

Ordinance No. 2598, amending sections 313-55.4, 313-55.3.11.7, 313-55.3.7 and 313-55.3.15 of  
Chapter 3 of Division 1 of Title III of the County Code  
(CCLUO for the Coastal Zone)

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

Certified copy of portion of proceedings; meeting on May 8, 2018

**ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR MEDICINAL OR ADULT USE IN THE COASTAL ZONE**

**ORDINANCE NO. 2598**

The Board of Supervisors of the County of Humboldt ordains as follows:

**SECTION 1.** Section 313-55.4 of Chapter 3 of Division 1 of Title III of the Humboldt County Code, known as the Commercial Medical Marijuana Land Use Ordinance, is hereby repealed.

**SECTION 2.** Section 313-55.3.11.7 of Chapter 3 of Division 1 of Title of the Humboldt County Code, with respect to on-site consumption of medical cannabis in Medical Cannabis Dispensaries, is hereby repealed.

**SECTION 3.** Sections 313-55.3.7 and 313-55.3.15 of Chapter 3 of Division 1 of Title III of the Humboldt County Code, with respect to Medical Cannabis Testing and Research Laboratories, are hereby repealed.

**SECTION 4.** Section 313-55.4 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby adopted as follows:

**313-55.4 COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS LAND USE REGULATION FOR THE COASTAL ZONE IN THE COUNTY OF HUMBOLDT.**

**55.4.1 AUTHORITY AND TITLE**

This Section shall be known as the Commercial Cannabis Land Use Ordinance (“CCLUO”), regulating the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the Coastal Zone Area of the County of Humboldt.

**55.4.2 PURPOSE AND INTENT**

The purpose of this Section is to establish land use regulations concerning the commercial cultivation processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt in order to encourage safe, reasonable and responsible growth that reduces negative impacts on our community and environment, increases public awareness, and community health and safety while creating a clear and attainable path for operators to follow and authorities to enforce, and while protecting Coastal Resources consistent with the California Coastal Act, Public Resources Code section 30000, *et seq*, as part of the County of Humboldt’s Local Coastal Program.

These regulations are intended to ensure the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, and end users of medicinal or

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adult use cannabis; to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law. To this end, these regulations identify where in the County the various types of commercial cannabis activities can occur, and specify what type of permit is required, the application process and the approval criteria that will apply.

This Section is not intended to supersede the provisions of Sections 313-55.1, 314-55.1, 313.55.2, or 314.55.2 of this Code concerning cultivation of medical marijuana for personal use by patients or caregivers, or contravene the provisions of Health and Safety Code section 11357, 11358, 11362.1, 11362.2, or 11362.5 with respect to the possession or cultivation of limited amounts of cannabis for personal use by qualified patients or persons 21 years of age or older.

## **55.4.3 APPLICABILITY AND INTERPRETATION**

55.4.3.1 All facilities and activities involved in the commercial cultivation, processing, manufacturing, and distribution, testing, and sale of cannabis within the jurisdiction of the County of Humboldt within the Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.

55.4.3.2 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacture, or distribution of cannabis from compliance with all other applicable Humboldt County zoning, land use, grading, and streamside management area Coastal Development Permit regulations as well as other applicable provisions of the County Code.

55.4.3.3 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacture, or distribution of cannabis, from any and all applicable local and state construction, electrical, plumbing, water rights, waste water discharge, water quality, streambed alteration, endangered species, or any other environmental, building or land use standards or permitting requirements.

55.4.3.4 The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Humboldt County Code Section 313-135 et seq. and Section 111-1 et seq. may also apply to this Section.

55.4.3.5 A Zoning Clearance Certificate or Permit issued by the County of Humboldt pursuant to the CCLUO for any Commercial Cannabis Activity regulated by this Section, or Section 313-55.3, shall be valid for either adult use or medicinal use state licensed commercial cannabis activities, or both, if so allowed pursuant to state statute or regulation.

55.4.3.6 Wherever the word "marijuana" appears in any provision of the Humboldt County Code, it shall also be deemed to apply or refer to "cannabis."

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55.4.3.7 Wherever the terms “medical marijuana,” “medical cannabis,” “marijuana for medical use,” or “cannabis for medical use,” may appear in regulations in the Humboldt County Code, the regulations shall also apply equally to the adult use of cannabis by persons 21 years of age or older.

55.4.3.8 Notwithstanding the provisions of the Right to Farm Ordinance, Section 314-43.2.6 of the Humboldt County Code, the commercial cultivation of cannabis is a highly regulated specialty crop and the cultivation and processing of that specialty crop shall not be allowed as a principal permitted use under the General Agriculture use type classification applicable within the County of Humboldt. Commercial Cannabis Cultivation requires County issuance of a Zoning Clearance Certificate, Special Permit, or Use Permit, and the person engaged in such activity must obtain all required state licenses and permits.

55.4.3.9 Other than as enumerated in this Section, Commercial Cannabis Activities in the County of Humboldt are prohibited in any other zoning district other than those zoning districts where it is expressly permitted.

55.4.3.10 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Zoning Clearance Certificate, Special Permit, or Use Permit from the County of Humboldt to engage in Commercial Cannabis Activities within the jurisdiction of the County.

55.4.3.11 No ministerial permit shall be granted for site development activities, including but not limited to grading or building permits, related to any Commercial Cannabis Activity in advance of issuance of the Zoning Clearance Certificate, Special Permit, or Use Permit required under this section.

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

### 55.4.4 DEFINITIONS

“Area of Traditional Tribal Cultural Affiliation” means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as shown on the latest mapping prepared by the Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

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

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“Cannabis Cooperative Association” means an association formed or reorganized in accordance with Chapter 22, Division 10 of the Business and Professions Code commencing with Section 26220.

“Cannabis Research Garden” means a cannabis cultivation facility engaged in the research or development of cannabis, cannabis strains, or cultivars for the medicinal or adult use of cannabis but which does not produce product for commercial distribution, manufacture, dispensing, or sale.

“Cannabis Testing and Research Laboratories” means a facility, entity, or site that offers or performs tests of cannabis or cannabis products licensed by the State of California pursuant to Business and Professions Code section 26000, et. seq., and businesses and research institutions engaged in the research of cannabis, cannabis products, or devices used for the medicinal or adult use of cannabis products at which no commercial cannabis cultivation or distribution, manufacture, dispensing, or sale of medical cannabis occurs.

“Captured Rainfall” means rainwater catchment of rainfall runoff primarily collected during the wet season from roof tops, impervious surfaces, driveways, and similar features to the extent consistent with state law for rainwater capture, and concentrated and stored in tanks, or off-stream reservoirs, retention ponds, or basins located on the parcel(s) or premises. Also includes rainfall captured and collected directly within a reservoir, open tank, or similar vessel.

“Category 4 Roads” means roads meeting the standards specified in Section 4-1 (Design Standards for Roadway Categories) and Figure 4 of the Appendix to the Subdivision Regulations, found in Appendix to Title III, Division 2, of Humboldt County Code.

“Commercial Cannabis Activity” means any activity involving the cultivation, processing, distribution, manufacturing, testing, sale, or related activities, of cannabis for commercial purposes.

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis, including nurseries, that is intended to be processed, manufactured, distributed, dispensed, delivered, and sold.

“Community Propagation Center” means a facility providing for propagation activities as well as caretaking of mature non-flowering plants by one or more licensees, using grid power, at a premises which is separate from the cultivation site.

