabis cultivation area of 100 square feet per residence regardless if cultivated within the residence or an accessory building.

(a) An application for a medical cannabis Exception Request shall include the following information:

(i) Written permission from the property owner;

(ii) An application fee set by resolution of the City Council;

(iii) Adequate information and documentation, such as a physician's recommendation, or verification of more than one qualified patient living in the residence, to demonstrate why the cultivation area should be allowed to exceed 50 square feet;

(iv) The location and size of the requested cannabis cultivation area;

(v) A materials storage, handling and disposal plan; and

(vi) If the Exception Request includes a request to modify the standards prescribed in § 10-5.3005.1(a)(iv), (viii) or (xi), documentation and information shall be provided identifying which standards are proposed to be modified and why such modification would not detrimentally affect the use of the residence for its intended residential occupancy.

(b) If required by Building or Fire Code, the applicant shall make specified improvements to the residence with a Building Permit, if one is needed. Such improvements may include, but are not limited to, electrical system upgrades.

(c) The Director of Community Development, in consultation with the Chief Building Official and Fire Marshal, shall review the submitted application and determine if the specific circumstances warrant granting an Exception Request.

(d) The Exception Request shall become void, and the cannabis cultivation area in excess of 50 square feet shall be removed one year following the date on which the Exception Request was issued, unless the Exception Request is renewed prior to expiration.

10-5.3005.1.2

(a) Cannabis cultivation is prohibited as a home occupation. Cannabis cultivation shall not be considered a residential accessory use. No distribution of cannabis cultivated for personal use shall be allowed.

Section 46

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3005.2 is hereby amended to read as follows:

10-5.3005.2 Processing.

(a) The processing area for cannabis cultivated within a private residence or accessory structure, shall not cumulatively exceed 50 square feet per residence. Processing of cannabis cultivated at the residence shall be in conformance with the following standards:

(i) Only cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence;

(ii) The residence shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities. Cannabis processing shall remain at all times secondary to the residential use of the property;

(iii) The cannabis processing area shall be in compliance with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));

(iv) The use of gas products (e.g., CO₂, butane, etc.) for cannabis processing is prohibited; and

(v) The processing of cannabis shall not adversely affect the health or safety of the residents, the residence or accessory building in which it is processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes and all odor shall be contained within the exterior walls of the residence or accessory structure where cannabis is processed.

(b) Cannabis processing is prohibited as a home occupation. Cannabis processing shall not be considered a residential accessory use. No sale or distributing of cannabis processed for personal use shall be allowed. **Section 47.**

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3005.3 is hereby amended to read as follows:

10-5.3005.3 Distribution or Sales.

Cannabis cultivated or processed for personal use as provided for in this chapter shall not be distributed or sold to any person unless specifically allowed under this chapter or by State law.

Section 48.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3006 is hereby amended to read as follows:

10-5.3006. Commercialcannabis – requirements and regulations

Section 49.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3006.1 Offices and labs is hereby amended to read as following:

10-5.3006.1 Events.

No public or private event where cannabis is offered in any manner, sold, furnished, transferred, given away, and/or consumed by any person shall be allowed outside a licensed cannabis facility.

Section 50.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3007 is hereby amended to read as follows:

10-5.3007 Commercial cannabis facilities.

Commercial cannabis activity shall be allowed at commercial cannabis facilities as follows, provided P for permitted uses or C or MC, for conditional uses appears in the column below each district. Uses listed with a C or MC shall be permitted upon the granting of a use permit in accord with the provisions of Article 24 (Conditional Uses):

(a) In the Waterfront Commercial (CW) zoning district, cannabis testing facilities may be allowed above the ground floor of commercial structures with a use permit granted pursuant to Article 24 of this chapter (Conditional Uses). Cannabis testing facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(b) In the Waterfront Commercial (CW) zoning district, cannabis research and development facilities where no plants and/or no manufacturing processes occur may be allowed above the ground floor of commercial structures with a use permit granted pursuant to Article 24 of this chapter (Conditional Uses). Cannabis research and development facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(c) In the Waterfront Commercial (CW) zoning district, cannabis distribution facilities that only transport cannabis, and where no cannabis is located on site may be allowed above the ground floor of commercial structures with a minor use permit granted pursuant to Article 24 of this chapter (Conditional Uses). Cannabis distribution facilities shall not be allowed on the ground floor of structures in the Waterfront Commercial (CW) zoning district.

