

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
1385 EIGHTH STREET, SUITE 130  
ARCATA, CA 95521  
VOICE (707) 826-8950  
FAX (707) 826-8960  
[WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



# W9c

## CITY OF EUREKA LCP AMENDMENT LCP-1-EUR-19-0004-1 (CANNABIS)

**AUGUST 7, 2019**

### **EXHIBITS**

#### **Table of Contents**

[Exhibit 1 – Regional Location Map](#)

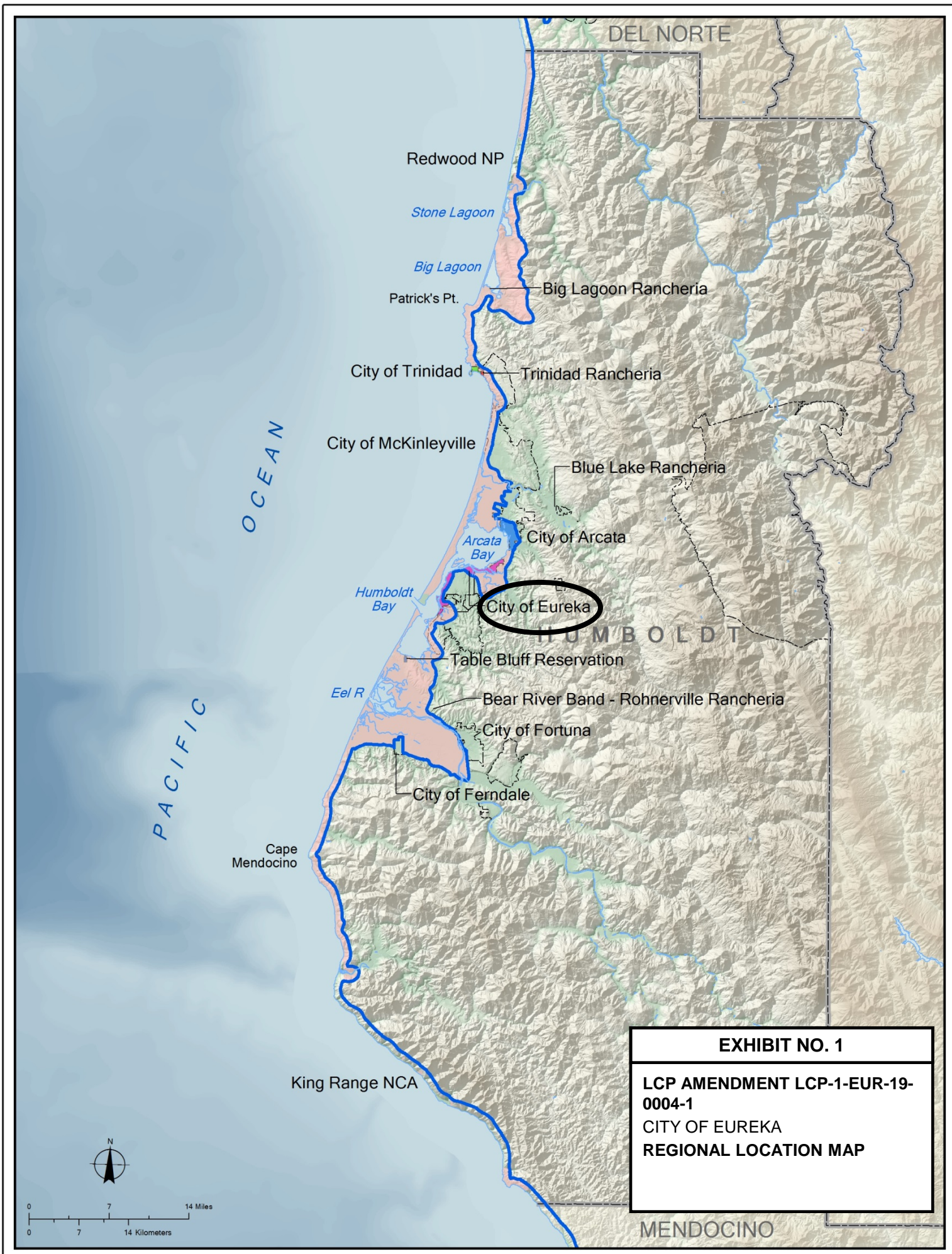
[Exhibit 2 – City of Eureka’s Coastal Zone](#)

[Exhibit 3 – Maps of Affected Zoning Districts](#)

[Exhibit 4 – City Resolution of Transmittal of IP Amendment](#)

[Exhibit 5 – City Ordinance of Adoption of IP Amendment](#)

[Exhibit 6 – Excerpts from Article 30 with Changes from the Proposed Amendment](#)



DEL NORTE

Redwood NP

Stone Lagoon

Big Lagoon

Patrick's Pt.