“Cultivation Area” means the sum of the area(s) used for cannabis cultivation, calculated in square feet and measured using clearly identifiable boundaries around the perimeter of all area (s) that will contain plants at any point in time, including all the space within the boundary as shown on the approved plot plan. Cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown to maturity on the premises. Between January 1 and January 31 of any given year, applicants with approved permits for cannabis cultivation may submit a written declaration on forms provided by the County that they will reduce the size of their approved cultivation area for that year. The County shall assess taxes for

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cannabis cultivation on the site based on the reduced area of cultivation in the declaration. See also "Propagation".

"Cultivation site" means the location or a facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

"Distribution Facility" as used in this section related to cannabis means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retailers, and performs or coordinates the inspection, quality assurance, batch testing, storage, labeling, packaging and other related processes, as well as transportation to or from other licensees.

"Driveway" means a route providing private vehicular access, serving one (1) or two (2) parcels or premises.

"Dry farming" means cultivation where Irrigation activities are confined to ancillary propagation areas and transplant, and plants spend the majority of the cultivation season being grown within native soil where they primarily receive water via subsurface hydrological connectivity, and not from above ground Irrigation.

"Enclosed" means Commercial Cannabis Cultivation Activities conducted within an enclosed structure employing mechanical ventilation controls in concert with carbon filtration or other equivalent or superior method(s) minimizing the odor of cannabis outside of the structure. The use and intensity of artificial light, not the fact of enclosure will determine whether the Cultivation Site is characterized as Outdoor, Mixed-light, or Indoor.

"Extraction" means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

"Extraction, non-flammable" means the manufacture of cannabis products using cold water, heat press, lipid (butter, milk, oil) or other non-chemical extraction method make bubble hash, kief, rosin, cannabis-infused lipid, etc. Ethanol, alcohol, and CO2-based solvent extraction to make cannabis concentrates/oils are also included in this definition.

"Extraction, flammable" means using compressed and uncompressed liquid solvents such as pentane, hexane, butane, propane, and the like to make cannabis concentrates/oil (closed loop only). Also included in this definition is post-extraction refinement, which is taking previously extracted cannabis concentrates and further refining through processes such as chromatography, to make distillates.

"Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.

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“Forbearance Period” means the calendar days during which water may not be diverted from a Waterbody. The default forbearance period shall occur each year between May 15<sup>th</sup> and October 31<sup>st</sup>, unless a greater or lesser period is established or negotiated by local and/or state agencies.

“Grid Power” means electricity generated, transmitted and distributed via the electrical grid by a public utility or similar entity.

“Indoor” means cultivation within a structure primarily or exclusively using artificial lighting.

“Infusion” means a process by which cannabis, cannabinoids, cannabis concentrates, or manufactured cannabis are directly incorporated into a product formulation (e.g. oil, milk, butter, other lipids) to produce a cannabis product including: edibles such as baked goods, tinctures, lotions and salves, soaps, vape pens, and the like.

“Irrigation” means use of water by any Commercial Cannabis Cultivation activity.

“Licensee” means a person issued a state license to engage in Commercial Cannabis Activity.

“Local Water Source” means water withdrawal from a Waterbody occurring on the same parcel(s) or premises, or in their vicinity.

“Manufacturing” means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Metering device” means a device capable of measuring the rate of: direct diversion, collection to storage, and withdrawal or release of water from storage.

“Microbusiness” means a facility host to several Commercial Cannabis Activities under a single license including cultivation on an area less than 10,000 square feet, distribution, manufacturing without use of volatile solvents, and retail sales.

“Mixed-Light” means cultivation using a combination of natural and supplemental artificial lighting.

“Non-Diversiory Water Source” means not involving the withdrawal of water from a Waterbody.

“Non-forested areas” means areas not growing any trees, whether due to natural conditions or through a conversion of Timberland, conducted prior to January 1, 2016.

“Nursery” means a facility that produces only clones, immature plants, and seeds for wholesale to licensed cultivators to be used specifically for the planting, propagation, and cultivation of cannabis, or to licensed distributors.

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“Off-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged when conducted at premises separate from the cultivation site where the processed cannabis is grown and harvested.

“On-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, when conducted at the same premises or Parcel which is host to the cultivation site(s) where the cannabis is grown and harvested.

“Open Air” means Outdoor or Mixed-Light Cultivation activities, Nurseries, or Processing facilities, where not conducted entirely within an Enclosed structure.

“Outdoor” means outdoor cultivation using no artificial lighting.

“Parcel” means the same as the definition of “Lot” found under 314-147 of the code.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number. Person also includes the chief executive officer or a member of the board of directors of a business entity, or any individual participating in the direction, control, or management of the permit holder. Person does not include business entities with an aggregate ownership interest of less than twenty (20) percent in the individual or entity holding the permit or less than 5 percent of the total shares of a publicly traded company holding a permit. Individuals, Banks, or financial institutions whose only interest constitutes a loan, lien, or encumbrance, or whose interest occurs through a mutual fund, blind trust, or similar instrument shall not be considered a “Person” for purposes of this section.

“Pre-Existing Cultivation Site” means a physical location where Outdoor, Mixed-Light, or Nursery Cannabis Cultivation activities occurred at any time between January 1, 2006 and December 31, 2015, which has been recognized by the Planning and Building Department, following receipt and review of adequate evidence. The maximum Cultivation Area that may be recognized is the largest extent of the area under concurrent cultivation at a single point in time during the ten-year period specified above.

“Premises” means a Parcel, or a portion thereof, such as a leasehold interest in agricultural land for agricultural purposes of outdoor, mixed-light, or indoor cultivation or processing of cannabis, or a leased or owned space in an industrial or commercial building or parcel for purposes of indoor, mixed-light, or outdoor cultivation, processing, manufacture, distribution, testing or retail sale of cannabis.

“Prime Agricultural Soils” means all lands which have been classified or determined to be “prime” as shown on the most current mapping managed and prepared in concert with local soil survey efforts performed by the Natural Resources Conservation Service.



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“Private Roads” means all roads which are not maintained by the County of Humboldt, or State or Federal Agencies.

“Propagation” means cultivation of immature, non-flowering cannabis plants. Areas used for Propagation which are incidental, accessory, and subordinate to Cultivation areas on the same Parcel or Premises may be excluded from the calculation of Cultivation area at the discretion of the Planning Director or Hearing Officer. See also “Cultivation Area”.

“Public or Private Water Supplier” means a retail water supplier, as defined in Section 13575 of the Water Code, including community services districts or similar public or private utilities, serving 11 or more customers, whose primary beneficial use of water is municipal or domestic.

“Public Park” means land that is publicly owned or controlled for the purpose of providing recreation and/or open space for public use and/or wildlife habitat.

“Publicly Maintained Roads” means all roads that are available for year-round travel by the general public and maintained by the County of Humboldt, or State or Federal Agencies.

“Renewable Energy Source” means electrical power provided by a renewable energy system and/or Grid Power, supplied from 100% renewable source.

“Renewable Energy System” means equipment for generating and supplying power without use of petroleum or other fossil fuels, and instead using appropriate technology including but not limited to: wind turbines, photovoltaic panels, and hydroelectric systems, in concert with private devices and systems for energy storage and distribution including batteries, grid inter-tie, or other means.

“Retailer” means a facility for the retail sale and delivery of cannabis to the public, whether for medicinal or adult use. Retailer shall include medical cannabis dispensaries, as defined in and regulated by Humboldt County Code section 313-55.3.

“Same Practical Effect” means an exception or alternative with the capability of providing equivalent access characteristics, including but not limited to: accommodating safe two-way travel and traffic by regular users in passenger vehicles, and access by emergency wildland fire equipment and simultaneous safe civilian evacuation in the event of a wildland fire.

“Shared Use Roads” means public and private road systems providing access to the cultivation site, including driveways, serving 3 or more parcels or premises.