(d) The cultivation area for commercial medical cannabis shall be the cumulative gross floor area of the room or rooms where cannabis plants are grown.

10.5.3007.1 Microbusiness Facilities.

(a) A Microbusiness Facility shall be allowed in zone districts where all proposed uses are allowed. For example, a Microbusiness for distribution and retail can be allowed in any zone district in which both distribution AND retail are allowed. A Microbusiness for non-volatile manufacturing, distribution and retail shall only be allowed in a zone district in which all three uses are allowed.

(b) Microbusiness Facilities for cultivation and/or non-volatile manufacturing shall utilize the same size limitations prescribed for a cultivation or manufacturing facility in the corresponding zone district.

(c) A Microbusiness Facility shall be principally permitted, except when located in a zone where one or more uses requires a Conditional (C) or Minor Conditional (MC) use permit, in which case the Microbusiness Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Microbusiness Facility shall obtain a Conditional (C) use permit.

(d) The use of volatile solvents is prohibited in a Microbusiness Facility.

10.5.3007.2 Research and Development Facilities.

- (a) A Research and Development Facility may be allowed in the zone district.
- (b) A Research and Development Facility that utilizes manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where the corresponding type of manufacturing facility is allowed and shall utilize the same size limitations prescribed for the corresponding facility in the zone district.
- (c) A Research and Development Facility with plants (cultivation) shall only be approved in a zone district where cultivation is allowed and shall utilize the same size limitations prescribed for the cultivation facility allowed in the zone district.
- (d) A Research and Development Facility utilizing both plants (cultivation) and manufacturing processes, which may or may not include volatile and/or non-volatile solvents, shall only be approved in a zone district where both cultivation and manufacturing facilities are allowed and shall utilize the same size limitations prescribed for the corresponding type of facility in the zone district.
- (e) A Research and Development Facility shall be principally permitted, except when the use corresponds to a cultivation or manufacturing facility use requiring a Conditional (C) or Minor Conditional (MC) use permit, in which case the Research and Development Facility shall also obtain a Conditional (C) or (Minor Conditional (MC) use permit. For use combinations where both a Conditional (C) or Minor Conditional (MC) use permit are required, the Research and Development Facility shall obtain a Conditional (C) use permit.

Section 51.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3008 Dispensing facilities is hereby amended to read as follows:

10-5.3008 Dispensing facilities.

(a) The maximum number of retail facilities allowed within City limits shall be set by Resolution of the City Council.

(b) Only those cannabis retail facilities invited by the City Council may submit an application for a use permit. The City Council may elect to invite fewer applicants than the number described in Section 10-5.3008(a). The City shall:

(1) Release a Request for Qualification (RFQ) for cannabis retail facilities within the City, and including a deadline for acceptance of RFQ responses; and

(2) A staff-led committee shall review and evaluate all responsive RFQ's submitted by the deadline to determine which respondents best meet the City's criteria for a retail facility as set forth in the Scope of Work included in the RFQ; and

(3) The criteria upon which the committee shall base their review and evaluation shall include at a minimum, but shall not be limited to, a business plan, the business experience and qualifications of the respondent, and the information required in Section 10-5.3011; and

(4) The committee shall return to Council with ranked recommendations regarding facility invitations.

(c) No more than two conditional use permits to operate a cannabis retail facility shall be issued in a six month period.

(d) Mobile sales of cannabis is prohibited within City limits.

Section 52.

Title 10, Chapter 5, Article 30. Medical Cannabis Cultivation Section 10-5.3009 is hereby amended to read as follows:

10-5.3009 Delivery services.

(a) A cannabis delivery service that is associated with a permitted retail facility located within City limits and for which delivery originates from the retail facility shall only be allowed when the delivery service is described and included in the use permit for the retail facility.

(b) Cannabis deliveries originating from outside City limits and delivering cannabis or cannabis products within City limits shall only be allowed upon the granting of a mobile business license.

Section 53.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3010 Required conditions and findings is hereby amended to read as follows:

10-5.3010 Required conditions and findings.

(a) Whether or not a use permit is required, all cannabis facilities shall:

(1) Obtain a cannabis license issued by the City on an annual basis pursuant to Sec. 10-5.3011;

(2) Obtain a business license issued by the City on an annual basis pursuant to Title 6 Chapter 1 (Business Licensing); and

(3) Conform to the regulations prescribed by, and consist of a business form that satisfies State law; and

(4) Diligently pursue licensure by the State within six months of being permitted to operate in the City.