Big Lagoon Rancheria

City of Trinidad

Trinidad Rancheria

City of McKinleyville

Blue Lake Rancheria

Arcata Bay

City of Arcata

Humboldt Bay

City of Eureka

HUMBOLDT

Table Bluff Reservation

Eel R

Bear River Band - Rohnerville Rancheria

City of Fortuna

City of Ferndale

Cape Mendocino

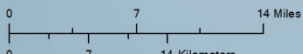
King Range NCA

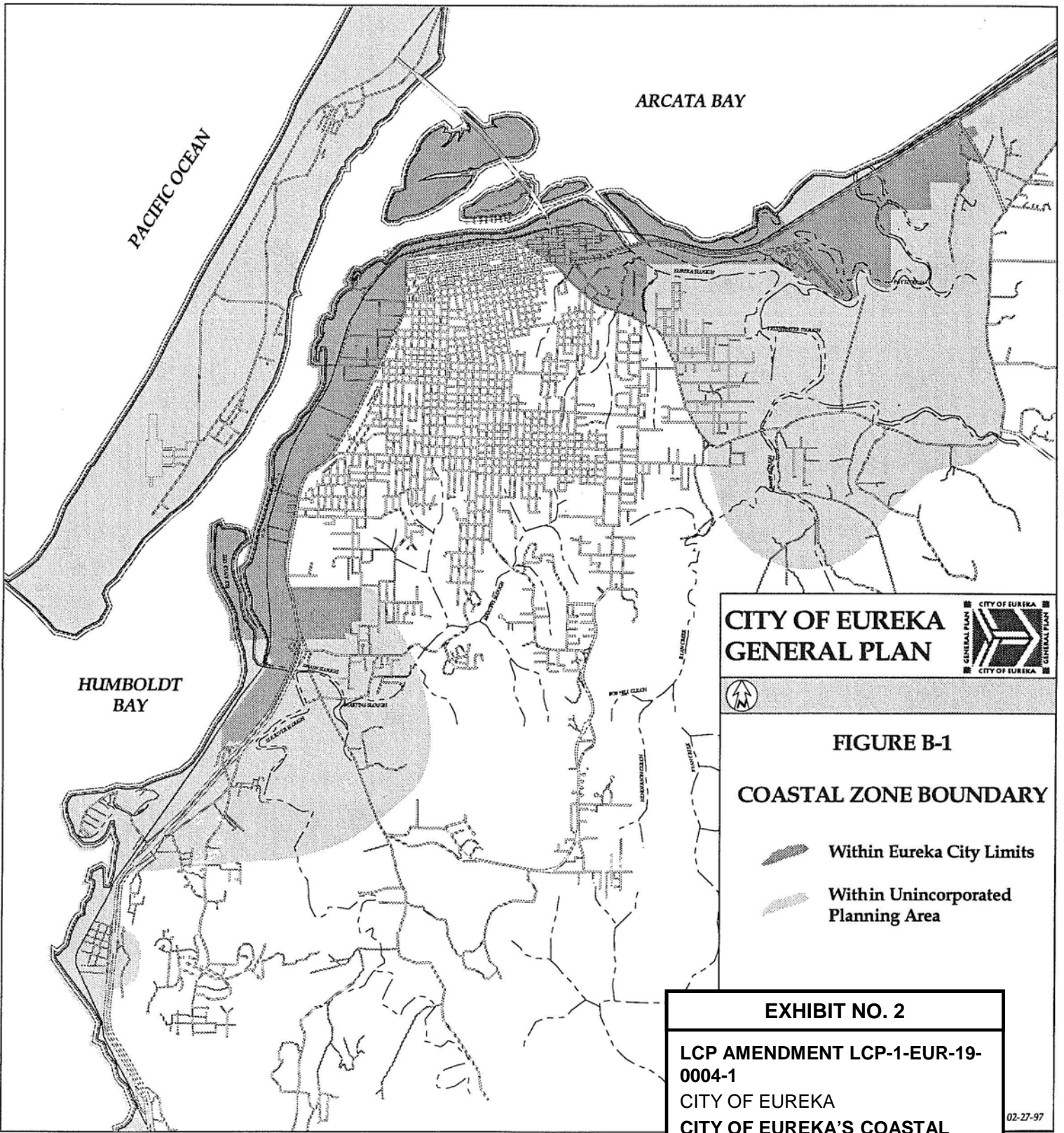
MENDOCINO

**EXHIBIT NO. 1**

**LCP AMENDMENT LCP-1-EUR-19-0004-1**

**CITY OF EUREKA  
REGIONAL LOCATION MAP**







**CITY OF EUREKA  
GENERAL PLAN**



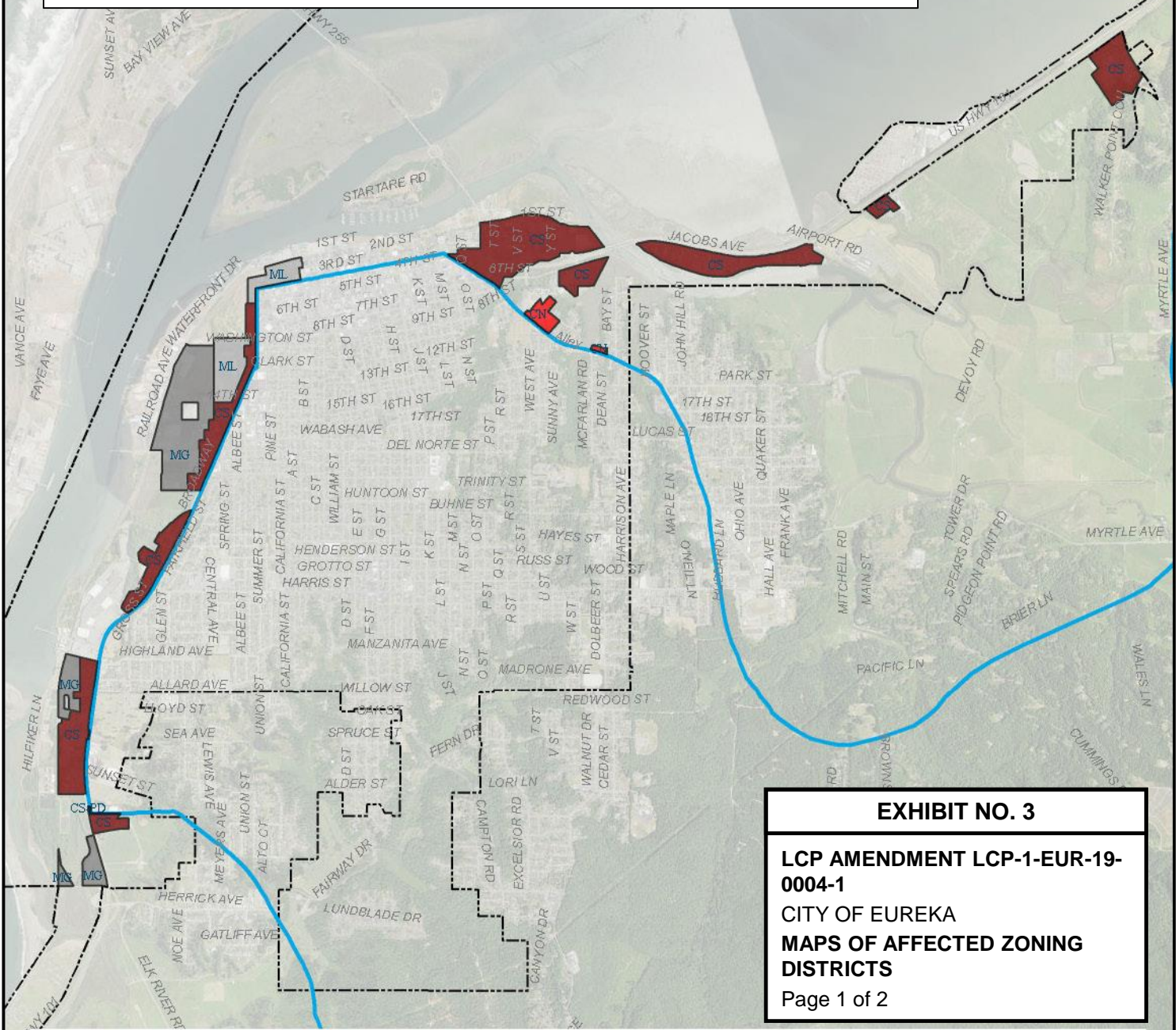
**FIGURE B-1**

**COASTAL ZONE BOUNDARY**

-  Within Eureka City Limits
-  Within Unincorporated Planning Area

**EXHIBIT NO. 2**  
**LCP AMENDMENT LCP-1-EUR-19-0004-1**  
**CITY OF EUREKA**  
**CITY OF EUREKA'S COASTAL ZONE**

**Coastal Zoning Districts where Cannabis Retail Facilities (off-site and/or on-site; cannabis topicals, edibles, and/or smoking) are allowed**

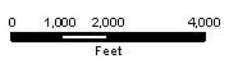


**EXHIBIT NO. 3**  
**LCP AMENDMENT LCP-1-EUR-19-0004-1**  
**CITY OF EUREKA**  
**MAPS OF AFFECTED ZONING DISTRICTS**  
 Page 1 of 2

Retail facility, off-site and/or on-site (cannabis topicals, edibles, and/or smoking)

<b>CS</b>	<b>CN</b>	<b>CW</b>	<b>MG</b>	<b>ML</b>
C	C	N/A	C	C

Scale: 1" = 4000'