“Shared Use Road Systems (roadsheds)” means networks of public and/or private Shared Use Roads providing access to two or more parcels, where year-round access through neighboring road systems is typically limited to one or two discrete intersections. The County shall define the location and general extent of all roadsheds, based upon current conditions and use.

“Slope” means Natural Grade as defined in Title III, Section 314-142 of the Humboldt County Code, which has not been filled or graded after January 1, 2016.

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“State license,” or “license,” means a state license issued pursuant to Business and Professions Code section 26000, *et seq.*

“Stored water” means water from Captured Rainfall or a Local Water Source, when diverted and stored for non-contemporaneous Irrigation.

“Timberland” means land, which is growing or available for and capable of growing a crop of trees of any commercial species used to produce lumber and other forest products, as defined under section 4526 of the Public Resources Code.

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

“Tribal Ceremonial Sites” means locations where ceremonial activities are conducted by a California Native American Tribe within their Area of Traditional Tribal Cultural Affiliation.

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

“Waterbody” means any significant accumulation of water, such as lakes, ponds, rivers, streams, creeks, springs, seeps, artesian wells, wetlands, canals, groundwater from a subterranean stream flowing through a known and definite channel, or similar features. Waterbody shall not include off-stream constructed reservoirs filled exclusively using Non-Diversionary sources such as Captured Rainfall.

**55.4.5 GENERAL PROVISIONS APPLICABLE TO COMMERCIAL CANNABIS  
ACTIVITY LAND USE PERMITS**

**55.4.5.1 Special Area Provisions**

- 55.4.5.1.1 No Commercial Cannabis Activity shall be permitted within six hundred feet (600’) of a school.
- 55.4.5.1.2 No Commercial Cannabis Activity shall be permitted within Tribal Lands without the express written consent of the Tribe.
- 55.4.5.1.3 No Commercial Cannabis Activity shall be permitted within one hundred feet (100’) of Environmentally Sensitive Habitat Area (ESHA), as defined in Section 313-143 of the Humboldt County Code (“Habitat Areas, Environmentally Sensitive”), or Wetland, as defined in Section 313-158.

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Wetland Buffer Regulations set forth in Section 313-125 of the Humboldt County Code shall apply to all Commercial Cannabis Activity.

**55.4.5.1.4 City Spheres of Influence, Community Planning Areas, Tribal Lands**

- a) A Conditional Use Permit shall be required for any Commercial Cannabis Activity where located within the Sphere of Influence (SOI) of any incorporated city or within any of the following mapped Community Planning Areas (CPAs): McKinleyville, Shelter Cove, and Trinidad-Westhaven. A Conditional Use Permit shall also be required for any Commercial Cannabis Activity where located within one thousand feet (1000') of any incorporated city, Tribal Lands, or any of the identified Community Planning Areas (CPAs). For purposes of determining the Trinidad Planning Area, the Trinidad General Plan shall be utilized.

*Early Notification to Surrounding Areas, nearby Cities, and Tribes*

- b) Whenever a permit application for a Commercial Cannabis Activity is located within any of the areas specified in Sections 55.4.5.1.4(a) and has been determined complete for processing in accordance with Section 312-6.1, notice of the proposed project shall be provided to all property owners and occupants by first class mail to the address(es) shown on the latest Assessment Roll within one thousand feet (1,000') of the perimeter of the parcel on which a permit is being requested. The notice shall include the location of the project and a description of the size and type of activity proposed.

The appropriate City or Tribe shall also be notified in cases where a project is located within 1,000 feet of the City limit or boundary of Tribal Lands, or within the City's Sphere of Influence or Tribe's Ancestral Area. This notice shall be in addition to the notice that may be required by Section 312-8.1 or 312-8.3. Pursuant to 312-9.2.3, a written request that a public hearing be held may be submitted at any time prior to the Hearing Officer's administrative decision on a project.

- c) The Hearing Officer shall consider the potential impacts and cumulative impacts of proposed cannabis activities upon the community as a whole, including impacts to neighboring uses within Cities or their SOI's and buffers, and to residents within CPA's, or Tribal land. The Hearing Officer shall have the discretion to deny any discretionary permit application within these areas if it is found, based on substantial evidence in the record, that the impacts of a proposed activity on the existing uses will have a significant adverse effect on the public health, safety, or welfare.

**55.4.5.1.5 Areas of Traditional Tribal Cultural Affiliation**

The County shall engage with local Tribes before consenting to the issuance of any clearance or permit, if Commercial Cannabis Activities occur or are proposed within an Area of Traditional Tribal Cultural Affiliation. This process will include referral of the project to and engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit

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with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS).

### **55.4.5.2 Release of Liability, Indemnification, and Hold Harmless**

As part of the application for any Zoning Clearance Certificate, Special Permit, or Use Permit for Commercial Cannabis Activity, as defined herein, the property owner and permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the Commercial Cannabis Activity and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of these uses.

### **55.4.5.3 Penalties and Enforcement**

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

Any violation of this Section, including, but not limited to failure to obtain and maintain compliance with any required clearance certificate or permit specified in this Section, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the County under the applicable state and county laws, specifically including those set forth in Title III, Division 5, Chapter 1 of the Humboldt County Code.

Whenever permit applicants seeking permits for new commercial activities initiate operations ahead of permit issuance or Pre-Existing Cultivation Site operators seeking permits expand cultivation operations ahead of permit issuance the Director shall have discretion to:

55.4.5.3.1 Issue stop work orders and financial penalties to applicants found to have engaged in the above activities, and require restoration of the site to prior condition; or,

55.4.5.3.2 Disqualify the pending applications, with no refund of fees submitted, and initiate enforcement proceedings.

55.4.5.3.3 Resolve the violations and proceed with processing of the application.

### **55.4.5.4 Permit Limits and Permit Counting**

55.4.5.4.1 No more than eight acres of Commercial Cannabis cultivation permits may be issued to a single Person within the County of Humboldt. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities. No more than ten (10) Persons shall be granted permits authorizing three (3) or more acres of cultivation pursuant to the provisions of 55.4.6.1.2(c).

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**55.4.5.5 Combination of Open Air Cultivation Activities**

A combination of Outdoor and Mixed Light cultivation activities may be authorized for a total area equal to or less than the cultivated area size limit for the applicable permit being sought (e.g. a combination of outdoor and mixed light cultivation area of up to 10,000 sq. ft. may be permitted on a parcel).

**55.4.5.6 Term of Commercial Cannabis Activity Clearance or Permit**

Any Commercial Cannabis Activity Zoning Clearance Certificate, Special Permit, or Use Permit issued pursuant to this section shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval, applicable eligibility and siting criteria, and performance standards.

**55.4.5.7 Annual Inspections**

If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the clearance certificate or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance and the time period within which the non-compliance must be corrected. The statement shall also advise the clearance certificate or permit holder of their right to file an appeal of the non-compliance statement within ten (10) calendar days of the date that the written statement is delivered to the permit holder, or after the date of any re-inspection if there is a dispute about whether or not the corrections have been completed. Email, personal delivery, or mail are appropriate means of delivering the written statement. Where mailed or emailed, the written statement shall be sent to the most current mailing address or email shared with the Department by the operator. The statement shall be considered to be delivered 3 days following the postmarked date of mailing or verification of email transmittal. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request re-inspection and cure any items of non-compliance within the prescribed timeframes, or to timely file an appeal, shall terminate the Zoning Clearance Certificate, Special Permit, or Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

**55.4.5.8 Appeal of Inspection Determination**

Within ten (10) calendar days after delivery of the statement of non-compliance, or the date of any re-inspection, the determination by the inspector that the site is not in compliance may be appealed by certificate or permit holder to the Zoning Administrator. The appeal shall be made, in writing, on a form provided by the County, and with payment of the fee specified for appeals in the fee schedule adopted by the County of Humboldt.