(b) Each entrance to a cannabis facility shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises, except for qualified patients, unless accompanied by a parent or legal guardian.

(c) No new permit or license to operate shall be issued for any facility that is located within a 600 foot radius of an existing public K-12 school. A public charter or K-12 school that locates within 600 feet of an existing cannabis facility shall not grounds to deny the annual renewal at that location of a previously granted cannabis facility permit or license.

(d) The operation of cannabis facilities shall not adversely affect the health or safety of the facility occupants or employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes, and no odor shall be detectible outside the walls of the facility.

(e) *Signs.* No signs are allowed.

(f) *Off-street parking.* Off-street parking facilities shall be provided for each use as set forth in Article 15 of this chapter (Off-Street Parking Facilities) and as follows:

Type of Cannabis Facility	Parking Use
Cultivation Distribution Research and development with live plants Transportation- co-located with Distribution	Warehousing and distribution
Manufacturing Research and development with volatile solvents	Manufacturing plants and other industrial uses
Research and development Retail Testing Transportation- located separate from Distribution	Retail sales and service

(g) *Off-street loading.* Off-street loading facilities shall be provided for each use as set forth in Article 16 of this chapter (Off-Street Loading Facilities).

(h) Cannabis facility operators shall refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA). Any uses of pesticide products shall be in compliance with State pesticide laws and regulations enforced by the County Agricultural Commissioner’s Office and the California Department of Pesticide Regulation.

(i) Operators of cannabis facilities shall maintain active enrollment and participate in a track and trace program as approved by the City. The City may require participation in a track and trace program separate from the State’s track and trace program. Any separate program shall be in addition to and not instead of the State’s track and trace program.

(j) Applicants for a cannabis license and/or cannabis facility use permit or minor use permit shall undergo a background investigation as prescribed by the City.

(k) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial change in the mode or character of business operation.

(l) *Findings.* The Director shall make the following findings before granting a cannabis license:

- (1) That the applicant and the premises for which a license is applied meet all the requirements and qualify for licensure under this chapter; and
- (2) That the applicant has not been convicted of a felony as prescribed in MAUCRSA, or as amended.

Section 54.

Title 10, Chapter 5, Article 30. Cannabis Section 10-5.3011 Permits and licensing is hereby amended to read as follows:

10-5.3011 Applications, Use Permits, Licenses and Fees.

10-5.3011.1 Cannabis license applications.

Applications for cannabis licenses shall be filed with the Director. The Director shall issue a cannabis license upon finding that the cannabis facility meets, all of the requirements of this Article.

10-5.3011.3 Lapse of cannabis license.

A cannabis license shall lapse and shall become void one year following the date on which the cannabis license became effective unless the cannabis license is renewed pursuant to Sec. 10-5.3014 (Inspection and Monitoring) of this Article or unless the cannabis license is revoked for a violation of the terms of the cannabis license application.

10-5.3011.34 Use permit applications.

Applications for use permits shall be shall be filed with the Director.

10-5.3011.45 Data to be furnished.

Applications for use permits and cannabis licenses shall be on forms provided by the Department and shall include all information required in the use permit application and the supplemental application packet, which includes, but is not limited to:

- (a) Authorization for the City, its agents and employees, to seek verification of the information contained within the application;
- (b) Text and graphic materials showing the site and floor plan for the cannabis facility including the use of each room or building on the premises;
- (c) The hours and days of the week the cannabis facility will operate;
- (d) The number of persons, per shift, who will be working at the cannabis facility;
- (e) The security measures that will be employed at the premises;
- (f) The odor control measures that will be employed at the premises;
- (g) The chemicals stored or used at the premises, including cumulative quantities of each chemical;

(h) The type and quantity of all effluent discharged into the City's wastewater and/or stormwater system and a copy of the applicant's submitted or approved discharge permit, if applicable;

(i) A detailed operations manual containing, at a minimum:

(1) The staff screening process including appropriate background checks;

(2) The process for tracking cannabis quantities and inventory controls;

(3) *For medical cannabis retailers:*

(i) A description of the screening, registration and validation process for qualified patients;

(ii) A description of qualified patient records acquisition and retention procedures; and

(iii) The process for tracking cannabis quantities and inventory controls including on-site cultivation, processing, and/or cannabis products received from outside sources;

(j) A detailed Cannabis Safety Program, which includes at a minimum, the following,

(1) The process for documenting the chain of custody of all cannabis and cannabis products from farm to consumer;

(2) The procedure and documentation process for assuring the safety and quality of all cannabis and cannabis products; and

(3) The procedure and documentation process for determining quantity including testing for the major active agents in the cannabis (e.g., cannabinoids THC, CBD and CBN).