**Cannabis Retail Allowable Zone Types**

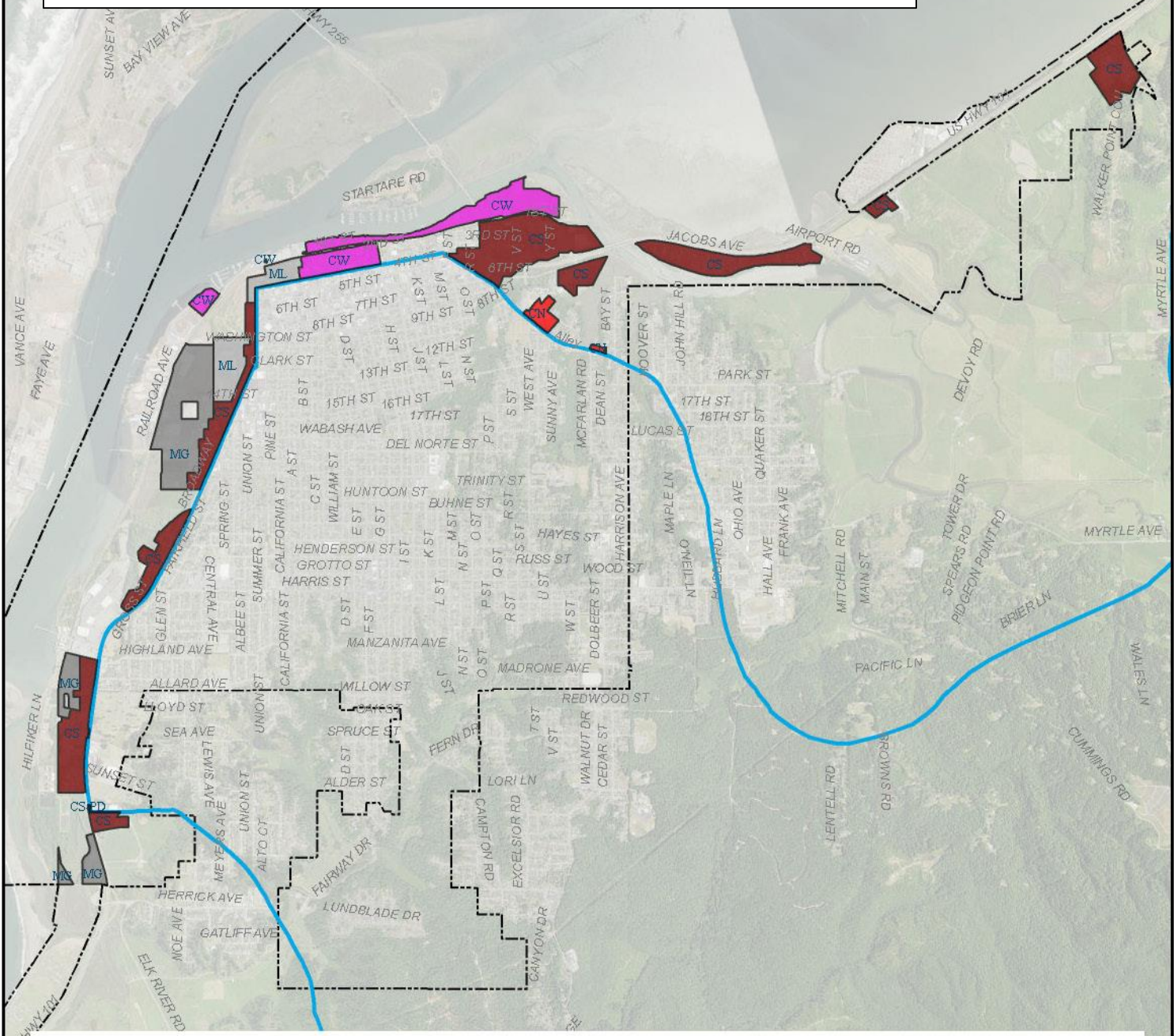
- CS
- MG
- ML
- CN
- Coastal Zone Boundary

Retail Facility, off-site and/or on-site (cannabis topical, edibles and/or smoking)



Figure 1  
 Date: 1/25/2019  
 Created By: rtopolewski

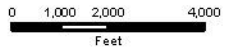
# Coastal Zoning Districts where Cannabis Retail Facilities (on-site consumption; cannabis topicals and/or edibles only) are allowed



Retail facility, on-site consumption only (cannabis topicals and/or edibles only)

CS	CN	CW	MG	ML
MC	MC	C	MC	MC

Scale: 1" = 4000'



**Cannabis Retail Allowable Zone Types**

- CN
- CW
- CS
- MG
- ML
- Coastal Zone Boundary

Retail Facility, on-site consumption only (cannabis topical and/or edibles only)