55.4.5.8.1 The appeal shall be heard by the Zoning Administrator or his or her designee within thirty (30) calendar days following the filing of the appeal. The Zoning Administrator shall render a written ruling on the appeal within three (3) business days following the hearing.

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55.4.5.8.2 The decision of the Zoning Administrator may be appealed in accordance with Section 312-13 of the Humboldt County Code. If no appeal is filed, the Zoning Administrator's ruling is final.

### **55.4.5.9 Notification to State Licensing Authorities**

The County shall notify the appropriate state licensing authority whenever the County Zoning Clearance Certificate, Special Permit or Use Permit has been revoked or terminated following the expiration of any appeal period, or if an appeal has been filed, following the final determination of the appeal.

### **55.4.5.10 Restriction of water use under special circumstance**

The County reserves the right to reduce the extent of any Commercial Cannabis Activity, including but not limited to the area of cultivation, allowed under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources.

## **55.4.6 COMMERCIAL CANNABIS CULTIVATION, PROPAGATION, AND PROCESSING – OPEN AIR ACTIVITIES**

Outdoor and Mixed-light Cultivation Activities, On-Site Processing, and Nurseries may be permitted with a Coastal Development Permit and Special Permit, Use Permit, or Zoning Clearance Certificate when meeting the following Eligibility and Siting Criteria and all applicable Performance Standards, except when otherwise specified, provided that processing, drying, product grading, curing or trimming may only be conducted within non-residential structures that were in existence on January 1, 2016.

### **55.4.6.1 Eligibility Criteria - Resource Production and Residential-Agricultural Areas**

#### **55.4.6.1.1 Zoning**

AE and RA.

#### **55.4.6.1.2 Minimum Parcel Size and allowed Cultivation Area**

- a) On parcels 20 acres or larger in size:
  - 1) up to 10,000 sq. ft. of Cultivation Area with a Special Permit and Coastal Development Permit;
  - 2) a maximum of 43,560 sq. ft. of Cultivation Area with a Use Permit and Coastal Development Permit on any parcel less than 320 acres in size, including a combination of separately permitted activities including those permitted pursuant to Section 55.4.6.5.7 (b).
- b) On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted. All cultivation area must have access from paved roads with centerline stripe, meeting the Category 4 standard. Exceptions may be considered subject to a separate Use Permit. Where an exception is sought, the Use

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Permit application shall include an evaluation (prepared by a licensed engineer) of the local road network providing access to the site. The Hearing Officer shall not grant an exception unless there is substantial evidence to support a finding that the cultivation sites will not adversely affect the public health, safety, and welfare because the roads as they exist or are improved provide fire safe road access, capacity to support anticipated traffic volumes, maintain water quality objectives, and protect sensitive habitats.

- c) On parcels with an Agricultural Exclusive/Grazing Plan designation, outdoor or mixed-light cultivation may only be permitted within non-residential structures existing prior to January 1, 2016.
- d) With a Zoning Clearance Certificate and Coastal Development Permit, up to one (1) acre of Cultivation Area may be authorized within existing commercial greenhouse structures. Additionally, Cultivation Area in excess of one (1) acre may be authorized within existing commercial greenhouse structures with a Use Permit and Coastal Development Permit. The greenhouse(s) must have been lawfully constructed prior to January 1, 2016. RA zoned property must be 20 acres or larger in size.

**55.4.6.2 Eligibility Criteria - Commercial and Industrial Areas**

**55.4.6.2.1 Zoning**

CG, ML, MG, and MC as an Interim Use per Section 313-104.1 of the Zoning Ordinance.

**55.4.6.2.2 Minimum Parcel Size and allowed Cultivation Area**

Two (2) acre minimum parcel size

- a) Open Air Cultivation Activities of up to one (1) acre of Cultivation Area may be permitted with a Special Permit and Coastal Development Permit.
- b) Additional Open Air Cultivation Activities in excess of 1 acre may be allowed with a Use Permit and Coastal Development Permit.

Cultivation sites proposed on developed commercial or industrial properties must comply with the Performance Standards for Adaptive Reuse.

**55.4.6.3 Eligibility Criteria – All Areas**

**55.4.6.3.1 Energy Source**

Electricity must be exclusively provided by a Renewable Energy Source, meeting the Performance Standard for Energy Use.

**55.4.6.3.2 Water Source**

Irrigation shall exclusively utilize Stored Water from Non-Diversionsary Sources or water from a Public or Private Water Supplier, if adequate capacity exists for irrigation use, as determined by the Public or Private Water Supplier. Water from on-site greywater systems is also authorized for year-round use. Dry Farmed Outdoor or Mixed Light cultivation sites may utilize Irrigation from Diversionsary Sources for propagation areas and transplantation.

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## 55.4.6.3.3 Access Road(s)

Road systems providing access to the parcel(s) or premises hosting the Cultivation Site(s) must meet or exceed the Road Systems Performance Standard in Section 55.4.12.1.8.

## 55.4.6.4 Siting Criteria – All Areas

### 55.4.6.4.1 Slope

Cultivation Site(s) must be confined to areas of the Parcel where the Slope is 15 percent or less.

### 55.4.6.4.2 Conversion of Timberland Prohibited

Cultivation Site(s) may only be located within a Non-Forested area that was in existence prior to January 1, 2016.

### 55.4.6.4.3 Limitation on Use of Prime Soils

The cumulative area of any Cannabis Cultivation Site(s) located in areas identified as having Prime Agricultural Soil shall not exceed 20 percent of the area of Prime Agricultural Soil on the Parcel. Where occurring in areas with Prime Agricultural Soil, Cultivation shall only occur within the native soil. Removal of native soil and replacement with manufactured soil is prohibited. Exceptions to the in native soil planting requirement may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include evidence demonstrating that in the circumstances of the particular cultivation site, it is better to not plant within the native soils. An exception shall only be approved if it can be demonstrated that the native soil will not be impaired or damaged.

### 55.4.6.4.4 Setbacks

#### *Standard Setbacks*

Cultivation Site(s) must observe all of the following setbacks:

- a) Property Lines - Thirty (30') feet from any property line;
- b) Residences and undeveloped parcels - Three hundred feet (300') from any residence on an adjacent separately owned parcel, and two hundred seventy feet (270') from any adjacent undeveloped separately owned parcel.
- c) Sensitive Receptors - Six hundred feet (600') from a Church or other Place of Religious Worship, Public Park, Coastal Public Access, Commercial Recreational Facility (as defined by Section 313-153 of the Humboldt County Code), Tribal Cultural Resource, or School Bus Stop currently in use at the time of project application submittal. For purposes of this section, the setback requirement applicable to Public Parks, other than lands managed for open space and/or wildlife habitat, shall only be applied to designated and developed recreational facilities such as picnic areas and campgrounds, trails, river and fishing access points, and like facilities under public ownership.
- d) Tribal Ceremonial Sites - One thousand feet (1,000') from all Tribal Ceremonial Sites;
- e) The setback required from associated property lines or residence(s) on an adjacent privately-owned property may be waived or reduced with the express written consent of the owner(s) of the subject property.