10-5.3011.6 State License Submittal

An applicant for a cannabis facility license shall submit to the Department an electronic copy of the completed and submitted State application and all attachments, either along with the City's cannabis facility license application, or within five days of the date the application is submitted to the State Bureau of Cannabis Control, whichever is later.

10-5.3011.6 Fees.

Applications shall be accompanied by a fee established by resolution of the Council to cover the cost of handling the application as prescribed in this chapter.

Section 55.

Title 10, Chapter 5, Article 30. Cannabis Section 10-5.3012 Enforcement is hereby amended to read as follows:

Sec. 10-5.3012 Enforcement, Suspension, Revocation, and Hearing.

(a) A person engaging in commercial cannabis activity without a license required by this chapter, and or any violation of this chapter is subject to administrative, civil, or criminal penalties, as set out in Chapter 2 (Penalty Provisions), in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. Daily monetary penalties of up to three times the

amount of the license fee for each violation may be assessed, and a court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this chapter. A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation. This is a chapter adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.

(b) Whenever an enforcement officer determines a cannabis facility or licensee has failed to comply with the regulations set forth in this chapter, or determines an action, or inaction by a cannabis facility or licensee threatens or negatively impacts, or may, in the opinion of the enforcement officer, threaten or negatively impact the public health, safety, and/or welfare, the enforcement officer may issue a notice of violation which provides a timeline for compliance, and may, at his or her discretion, require all or part of the facility's operations be immediately modified, or may issue a notice of suspension to suspend a cannabis facility license. Suspension of a cannabis facility license shall mean all operations shall immediately cease, and shall not be resumed unless or until the suspended license is re-instated following hearing pursuant to this section.

(c) Provided the enforcement officer determines that all violations have been corrected within the time specified in the notice of violation, a hearing pursuant to this section shall not be held, and following written notice to the licensee from the enforcement officer, operations may resume. If the enforcement officer determines that any or all violations listed in the notice of violation have not been corrected within the time specified, the cannabis facility license shall be suspended, and the enforcement officer shall provide a written notice of suspension to the licensee.

(d) Upon suspension of a cannabis facility license, a date for an administrative hearing shall be set which is not less than 15 nor more than 60 days from the date the suspension became effective. Written notice of the date, time, and location of that hearing shall be provided to the licensee at least 15 days prior to the hearing date.

(e) A copy of all written material intended to be submitted at the hearing shall be provided to the licensee at least five days prior to the date of the hearing.

(f) *Hearing officer.* The City Manager shall designate one or more persons qualified by education and experience to serve as hearing officers for administrative hearings conducted under this section.

(g) *Conduct of hearings.*

(i) *Evidentiary rules.* At the hearing, the notice of suspension shall constitute prima facie evidence of the respective facts contained in the notice. The licensee and the enforcement officer shall be given the opportunity to testify and to present evidence concerning the violation(s). Such evidence may include the testimony of other witnesses, or the introduction of documents or other evidence. Such testimony, written documents, or other evidence sought to be introduced shall not be limited to any legal rules of evidence, save and except for the rule that it shall be relevant and material to the issues of whether the violation alleged in the notices of violation and suspension occurred.

(ii) *Waiver of personal appearance at hearing.* Instead of appearing at an administrative hearing in person or by an authorized representative, a licensee may request

that the hearing officer decide the matter based on the face of the notice of suspension, and any other documentary evidence submitted by the licensee or the enforcement officer prior to the date of the hearing.

(iii) *Failure to appear at hearing.* The failure of a licensee to appear at the hearing in person or by an authorized representative shall be deemed to be a waiver of the right to be personally present at the hearing and the hearing officer shall decide the matter based upon the notice, any written materials which have previously been submitted in anticipation of the hearing, and any other evidence which may be presented at the hearing by the enforcement officer.