Figure 2  
Date: 1/25/2019  
Created By: rtopolewski

**RESOLUTION NO. 2018-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA  
TRANSMITTING AN AMENDMENT TO THE IMPLEMENTATION PLAN PORTION OF  
THE ADOPTED AND CERTIFIED CITY OF EUREKA LOCAL COASTAL PROGRAM  
PERTAINING TO CANNABIS TO THE CALIFORNIA COASTAL COMMISSION FOR  
CERTIFICATION**

**WHEREAS**, the City of Eureka desires to amend the Text of the Eureka Municipal Code and the Local Coastal Program (Implementation Plan) pertaining to cannabis. City of Eureka project numbers TA-16-0006/LCP-16-0005 (MOD-18-0006) were assigned; and

**WHEREAS**, the Local Coastal Program Amendment includes an amendment to the text of the Implementation Plan; and

**WHEREAS**, the proposed Local Coastal Program Amendment will affect the entire coastal zone district; and

**WHEREAS**, the Implementation Plan Amendment will remove an existing restriction on signage for cannabis businesses and allow on-site consumption of cannabis and cannabis products in licensed retail facilities; and

**WHEREAS**, pursuant to Title 14 California Code of Regulations, Section 13515, on August 30, 2018, a "Notice of Availability of Draft Text and Local Coastal Program Amendment and Notice of Planning Commission Public Hearing" for the draft Amendment was mailed to 84 local, state and federal agencies; the Humboldt County Library; one newspaper of general circulation and 11 radio stations; and

**WHEREAS**, on August 31, 2018, the same Notice was published in the Times Standard, a daily newspaper of general circulation; and

**WHEREAS**, the Notice advised of a public hearing scheduled before the Planning Commission on September 10, 2018; and

**WHEREAS**, pursuant to Title 14 California Code of Regulations, Section 13515, the mailing on August 30, 2018, and the publication on August 31, 2018, were at least ten days prior to the scheduled public hearing; and

**WHEREAS**, at the public hearing held by the Planning Commission on September 10, 2018, there were three persons who provided testimony in support of the Local Coastal Program amendment; and

**WHEREAS**, the Planning Commission, following the public hearing held on September 10, 2018, adopted a resolution finding that t

**EXHIBIT NO. 4**

**LCP AMENDMENT LCP-1-EUR-19-0004-1**

**CITY OF EUREKA**

**RESOLUTION OF TRANSMITTAL  
OF IP AMENDMENT**

Page 1 of 4

Coastal Program amendments are consistent with the objectives of Title 15 Chapters 155 and 158 and Title 10 Chapter 5, and recommending the City Council adopt the Text and Local Coastal Program amendments with the recommendation the City Council only allow on-site topicals, and not allow on-site smoking or edibles, and direct staff to forward the Local Coastal Program amendments to the Coastal Commission as amended; and

**WHEREAS**, pursuant to Title 14 California Code of Regulations, Section 13515, on September 17, 2018, a "*Notice of Availability of Draft Local Coastal Program Amendment and Notice of City Council Public Hearing*" for the draft Amendment was mailed to 84 local, state and federal agencies; the Humboldt County Library; one newspaper of general circulation and 11 radio stations; and

**WHEREAS**, on September 18, 2018, the same Notice was published in the Times Standard, a daily newspaper of general circulation; and

**WHEREAS**, the Notice advised of a public hearing scheduled before the City Council on October 2, 2018; and

**WHEREAS**, pursuant to Title 14 California Code of Regulations, Section 13515, the mailing on September 17, 2018, the publication on September 18, 2018, was at least ten days prior to the scheduled public hearing; and

**WHEREAS**, the City Council held a public hearing on October 2, 2018, to consider the Text Amendment and Local Coastal Program Amendment. Eight persons provided testimony in support of the Local Coastal Program amendment and one person provided testimony against the Local Coastal Program amendment; and

---

**WHEREAS**, on October 2, 2018, upon closing the public hearing, the City Council considered the Text Amendment and Local Coastal Program Amendment and the Planning Commission's recommendation, chose not to incorporate the Planning Commission's recommendation, and took action to introduce Bill No. 959-C.S. to amend the Eureka Municipal Code Title 10 Chapter 5 pertaining to cannabis; and

**WHEREAS**, on October 16, 2018, the City Council took action to waive reading, read by title only and adopt Bill No. 959-C.S.; and

**WHEREAS**, Section 13515(c) of Title 14 Code of Regulations requires that there be a minimum of six weeks (42 days) between the "Notice of Availability of Draft LCP Amendment and Public Hearing" for the draft Local Coastal Program Amendment and the City's final action; and

**WHEREAS**, the City Council's final action on the Local Coastal Program Amendment occurred on October 16, 2018, which is 47 days following the August 30, 2018 mailing of the Notice of Availability and Planning Commission Public Hearing, and 46 days following the publication of the first notice in the Times Standard.