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- f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit, provided that advanced notice is given to the person or agency responsible for managing or supervising the management of those lands. For School Bus Stops, a setback of less than 600 feet may be allowed with a Special Permit, where it can be demonstrated that the cultivation site would not be detrimental to students at the bus stop, due to specific conditions;
- g) In all cases, structures must comply with the setback requirements and similar provisions of the principal zoning district(s) as well as those required by the Building Code, including lot coverage.
- h) Additionally, in cases where one or more discrete premises span multiple parcels, the 30-foot setback from shared boundary lines may be waived for cultivation activities which do not occur within a structure.
- i) Cultivation Site(s) and Appurtenant Facilities including surface water diversions, agricultural wells, and similar infrastructure must observe all prescribed setbacks and limitations pertaining to the use of land located within or affecting Environmentally Sensitive Habitat Areas (ESHA) or Wetlands, as defined under Coastal Act regulations in Humboldt County Code and Local Coastal Area Plans.

*Special Area Setbacks for Odor Mitigation*

In addition to the Standard Setbacks, Open Air Cultivation Sites located within any of the Special Areas described under 55.4.5.1.5 are subject to the following enhanced setbacks, unless confined to Enclosed structures:

- j) Six hundred feet (600') from the boundary of any residentially zoned area;
- k) Six hundred feet (600') from any residence located on a separately owned parcel.
- l) An applicant may seek an exception from the prescribed open air cultivation setbacks of 55.4.6.4(j) and (k) with a Use Permit. In considering the Use Permit, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist.
- m) Notwithstanding the above provisions, the enhanced setbacks of this section are not applicable to any commercial cannabis activities conducted on a parcel zoned MG or MC.

**55.4.6.5 Accommodations for Pre-Existing Cultivation Sites**

As set forth in the following subsections, Pre-Existing Cultivation Sites that meet all other Eligibility and Siting Criteria and Performance Standards, may be permitted with a Special Permit and Coastal Development Permit within AE and RA zoning districts, provided that all Coastal Resource protection policies and standards for issuance of a Coastal Development Permit can be met. Permitting of Pre-Existing Cultivation Sites is prohibited where located within the TC or TPZ zones. For other areas, where the size of a Pre-Existing Cultivation Site

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is smaller than the allowed cultivation area which can be permitted, the site may be expanded to the maximum allowed for the applicable parcel size and permit type within existing Non-Forested areas with Slopes of 15 percent or less.

Permit applications for Pre-Existing Cultivation Sites shall provide dated satellite imagery or other evidence satisfactory to the Planning and Building Department establishing the existence and area of cultivation between January 1, 2006 and December 31, 2015.

Applications for Pre-Existing Cultivation Sites submitted before December 31, 2018 may be permitted at one hundred percent of the documented pre-existing cultivation area and applications for pre-existing cultivation submitted between January 1, 2019 and December 31, 2019 shall not be approved for more than fifty percent of the documented existing cultivation area. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019.

**55.4.6.5.1 Small Cultivation Sites**

On Parcels 20 acres or larger in size, up to 3,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Special Permit and Coastal Development Permit, provided that all Coastal Resource protection policies and standards for issuance of a Coastal Development Permit can be met, if applicable, subject to the following additional requirements and allowances:

- a) The operator's principal residence is located on the same parcel and the residence was in existence on or before January 1, 2016
- b) No more than one cultivation permit may be issued for the same Parcel.
- c) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply
- d) The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:
  - i. Within one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant 55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.
  - ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.
- e) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

55.4.6.5.2 A Cultivation Site located on Slopes greater than 15 percent but not exceeding 30 percent may be permitted with a Use Permit and Coastal Development Permit.

55.4.6.5.3 In order to comply or best achieve compliance with applicable eligibility or siting criteria, or performance standard(s), reconfiguration of a Pre-Existing Cultivation Site may be authorized with a Special Permit and Coastal Development Permit, subject to all applicable Performance Standards.

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**55.4.6.5.4 Energy Source for Ancillary Propagation Facility or Mixed-Light Cultivation**

Where grid power is not available, Pre-Existing cultivation sites located within other eligible zoning districts may utilize on-site generators to supply energy for mixed light and propagation activities. The permit application shall include an energy budget detailing all monthly cultivation-related energy use as well as on-site renewable energy generation and storage capacity. All generator use must comply with the Performance Standards for Generator Noise.

- a) Use of on-site generators to supply up to 20 percent of cannabis cultivation related energy demand may occur as a principally permitted use.
- b) Use of on-site generators to supply greater than 20 percent of cannabis cultivation related energy demand shall be subject to a Special Permit. The application must demonstrate why it is not technically or financially feasible to secure grid power or comply with the renewable energy standard. Approval may be subject to any and all of the following additional measures:
  1. Keeping of ancillary mother plants off-site at an approved location such as a Community Propagation Center, Nursery, or similar facility with access to grid power.
  2. Restricting use of artificial lighting to between March thru August (deprivation season and end of season restocking post-harvest)
  3. Developing a plan to secure grid power or develop on-site renewable energy infrastructure capable of supplying 80 percent or more of cannabis-related electrical demand. Permit approval may be provisional subject to achieving grid power or 80 percent renewable target.

**55.4.6.5.5 Provisional Permitting**

An application for a Pre-Existing Cultivation Site may be provisionally approved, subject to a written approved compliance agreement, signed by the applicant and the relevant enforcement agency or agencies. Applications eligible for Provisional Approval shall be processed identically to all other applications, in the order they are received and determined complete for processing. The Compliance Agreement shall document all violations and non-compliance with applicable building or other health, safety, or other state or county statute, ordinance, or regulation, including the performance standards and siting criteria of these regulations. Violations and areas of non-compliance subject to a compliance agreement shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for the Commercial Cannabis Activity and shall not extend to personal residences or other structures that are not used for Commercial Cannabis Activities. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. All violations and areas of non-compliance shall be cured or abated at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional clearance or permit, unless otherwise stipulated under the terms of the individual

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agreement. The terms of the compliance agreement may be appealed to the Planning Commission, who shall act as Hearing Officer.

As part of application submittal, Pre-Existing Cultivation Sites seeking provisional approval shall identify, document, and itemize all current violations related to commercial cannabis activities, as well as areas of non-compliance with applicable performance standards and siting criteria, and include a plan and schedule to abate or cure all violations and achieve compliance targets.

**55.4.6.5.6** *(Section reserved for future use)*

**55.4.6.5.7 Retirement, Remediation, and Relocation of Pre-Existing Cultivation Sites**

In order to incentivize, promote, and encourage the retirement, remediation and relocation of pre-existing cannabis cultivation operations occurring in inappropriate, marginal, or environmentally sensitive sites to relocate to environmentally superior sites, the following provisions shall apply:

- a) Cultivation Sites eligible for Retirement, Remediation, and Relocation incentives (RRR Sites) shall be those that were in operation at any time between January 1, 2006 and January 1, 2016 and are located in AE, RA, TC and TPZ zones with a source of irrigation water from surface water diversion without DWR water right or permit or DFW streambed alteration permit, or served by roads which do not conform with one or more access performance standards specified under Section 55.4.12, or with slopes in excess of 15%, or where the cultivation area location does not comply with the required setbacks. All applications for RRR sites on Tribal Land shall be referred to the appropriate Tribe for comment prior to approval.
- b) Sites eligible for relocation of RRR Sites (Relocation Sites) shall be those meeting the eligibility criteria specified in Section 55.4.6.1 or 55.4.6.2 and the siting criteria specified in Section 55.4.6.4 through 55.4.6.8, as well as all applicable performance standards specified in Section 55.4.12. In addition, RRR Sites shall not be located within any Special Areas listed within section 55.4.5.1.4. No new applications for RRR Sites shall be accepted after December 31, 2018.
- c) Operators of RRR Sites shall be eligible to receive a Special Permit and Coastal Development Permit for commercial cultivation of cannabis on an eligible Relocation Site, for an area up to four times the area of the pre-existing RRR Site, but in no event larger 20,000 sq. ft. Operators of RRR Sites with a Cultivation Area exceeding 20,000 sq. ft. may transfer all recognized prior cultivation area to an eligible Relocation Site, on a 1-for-1 basis (no multiplier) subject to approval of a Use Permit and Coastal Development Permit.
- d) Relocation Sites may be on leased premises for agricultural purposes allowable pursuant to the exclusion from the Subdivision Map Act, Government Code section 66412 (k). More than one RRR Site may be permitted on Relocation Site parcels of twenty (20) acres or larger, provided that the cumulative total cultivation area for all commercial cannabis cultivation permits issued for that parcel does not exceed one acre. If the Relocation Site has Prime Agricultural Soils on that parcel, the area utilized for cannabis

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cultivation on Prime Agricultural Soils shall not exceed twenty percent (20%) of the area of Prime Agricultural Soils on that parcel.