(iv) *Attendance of enforcement officer.* The enforcement officer who issued the notice of suspension may, but is not required to, attend the administrative hearing. If the enforcement officer does not attend, he or she may, prior to the hearing date, submit to the hearing officer reports, photographs or other documentation regarding the violation(s) for consideration at the hearing.

Continuation of hearings. The hearing officer may continue any hearing and request additional information from the enforcement officer or the licensee prior to issuing a written decision.

(h) After considering all of the testimony and evidence admitted at the hearing, the hearing officer shall issue a written decision to reinstate the license, reinstate the license with modifications, or may revoke the license, and shall state in the decision the reasons therefor.

(i) The decision of the hearing officer shall be final and shall be provided to the licensee within 15 days following the date of the hearing.

(j) When a cannabis facility license has been permanently revoked pursuant to this section, the same or substantially the same applicant(s) shall not apply for or be granted a new cannabis license.

(k) *Right to judicial review.* Any person aggrieved by the decision of a hearing officer on a notice of suspension may obtain review of the administrative decision by filing an appeal with the Superior Court of California, County of Humboldt, Eureka Courthouse, in accordance with the procedures and within the time set forth in Cal. Gov't Code § 53069.4.

Section 56.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3013 Costs and taxes is hereby amended to read as follows:

Sec 10-5.3013. Costs and taxes.

The costs to the City arising from the processing and oversight of Exception Requests under § 10-5.3005.1 and use permits, cannabis licenses, business licenses, and unique identifiers for a required track and trace program for cannabis facilities, and the costs of monitoring and ensuring compliance with this chapter, including investigations, enforcement actions, and disciplinary or abatement proceedings, will be offset through application fees, annual renewal fees, and fees for unique identifiers, as adopted by the City Council by resolution and updated as necessary from time-to-time. In the administration of the permitting or licensing requirements under this chapter,

the City Manager, or his or her designee, may require as a condition of granting or renewing permits or licenses any information reasonably necessary to implement the intent of this chapter, to ensure that the cannabis handled under the use permit or license is grown, tested, processed, manufactured, distributed and/or sold in a manner not in conflict with this chapter, and to ensure that any and all related sales taxes are being properly reported and paid.

Section 57.

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3014 Inspection and monitoring is hereby amended to read as follows:

Sec. 10-5.3014 Inspection and monitoring.

(a) Inspectors with the Community Development, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility, and may examine the records of a licensee to ensure compliance with the terms of the cannabis license at any time during normal operating hours.

(b) A cannabis licensee shall submit to the Department an inspection fee set by resolution of the City Council and shall make a request to the Department for an inspection of each cannabis facility not more than 90 days and not less than 30 days prior to the annual expiration of the cannabis license to assure compliance with the terms of the cannabis license. Inspectors with the Community Development, Police, and Public Works-Building Departments and Humboldt Bay Fire shall be granted access to all parts of the facility. All records kept pursuant to the cannabis license shall be open for visual inspection.

(c) If the cannabis licensee fails to submit the inspection fee or request an inspection within the specified time frame, refuses inspection, or if the inspection finds that the facility is not operated in compliance with the approved license application, the cannabis license shall be subject to revocation and upon cannabis license revocation the facility shall immediately cease operation.

(d) Within ten business days of the inspection date pursuant to (b) above, the City shall either provide a written statement of non-compliance and a timeline for attaining compliance, or shall renew the cannabis license.

(e) Within 10 days after issuance of a statement of non-compliance, the determination of non-compliance may be appealed by any interested party to the Commission pursuant to Article 28 of this chapter (Administration and Enforcement). The appeal shall be made, in writing, on a form provided by the City Clerk, along with a fee set by resolution of the City Council. The City reserves the right to determine whether the facility shall continue to operate during the appeal process.

Section 58.

The following section is hereby added to Title 10, Chapter 5, Article 30. Cannabis:

Sec.10-5.3015. Release of liability and Hold harmless.

As a condition of approval of any use permit or cannabis license approved for a cannabis facility, the licensee of each cannabis facility shall indemnify and hold harmless the City and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cannabis facility, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise from cannabis activities.

Section 59.

The following section is hereby added to Title 10, Chapter 5, Article 30. Cannabis:

Sec. 10-5.3016 Severability.

