



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
**H-2**

For the meeting of: May 9, 2017

Date: May 5, 2017  
To: Board of Supervisors  
From: Ryan Sundberg/Estelle Fennel  
Subject: Discussion of solutions to Cannabis Applications in Violation of the Commercial Medical Marijuana Land Use Ordinance.

RECOMMENDATION(S):

1. Receive report regarding cannabis applications in violation of the Commercial Medical Marijuana Land Use Ordinance.
2. Discuss possible solutions to cannabis applications in violation of the Commercial Medical Marijuana Land Use Ordinance.
3. Direct staff on possible temporary solutions for the purpose of negotiating settlement agreements, as discussed below.

SOURCE OF FUNDING:

N/A

DISCUSSION:

The Planning and Building Department is currently processing many applications that are in violation of the County's Commercial Medical Marijuana Land Use Ordinance (CMMLUO). This ordinance requires that the sites be processed in compliance with the ordinance and projects which either begin without a

Prepared by \_\_\_\_\_  
 REVIEW: \_\_\_\_\_  
 Auditor \_\_\_\_\_ County Counsel \_\_\_\_\_ Human Resources \_\_\_\_\_ Other \_\_\_\_\_

*Estelle Fennel*

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other *Board Initiated*

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
 Upon motion of Supervisor      Seconded by Supervisor  
 Ayes  
 Nays  
 Abstain  
 Absent

**SEE ACTION SUMMARY**

PREVIOUS ACTION/REFERRAL:  
 Board Order No. \_\_\_\_\_  
 Meeting of: \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.  
 Dated: \_\_\_\_\_  
 By: \_\_\_\_\_  
**Kathy Hayes, Clerk of the Board**

permit or expanded without a permit are in violation of the ordinance. This is becoming more common than extra-ordinary, and needs to be addressed.

These violations pose many problems as the activity may disturb cultural sites that have not been surveyed where the CMMLUO requires consultation with tribes, and may violate other state and local requirements.

One solution to these violations would be to require sites to be restored to what is allowed prior to processing the application. But in some cases, it is impractical to require a site to be regraded and restored only to have it graded again in conformance with the subsequently approved permit. One solution would be to allow an applicant to pay a penalty for new work without a permit in an amount equal to the cost to restore the site back to the pre-existing setting. This cost could be determined by an engineers' estimate (and the estimates of other experts, as needed) for the cost of restoration. The restoration may involve removal of buildings. The applicant could then choose to either restore the site or pay the penalty. Either site restoration or payment of the penalty would result in the ability of the site to be deemed in compliance and the application to proceed. Payment of the penalty would not relieve the applicant of addressing conditions needed to protect natural resources or make corrections to the site to protect resources, and of meeting the performance standards set forth in the CMMLUO.

Some violations may not cost much to fix and in those cases the minimum penalty could be three times the application deposit. The penalty could be the cost of restoration or three times the application deposit whichever is greater.

There is also the potential for cultivation to have begun on these sites which is also a violation. There are two approaches to this. First would be to require all, plants to be removed from the site. A second option would be to increase the penalty to double or triple the cost of the base penalty, or the amount of the penalty could be equal to the amount of the tax for the cannabis cultivation on the site under Measure S.

The Board should direct staff on a general approach for the purpose of negotiating settlement agreements with violators, which may include implementation of negotiated agreements to either require sites be brought into compliance to or require fines equivalent to the cost of restoration or triple the application deposit, whichever is greater. For purpose of negotiated agreements, the amount of the fine would be doubled in situations where cultivation has begun. Staff can then report back to the Board and the Board can consider more permanent enforcement solutions at a later date.

**FINANCIAL IMPACT:**

There is no specific budget allocation for these proposed revisions. The revisions are consistent with the Board's Strategic Framework through the Board's core roles of enforcing laws and regulations to protect residents and ensuring proper operation of markets.

**OTHER AGENCY INVOLVEMENT:**

None.

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

The Board could choose not to require any restoration or penalty for work done in violation of the Ordinance. This is not recommended as it encourages continued work in violation of the CMMLUO.

**ATTACHMENTS:** N/A