- e) In order to receive the benefits specified in Section 55.4.6.5.7 (c), the operator of a RRR Site shall prepare a plan for the full environmental remediation of the RRR Site, including removal of all cultivation related materials, equipment and improvements, regrading to preexisting contours, reseeding with native vegetation, reforestation, habitat restoration, and monitoring, as determined to be appropriate by the Planning Department. The plan shall be prepared and executed in accordance with the Performance Standard for Remediation Activities. The operator shall execute an agreement to complete the work specified in the remediation plan within twelve (12) months and shall post a bond in a sufficient amount that will allow the County to contract to complete the work specified in the plan in the event that the operator of the RRR Site fails to do so. The operator or the property owner of record for the RRR Site shall record a covenant executed by the property owner not to commercially cultivate cannabis or disturb the remediation area on the subject property in perpetuity, with an enforcement clause that in the event that the covenant is violated, the County of Humboldt, shall on motion in Superior Court, be entitled to an immediate lien on the property in the amount necessary to remediate the property, but in no event less than the sum of \$50,000.00. In the event that that the covenant is violated and the operator of the RRR Site retains any interest in the former RRR Site property, all permits for operation of the Relocation Site shall be terminated.

**55.4.6.6 Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites**

Upon termination or abandonment of a permitted Commercial Cannabis Cultivation Site, the operator and/or property owner shall remove all materials, equipment and improvements on the site that were devoted to cannabis cultivation, including but not limited to bags, pots, or other containers, tools, fertilizers, pesticides, fuels, hoop house frames and coverings, irrigation pipes, water bladders or tanks, pond liners, electrical lighting fixtures, wiring and related equipment, fencing, cannabis, or cannabis waste products, imported soil or soil amendments not incorporated into native soil, generators, pumps, or structures not adaptable to non-cannabis permitted use of the site. If any of the above described or related material or equipment is to remain, the operator and/or property owner shall prepare a plan and description of the non-cannabis continued use of such material or equipment on the site.

For cultivation sites located in forested resource lands where trees were removed in order to facilitate cannabis cultivation, and no 3-acre conversion exemption or timberland conversion permit was obtained, the property owner shall cause a restoration plan to be prepared by a Registered Professional Forester, or other qualified professional approved by the County, for the reforestation of the site. All restoration planning and implementation shall be conducted in conformance with the Performance Standard for Remediation Activities. The property owner shall be responsible for execution of the restoration plan, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions set forth in Section 314-55.4.5.3 and Title III, Division 5, Chapter 1 of the Humboldt County Code.

55.4.6.7 *(Section reserved for future use)*

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**55.4.6.8 Cap on Permits**

The total number of permits issued for commercial cultivation activities (including Outdoor, Indoor, and Mixed-Light cultivation and Nurseries) in each of the six Local Coastal Plan areas shall be as follows:

<u>Coastal Planning Area</u>	<u>Permits</u>	<u>Acres</u>
North Coast Area Plan	4	<u>2</u>
Trinidad Area Plan	0	0
McKinleyville Area Plan	4	<u>2</u>
Humboldt Bay Area Plan*	38	13
Eel River Area Plan	112	39
<u>South Coast Area Plan</u>	13	<u>5</u>
<b>Total</b>	<b>171</b>	<b>59</b>

\* Cannabis cultivation sites with public water from the Humboldt Bay Municipal Water District may be exempt from the cap with a will-serve letter from the district providing public water service to the site.

Once the permit cap for a given Local Coastal Plan has been reached, no additional permit applications for open air cultivation activities will be processed until the Planning Commission and Board of Supervisors consider an analysis of the state of the watershed and approve an increase in the cap by amendment of this section of the Humboldt County Code certified by the California Coastal Commission. The analysis shall include review of water flow data and applicable studies or information prepared by state and local agencies and recommendations from the following state agencies: California Department of Fish & Wildlife, North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection.

**55.4.7 CANNABIS SUPPORT FACILITIES**

Cannabis Support Facilities include facilities for Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers and Cannabis Testing and Research Laboratories. All Cannabis Support Facilities must meet or exceed the setbacks from Sensitive Receptors and Tribal Ceremonial Sites specified under 55.4.6.4.4(c) and (d), unless waived or reduced pursuant to 55.4.6.4.4(f). Where conducted within an Enclosed setting, Cannabis Support Facilities shall not be subject to the setbacks from School Bus Stops prescribed within 55.4.6.4.4(c).

**55.4.7.1 Distribution, Off-Site Processing, Enclosed Nurseries, and Community Propagation Centers**

Within all zones specified in Section 55.4.6.2.1 (CG, ML, MG, and MC as an Interim Use) Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers within a lawfully constructed structure in existence prior to January 1, 2016 shall be principally permitted with a Zoning Clearance Certificate and Coastal Development Permit when meeting all applicable Performance Standards, as well as the Eligibility Criteria in Sections 55.4.6.3.1 and 55.4.6.3.2 as well as the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, and 55.4.6.4.3.

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**55.4.7.2 Cannabis Testing and Research Laboratories**

Cannabis Testing and Research Laboratories shall be principally permitted with a Zoning Clearance Certificate and Coastal Development Permit in CG, ML, MG, and MC as an Interim Use or where previously developed for a lawful industrial or commercial use subject to meeting all applicable Performance Standards, the Eligibility Criteria in Sections 55.4.6.3.1 and 55.4.6.3.2 and the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, and 55.4.6.4.3.

**55.4.7.3 Locational Criteria**

Cannabis Support Facilities shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

**55.4.8**

**55.4.8.1 INDOOR CULTIVATION**

Indoor Cultivation Sites must comply with all applicable performance standards, meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 and comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d), and (g). All Indoor Cultivation activities shall be conducted within an Enclosed setting and shall not be subject to the setbacks from School Bus Stops prescribed within 55.4.6.4.4(c). Indoor Cultivation may be permitted as follows:

55.4.8.1.1 Within those zones specified under 55.4.6.1.1 (AE and RA), up to 5,000 square feet of Indoor Cultivation may be permitted with a Zoning Clearance Certificate and Coastal Development Permit, but may only be conducted within a non-residential structure which was in existence prior to January 1, 2016.

55.4.8.1.2 Within those zones specified under 55.4.6.2.1 (CG, ML, MG, and MC as an Interim Use):

- a) up to 5,000 square feet of cultivation area may be permitted with a Zoning Clearance Certificate.
- b) up to 10,000 square feet of cultivation area may be permitted with a Special Permit.
- c) A Use Permit shall be required where more than one clearance or permit is being sought on a Parcel.

**55.4.8.1.3 Locational Criteria**

Indoor Cultivation shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that measures have been taken to protect the public health and safety, including fire safe road access, capacity to support

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anticipated traffic volumes, water quality objectives, and environmentally sensitive habitat areas.