**NOW, THEREFORE, BE IT RESOLVED BY** the City Council of the City of Eureka as follows:

**SECTION 1.** 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 amendment to cannabis.

**SECTION 2.** The City Council hereby finds that the Text Amendment conforms to Chapter 3 of the Coastal Act.

**SECTION 3.** The City Council hereby finds that the Text Amendment, which amends the Implementation Plan of the Local Coastal Program, is consistent with the adopted Land Use Plan and is not known to create any conflicts or contradictions to adopted Plan policy, nor any inconsistencies within the General Plan itself, and furthermore, is generally found to be consistent with existing General Plan objectives to protect the public health, safety, peace, comfort, convenience, prosperity and general welfare in the City of Eureka.

**SECTION 4.** The City Council hereby declares that pursuant to Coastal Act Section 30510(a), the City of Eureka will carry out the Text Amendment and Local Coastal Program Amendment in a manner fully consistent with the California Coastal Act.

**SECTION 5.** The City Council directs Staff to transmit the adopted Text Amendment and Local Coastal Program Amendment pertaining to cannabis to the Coastal Commission for approval and certification.

**SECTION 6.** The City Council directs that the amendment to the Implementation Plan of the Local Coastal Program take effect automatically upon Coastal Commission approval and certification pursuant to Public Resources Code Section 30512, 30513, and 30519.

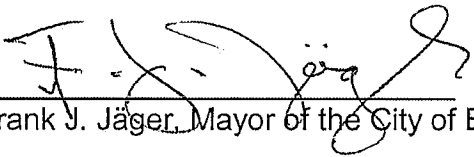
**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Eureka, County of Humboldt, State of California, on the 16<sup>th</sup> day of October, 2018, by the following vote:

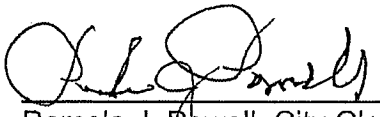
AYES: COUNCIL MEMBERS: BRADY, MESSNER, BERGEL, ALLISON, ARROYO

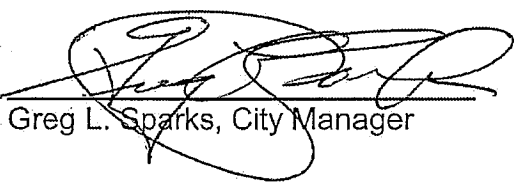
NOES: COUNCIL MEMBERS:

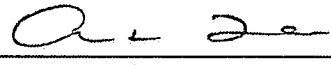
ABSENT: COUNCIL MEMBERS:



  
Frank J. Jäger, Mayor of the City of Eureka

Attest:  
  
Pamela J. Rowell, City Clerk

Approved as to Administration:  
  
Greg L. Sparks, City Manager

Approved as to form:  
  
Robert Black, City Attorney

**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, Chapter 5, Article 30. Cannabis, Section 10-5.3003.2 Commercial Use Definitions is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

10-5.3003.2 Commercial use definitions

(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 a cannabis products.

(b.1) "Cannabis edibles" shall mean cannabis products which are ingested by eating or drinking.

(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.

(c.1) "Cannabis smoking" shall mean consumption of cannabis or cannabis products in a process which uses heat or combustion to create smoke or vapor.

(c.2) "Cannabis topicals" shall mean cannabis products which are applied to the skin or hair.

(d) "Cultivation" shall mean the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

**Section 2.**

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3003.2 Commercial Use Definitions is hereby amended to read as follows (*the remainder of the text in the section is unchanged and is omitted*):

(p) "Research and development facility" shall mean a facility t  
research and development of cannabis or cannabis products  
cultivation, processing, distribution, wholesale, or retail sales  
products occurs. Growing of plants and the use of volatile sol

<b>EXHIBIT NO. 5</b>
<b>LCP AMENDMENT LCP-1-EUR-19-0004-1</b>
CITY OF EUREKA
<b>ORDINANCE OF ADOPTION OF IP AMENDMENT</b>
Page 1 of 6

**BILL NO. 959-C.S.**  
**ORDINANCE NO. 880-C.S.**

Page No. 2

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.

(q) "Retail facility, off-site" or "Off-site retailer" shall mean a physical retail establishment where cannabis or cannabis products are offered for retail sale and delivery to customers in sealed and packaged containers and not intended for consumption at the facility. An off-site retail facility may be closed to the public, and the retailer may conduct sales exclusively by delivery.

(q.1) "Retail facility, on-site" or "On-site retailer" shall mean a physical retail establishment where cannabis or cannabis products are offered for sale to customers for consumption at the location where they are purchased and in conformance with State of California regulations for consumption. Customers may not leave the facility with cannabis or cannabis products unless they are in originally sealed and unopened packaging or have been transferred by the retailer for repackaging in a container that is compliant with all applicable state law and regulation.

(r) "Testing facility" shall mean 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.