If any part of this Article is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 20th day of September, 2016 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS
ABSTAIN: COUNCILMEMBERS

Linda Atkins, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2016, and hereby approved.

Frank J. Jager, Mayor

Approved as to Administration:

Approved as to form:

Greg L. Sparks, City Manager

Cyndy Day-Wilson, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the ____ day of _____, 2016.

Pamela J. Powell, City Clerk

ATTACHMENT 6

Planning Commission Resolution

RESOLUTION NO. 2017-_____

A RESOLUTION OF THE PLANNING COMMISSION FINDING THAT THE PROPOSED TEXT AND LOCAL COASTAL PROGRAM AMENDMENTS ARE CONSISTENT WITH THE OBJECTIVES OF TITLE 15 CHAPTER 155 AND TITLE 10 CHAPTER 5, AND RECOMMENDING THE CITY COUNCIL ADOPT THE TEXT AND LOCAL COASTAL PROGRAM AMENDMENTS AND DIRECT STAFF TO FORWARD THE AMENDMENTS TO THE COASTAL COMMISSION

WHEREAS, in October of 2015 the Medical Cannabis Regulation and Safety Act (MCRSA) was signed into law. The law provides for the licensure and regulation of commercial medical marijuana activity; and

WHEREAS, MCRSA authorizes local jurisdictions to regulate medical cannabis within the framework of the law; and

WHEREAS, in November of 2016, California's voters approved Proposition 64, titled the Adult Use of Marijuana Act (AUMA). AUMA is an extensive initiative, which regulates and legalized the adult recreational use of marijuana (non-medical); and

WHEREAS, in June of 2017, Governor Brown signed into law The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), incorporating provisions of MCRSA (medical) and AUMA (non-medical); and

WHEREAS, the City of Eureka desires to regulate the cultivation, processing, manufacturing, testing, transporting, distribution, retail sales and dispensing of cannabis in a manner that protects the public health, safety and welfare and mitigates for the costs to the community of the oversight of these activities; and

WHEREAS, a Text Amendment is required; and

WHEREAS, an amendment to the Implementation Plan (IP) of the Local Coastal Program is required; and

WHEREAS, amending the text of the Eureka Municipal Code is a "project" for the purposes of the California Environmental Quality Act (CEQA). However, pursuant to the CEQA Guidelines section 15061, there is a general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the text amendment only changes the noticing requirements and does not reduce the requirements to less than those required by State law, it is clear that the text amendment will have no significant effect on the environment; and

WHEREAS, any proposed changes to the IP must conform with and adequately carry out all applicable policies and standards of the LUP which, either procedurally or

substantively, affect or direct the location, type, density, or intensity of such uses through specified due process (e.g., designated hearing body, public hearing requirements) and/or restrictions, limitations, and performance standards imposed on such uses; and

WHEREAS, the proposed text amendment must be found consistent with the objectives of the Zoning Ordinance (Chapter 155 and Chapter 5 of the Eureka Municipal Code); and

WHEREAS, the text amendment is compatible with existing State Laws regulating cannabis commerce and adopting the Text Amendment would clearly be consistent with the purposes and objectives of the zoning regulations to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare; and

WHEREAS, pursuant to Section 21080.9 and 21080.5 and Division 20, Chapter 6 of the Public Resources Code, the Coastal Commission's review and development process for LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by the California Environmental Quality Act (CEQA). Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments. Therefore, based on the Public Resources Code Sections cited above, the City of Eureka exempts from CEQA the amendments to noticing requirements; and

WHEREAS, the IP Amendment to amend the text as proposed does conform with and is adequate to carry out the policies, objectives, principles, standards and plan proposals set forth in the applicable provisions of the adopted and certified LUP.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Eureka that:

1. The Text and Local Coastal Program Amendment as proposed would be consistent with the purpose and objectives of the zoning regulations to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare; and
2. The Text and Local Coastal Program Amendment as proposed would be in keeping with the City's Local Coastal Program, the objectives of the zoning ordinance, and the City's General Plan; and
3. The Planning Commission recommends the City Council adopt the Text and Local Coastal Program Amendments as proposed; and
4. The Planning Commission recommends the City Council direct Staff to forward the amendments to the Coastal Commission for certification.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 27th day of September, 2017 by the following vote:

AYES: COMMISSIONERS

NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Jeff Ragan, Chair, Planning Commission

Attest:

Pamela J. Powell, City Clerk