**55.4.8.2 MANUFACTURING**

Manufacturing Sites must comply with all applicable performance standards, as well as meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 as well as comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d) and (g). All Manufacturing activities shall be conducted within an Enclosed setting and shall not be subject to the setbacks from School Bus Stops prescribed for Open Air Cultivation Activities within 55.4.6.4.4(c), except where otherwise specified. Manufacturing activities may then be permitted as follows:

**55.4.8.2.1 Flammable Extraction**

- a) Manufacturing activities involving Flammable Extraction may be permitted with a Special Permit in the MG zone, as well as MC zone as an Interim Use.
- b) Manufacturing activities involving Flammable Extraction may also be permitted with a Conditional Use Permit in the CG and ML zones.
- c) All manufacturing activities involving Flammable Extraction must be conducted within a commercial structure. Where located within those zones specified under 55.4.8.2.1(b), the structure must meet or exceed the following special setbacks:
  - i) One thousand feet (1,000') from the boundary of any residentially zoned area or Community Planning Area boundary specified within section 55.4.5.1
  - ii) One thousand feet (1,000') from any residence located on a separately owned parcel.
  - iii) Six hundred feet (600') from any school bus stop currently in use at the time of project review.
  - iv) An applicant may seek an exception from the special setbacks of this section with a Use Permit. Consideration of the Use Permit request shall include an evaluation of the density and location of neighboring residential uses, as well as the composition and location of other nearby development and terrain. Authorization of a reduced setback shall include a determination that the proposed area and method of operation include sufficient measures to ensure the public health, safety and welfare of and that the use will not have a detrimental effect on the surrounding community.

**55.4.8.2.2 Non-Flammable Extraction**

- a) Manufacturing activities involving Non-Flammable Extraction may be principally permitted subject to issuance of a Zoning Clearance Certificate and Coastal Development Permit within the MG zone, as well as MC zone as an Interim Use.
- b) Manufacturing activities involving Non-Flammable Extraction may also be permitted with a Special Permit and Coastal Development Permit within CG and ML zones.
- c) Manufacturing activities involving Non-Flammable Extraction may be permitted with a Special Permit and Coastal Development Permit within those zones specified under 55.4.6.1.1 (AE and RA), but may only be conducted within a non-residential structure which was in existence prior to January 1, 2016.



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### 55.4.8.2.3 **Infusion**

- a) Manufacturing activities involving Infusion may be principally permitted subject to issuance of a Zoning Clearance Certificate and Coastal Development Permit within the CG, ML, MG zones, and the MC zone as an Interim Use.
- b) Manufacturing activities which exclusively involve Infusion may be principally permitted in all zones which permit Cottage Industry activities, when in compliance with all performance standards found within 45.1.3, or with a Special Permit pursuant to 45.1.4.
- c) *Locational Criteria*

Manufacturing activities shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

### 55.4.9 *(Reserved for future use)*

### 55.4.10 **OTHER PROVISIONS**

**55.4.10.1 Adult Use Retail Sales.** Adult Use Retail Sales facilities are a permitted use, subject to the same permit requirements that apply pursuant to Humboldt County Code Sections 314-55.3, et seq. applicable to Medical Cannabis Dispensaries. All regulations applicable to permitting of Medical Cannabis Dispensaries shall be applicable to Adult Use Retail Sales facilities, except those limiting sales exclusively to medical cannabis.

**55.4.10.2 Microbusiness.** Microbusiness activities are a permitted use, subject to a Special Permit and Coastal Development Permit, in any of the zones in which authorized cannabis activities is a permitted use (except on parcels zoned RA, AE, TPZ or TC).

#### *Locational Criteria:*

Adult Use Retail Sales and Microbusinesses with on-site customer traffic shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met. Sites for microbusinesses that involve visitor-serving uses must also comply with the Public Accommodation Standard. Microbusinesses shall also comply with all performance standards applicable to any of the uses combined under a single Microbusiness license.

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**55.4.10.3 Temporary Special Events** Temporary Special Events authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older may be permitted at any facility or location over which the County has jurisdiction. Events are a Temporary Use subject to a Coastal Development Permit and Use Permit as required by Humboldt County Code Section 313-62.1, which governs Special Events and Attractions. This includes events at a county fair, subject to consent of the Humboldt County Fair Association Board of Directors and City of Ferndale. Any event must be managed to ensure that (1) all cannabis vendor participants are licensed; (2) cannabis consumption is not visible from any public place or area open to persons under 21 years of age; and, (3) sale or consumption of alcohol or tobacco is not allowed within areas where cannabis consumption is authorized.

**55.4.10.4 Onsite Cannabis Consumption (Retail, Microbusiness)** Onsite consumption facilities as an accessory use at a Medical Cannabis Dispensary, Adult Use Retail, or Microbusiness permitted facility may be permitted subject to approval of a Use Permit, provided that: (1) access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older; (2) cannabis consumption is not visible from any public place or area open to persons under 21 years of age; and, (3) sale or consumption of alcohol or tobacco is not allowed on the premises. The applicant shall submit a site plan and operations plan that will demonstrate the onsite consumption facilities comply with these standards and all other limitations and restrictions, including but not limited to Health and Safety Code section 11362.3.

**55.4.10.5 Commercial Cannabis Tours and Tour Sites** Public visitation and tours of sites host to Commercial Cannabis Activities may be authorized at locations meeting the Performance Standards for Public Accommodation and Tours. Businesses conducting tours to Commercial Cannabis Activity sites may be authorized with a Zoning Clearance Certificate and Coastal Development Permit, subject to meeting the following criteria:

55.4.10.5.1 Tour businesses must collect guests from a secure location with adequate off-street parking to store the vehicles of all tour patrons.

55.4.10.5.2 The tour vehicle must be stored at a location authorized for storage of commercial vehicles.

Tour Businesses not meeting the above criteria may be permitted with a Special Permit and Coastal Development Permit. The application shall include a Plan of Operation detailing how the operation of the tour will not adversely affect public parking or conflict with neighboring uses, while complying with all applicable performance standards.

**55.4.10.6 Cannabis Farm Stays** Cannabis farm stays may be permitted in conjunction with a cannabis cultivation permit on properties in conformance with the Public Accommodation Performance Standards with a Coastal Development Permit and a Special Permit as specified in Section 313-44.1 of the Humboldt County Code applicable to Bed and Breakfast establishments.

**55.4.10.7 Transportation of Commercial Cannabis** With a business license, persons may engage in the transportation of commercial cannabis. Such persons shall identify the location where the vehicle used in transportation will be stored, and may only transport commercial

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cannabis between sites that are permitted or licensed for commercial cannabis activities. Transportation does not include warehousing or storage of cannabis.

**55.4.10.8 Cannabis Research Gardens** shall be permitted wherever commercial cannabis cultivation activities are allowed, and subject to the same permitting requirements applicable to commercial cultivation activities, including participation in the Humboldt County and State of California track and trace program and annual inspection. Applications for a cannabis research garden permit shall provide an operations plan to include a verifiable method to assure that cannabis grown for research purposes is prevented from entering the stream of commerce.