**Section 3.**

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3007 Commercial cannabis facilities 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):

Type of Facility	CC	CN	CS	CW	HM	MG	ML	OR	A/AC
Retail Facility, Off-Site and/or On-Site (Cannabis Topicals, Edibles, and/or Smoking)	C	C	C		C	C	C		
Retail Facility, On-Site Consumption Only (Cannabis Topicals and/or Edibles only)	MC	MC	MC	C	MC	MC	MC		

**Section 4.**

Title 10, Chapter 5, Article 30. Cannabis, Section 10-5.3010 [Required Conditions and Findings] is hereby amended to read as follows *(the remainder of the text in the section is unchanged and is omitted)*:

(E) Signs. Signs shall comply with all City sign regulations contained in Sec. 10-5.1701 et. seq. of the Eureka Municipal Code.

**Section 5.**

Title 10, Chapter 5, Article 8 [HM Hospital Medical District], 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, on-site and/or off-site, subject to the provisions of Article 30 of this chapter.
- (i) Cannabis research and development facilities, subject to the provisions of Article 30 Section 10-5.3007.2 of this chapter (Cannabis).

**Sec.10-5.804.1 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 retail facilities, on-site only (Cannabis Topicals and Edibles only), subject to the provisions of Article 30 of this chapter (Cannabis).

**Section 6.**

Title 10, Chapter 5, Article 9 [C Commercial Districts], Section 10-5.903. Permitted and conditional uses, is hereby amended to read as follows *(the remainder of the text is unchanged and is omitted)*:

	<b>CN</b>	<b>CP</b>	<b>CC</b>	<b>CW</b>	<b>CS</b>
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 off-site and/or on-site (Cannabis Topicals, Edibles, and/or Smoking [subject to the provisions of Chapter 97]), subject to the provisions of Article 30	C		C		C
Cannabis retail facilities, on-site only (Cannabis Topicals and Edibles only), subject to the provisions of Article 30	MC		MC	C	MC
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

**Section 7.**

Title 10, Chapter 5, 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 is unchanged and is omitted*):

(i) Cannabis retail facilities, on-site and/or off-site, subject to provisions of Article 30 of this chapter (Cannabis).

**Section 8.**

Title 10, Chapter 5, Article 10 [M Industrial Districts] Section 10-5.1004.1.1. Minor Use Permit, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(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 retail facilities, on-site only (Cannabis Topicals and Edibles only), subject to the provisions of Article 30 of this chapter (Cannabis).

**Section 9.**

Title 10, Chapter 5, Article 10 [M Industrial Districts] Section 10-5.1004.2. MG General Industrial Districts, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

(2.5) Cannabis retail facilities, on-site and/or off-site, subject to provisions of Article 30 of this chapter (Cannabis).

**Section 10.**

Title 10, Chapter 5, Article 10 [M Industrial Districts] Section 10-5.1004.2.2. Minor Use Permit, is hereby amended to read as follows (*the remainder of the text is unchanged and is omitted*):

**BILL NO. 959-C.S.**  
**ORDINANCE NO. 880-C.S.**

Page No. 5

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

(d) Cannabis retail facilities, on-site only (Cannabis Topicals and Edibles only), subject to the provisions of Article 30 of this chapter (Cannabis).

**Section 11.**

Title 10, Chapter 5, 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 retail facilities, on-site only (Cannabis Topicals and Edibles only), 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, located above the ground floor of commercial structures subject to provisions of Article 30 of this chapter (Cannabis);

**Section 12.**

With the exception of Section 4 related to signage, this ordinance shall become effective upon certification by the Coastal Commission. If this ordinance is certified by the Coastal Commission before February 1, 2019, Section 4 shall become effective February 1, 2019. If this ordinance is not certified before February 1, 2019, Section 4 shall become effective upon certification by the Coastal Commission.

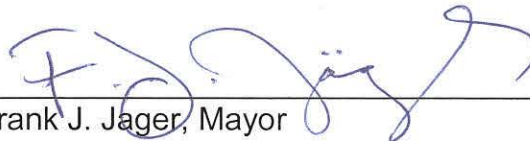
PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 16th day of October, 2018 by the following vote:

AYES: COUNCILMEMBERS BRADY, MESSNER, BERGEL, ALLISON, ARROYO  
NOES: COUNCILMEMBERS  
ABSENT: COUNCILMEMBERS



\_\_\_\_\_  
Kim Walford Bergel, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the 2 day of Nov., 2018, and hereby approved.



\_\_\_\_\_  
Frank J. Jager, Mayor

*Approved as to Administration:*



---

Greg L. Sparks, City Manager


*Approved as to form:*



---

Robert Black, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the 7<sup>th</sup>  
day of November, 2018.



---

Pamela J. Powell, City Clerk

**Excerpts from Article 30 of the certified IP with changes from the proposed amendment**

<b>EXHIBIT NO. 6</b>
<b>LCP AMENDMENT LCP-1-EUR-19-0004-1</b> CITY OF EUREKA <b>EXCERPT FROM ARTICLE 30 WITH CHANGES FROM THE PROPOSED AMENDMENT</b>

Language of the certified IP is shown in plain text. The City’s suggested amendments are shown in <b><u>bold, underlined text.</u></b> The City’s suggested deletions are shown in <del><b>bold, strike-out text.</b></del>
---

**Article 30. Cannabis**

**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.

**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.

**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.

....

### **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.

**(b.1) "Cannabis edibles" shall mean cannabis products which are ingested by eating or drinking.**

(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.

**(c.1) "Cannabis smoking" shall mean consumption of cannabis or cannabis products in a process which uses heat or combustion to create smoke or vapor.**

**(c.2) "Cannabis topicals" shall mean cannabis products which are applied to the skin or hair.**

(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) "Facility" or "facilities" shall mean a facility, premise, tenant space, site or location where one or more types of cannabis activity is undertaken.

(i) "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.

(j) "Lot" shall mean a batch, or a specifically identified portion of a batch.

(k) "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.

(l) "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).

(m) "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).

(n) "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).

(o) “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.

(p) “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.

(q) “Retail facility, off-site” or “Off-site rRetailer” shall mean a physical retail establishment where cannabis or cannabis products are offered for retail sale and delivery to customers **in sealed and packaged containers and not intended for consumption at the facility**. A retail facility may be closed to the public, and the retailer may conduct sales exclusively by delivery.

**(q.1) “Retail facility, on-site” or “On-site retailer” shall mean a physical retail establishment where cannabis or cannabis products are offered for sale to customers for consumption at the location where they are purchased and in conformance with State of California regulations for consumption. Customers may not leave the facility with cannabis or cannabis products unless they are in originally sealed and unopened packaging or have been transferred by the retailer for repackaging in a container that is compliant with all applicable state law and regulation.**

(r) “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.

(s) “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.

(t) “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.

(u) “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.

....

## **10-5.3006. Commercial cannabis – requirements and regulations**

### **10-5.3006.1 Events.**

Small, limited, private invitation-only events involving the use or exchange of cannabis shall be allowed within a structure housing a licensed cannabis facility.

**10-5.3007 Commercial cannabis facilities.**

Commercial cannabis activity shall only 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 or minor use permit in accord with the provisions of Article 24 (Conditional Uses):

Type of Facility	CN	CS	CW	MG	ML	OR
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	MC	P	10-5.3007(c)	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	10-5.3007.1	10-5.3007.1		10-5.3007.1	10-5.3007.1	
<u>Retail Facility, Off-Site and/or On-Site (Cannabis Topicals, Edibles, and/or Smoking)</u>	C	C		C	C	
<u>Retail Facility, On-Site Consumption Only (Cannabis Topicals and/or Edibles only)</u>	<u>MC</u>	<u>MC</u>	<u>C</u>	<u>MC</u>	<u>MC</u>	
Research and development		10.5.3007.2	10-5.3007 (b) and 10-5.3007.1	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 commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs		P	C 10-5.3007 (a)	P	P	C

(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 minor 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.

#### **10-5.3008 Dispensing facilities.**

(a) Only those cannabis retail facilities invited by the City Council may submit an application for a commercial cannabis license and all associated required permits. The City shall:

(1) Release a Request for Qualification (RFQ) or Request for Proposals (RFP) for commercial cannabis retail facilities. The RFQ/RFP 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

(2) A committee appointed by the City Manager shall review and evaluate all responsive proposals to determine which respondent(s) best meet the City's criteria for a retail facility as set forth in the Scope of Work included in the RFQ/RFP; and

(3) The committee shall review, evaluate, and rank each proposal based on the criteria outlined in the RFQ/RFP. The committee may conduct interviews with all or some of the proposers as needed; and

(4) The Development Services Director shall present the committee's ranked recommendations to Council. Through the Development Services Director, the committee shall recommend to Council any number of proposals for approval, including zero; and

(5) Based on the ranked recommendations of the committee, the City Council shall invite any number of proposals to submit commercial cannabis licenses and all associated required permits. Council may invite fewer proposals than those recommended by the panel, including zero.

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

#### **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.

**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 constitute 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.~~ **Signs shall comply with all City sign regulations contained in Sec. 10-5.1701 et. seq. of the Eureka Municipal Code.**

(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, cannabis on site, with or without transportation Research and development with live plants	Warehousing and distribution
Manufacturing Research and development with volatile solvents	Manufacturing plants and other industrial uses
Research and development Retail Testing Distribution, transportation only, no cannabis	Retail sales and service

on site	
---------	--

(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.

**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.

**10-5.3011.2 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.

**10-5.3011.3 Use permit applications.**

Applications for use permits shall be shall be filed with the Director.

**10-5.3011.4 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).

**10-5.3011.5 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.

....