**55.4.11 APPLICATION REQUIREMENTS FOR CLEARANCES OR PERMITS**

Applications may be required to include any or all of the following information, depending on permit activities and location: Site Plan; Security Plan; Cultivation Plan, Processing Plan; Operations Plan; Irrigation Plan; Materials Management Plans; Hazardous Materials Site Assessments and Contingency Plans; Surveys for Biological Resources and Sensitive Habitat; Surveys for Archaeological, Tribal Cultural Resources, and Historical Resources; Assessments of project-related noise sources; Road System Assessments and Improvement Plans; Timberland Conversion Assessments; documentation of water use, source, and storage; will-serve letters from applicable providers of water and wastewater services; information concerning previously secured state and local permits for cannabis related infrastructure or activities; evidence of prior cultivation where seeking a permit as a pre-existing cultivation site; restoration and remediation plans where appropriate; plans for energy use; details of current known violations related to commercial cannabis activities, and documentation of conformance with the requirements of programs applicable to Cannabis Cultivation Activities administered by the State Water Resources Control Board and Regional Water Quality Control Board. Applications shall also include an analysis of how the activity will conform to all applicable Local Coastal Area Plan policies and regulations including those protecting ESHA's, wetlands, coastal public access, and visitor-serving uses.

The County may request additional information prior to application intake, or during application processing, where deemed necessary to perform environmental review pursuant to the California Environmental Quality Act (CEQA). All required plans and reports shall be designed to demonstrate compliance with relevant eligibility and siting requirements, and applicable performance standards, while conforming to relevant checklists and guidance documents maintained and supplied by the County. All Technical Reports and Plans are subject to final review and approval by the County.

**55.4.12 PERFORMANCE STANDARDS**

**55.4.12.1 Performance Standards for All Commercial Cannabis Activities**

Permittees and operators shall conduct all commercial cannabis activities in compliance with the following performance standards. Failure to comply shall be grounds for permit revocation and administrative penalties.

55.4.12.1.1 Maintain compliance with all applicable state laws and County ordinances.

55.4.12.1.2 Maintain valid license(s) issued by the appropriate state licensing authority or authorities for the type of activity being conducted, as soon as such licenses become available.

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- 55.4.12.1.3 Where subject to state licensure, participate in local and state programs for “Track and Trace” once available.
- 55.4.12.1.4 Maintain a current, valid business license at all times.
- 55.4.12.1.5 Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
- 55.4.12.1.6 Pay all applicable application and annual inspection fees.
- 55.4.12.1.7 Comply with any special conditions applicable to the permit or Premises which may be imposed.
- 55.4.12.1.8 **Performance Standard–Road Systems**

Roads providing access to any parcel(s) or premises on which commercial cannabis activities occur must comply with the following standards, as applicable:

a) Standard 1 – Dead End Road Length

Project is not located more than 2-miles (measured in driving distance) from the nearest intersection with a Category 4 road or has secondary access for emergency vehicles and personnel, including wildland fire equipment.

Where access to a site exceeds the Dead-End Road Length standard, the application may request an exception to the standard with a Special Permit. The exception request shall include a report prepared by a licensed engineer evaluating the design, condition, and performance of all related road segments for simultaneous emergency access and evacuation. The report shall include recommendations for road system enhancements (widening, turnouts, secondary access routes) to help facilitate mitigate the dead-end road condition. To approve the exception, it must be found current conditions or proposed improvements provide sufficient access for emergency vehicles and personnel while allowing for simultaneous evacuation.

b) Standard 2 - Functional Capacity

Unless otherwise specified, roads providing access to the parcel(s) or premises must meet or exceed the Category 4 road standard (or same practical effect). The application package must demonstrate compliance with this requirement in one of the following ways:

- 1) parcel(s) served exclusively by roads which are paved publicly maintained or private roads where all portions of the paved road system feature a center-line stripe and two ten-foot-wide travel lanes require no further analysis only a notation on the plans that the access to the site meets this requirement, or
- 2) parcel(s) served by roads without a centerline stripe must submit a written assessment of the functional capacity of these road segments. If the assessment reveals that all road systems meet or exceed the Category 4 standard (or same practical effect), then no additional review is necessary. Documentation of self-certification shall be produced to the satisfaction of the County; including use of appropriate forms where

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provided. The County reserves the right to independently verify general compliance with this standard.

- 3) Where access to a site is provided by roads not meeting the Category 4 standard, the application shall require a Special Permit and include a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the project, in addition to the existing traffic using the road(s). In the event that the roads cannot accommodate the traffic volume anticipated the engineer shall recommend improvements to bring the road up to an adequate functional capacity.
  - 4) Where accessed via a driveway or private road intersecting a state highway, applications shall provide an evaluation of the performance and design of the road or driveway encroachment. The evaluation will identify the required improvements necessary to ensure proper function of the access based on anticipated traffic volumes. Improvements may include paving or widening of the throat of the driveway or private road, provision of adequate sight distances, and other improvements determined necessary to comply with Caltrans standards. A copy of an approved state encroachment permit (if required) will be provided to the County. All required improvements shall be completed prior to the initiation of any new commercial cannabis use(s).
- c) Standard 3 – Private Road Systems - Protections for Water Quality and Biological Resources
- 1) Private road systems and driveways providing access to parcel(s) or premises shall be designed, maintained, or retrofitted in accordance with the latest edition of the document titled, “A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds”, which was adopted by the Humboldt County Board of Supervisors on July 6, 2010, and is also known as the Five Counties Salmonid Conservation Roads Maintenance Manual. This includes measures to protect water quality using best management practices so that:
    - i. Impacts from point source and non-point source pollution are prevented or minimized, including discharges of sediment or other pollutants that constitute a threat to water quality. Road segments shall be designed and maintained in ways which minimize the potential for discharge of sediment through measures to reduce velocity of runoff, capture and detain stormwater from road systems to enable settling of transported sediments, and minimize direct delivery to nearby watercourses, to the greatest extent feasible.
    - ii. Design and construction of culverts, stream crossings, and related drainage features shall remove barriers to passage and use by adult and juvenile fish, amphibians, reptiles, and aquatic invertebrates.
  - 2) Where access to a site is provided in part by private roads systems, any application to permit a Commercial Cannabis Activity shall include a report evaluating the design, condition, and performance of all private road segments within the defined Roadshed.

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- i. The report shall be prepared by a licensed engineer or similarly licensed professional.
  - ii. The report shall be prepared to the satisfaction of the County and shall include or be accompanied by exhibits and stationing information of sufficient detail to enable the location, attributes, and condition of all road drainage features to be itemized and documented. The narrative portion of the report must evaluate the current design, functionality and performance of discrete drainage systems and segments and develop conclusions concerning compliance and conformance with best management practices within the defined Roadshed. The County reserves the right to ask for additional information or choose to independently investigate and verify any and all conclusions within the report.
  - iii. Where an evaluation has determined, to the satisfaction of the County, that all private road segments comply with relevant best management practices, as defined herein, no further work is needed.
  - iv. Where an evaluation has determined that improvements within the projects' Roadshed are required, the report shall identify the location and nature of each discrete improvement. Improvements shall be tied to all provisional permit approval(s) within the defined Roadshed and identified within the Conditions of Approval of all discretionary permit applications.
- d) Road Maintenance Associations and Cost Sharing
- 1) Where three or more permit applications have been filed for Commercial Cannabis Activities on parcels served by the same shared private road system, the owner of each property must consent to join or establish the appropriate Road Maintenance Association (RMA) prior to operation or provisional permit approval. This requirement shall also apply to existing permittees seeking to renew their permit. Evidence shall be provided to the satisfaction of the County, and may include minutes from a meeting, written correspondence and confirmation from the RMA Secretary, or similar information.
  - 2) When one or more applicants in a defined roadshed have prepared and submitted a Professional Private Road Evaluation called for by this section, all contemporaneous applicants served by the same roadshed shall be required to contribute to the cost of preparation of the report. The cost allocation shall be determined by any Road Maintenance Association(s) within the roadshed that includes the road segments providing access to the cultivation site of each applicant. In determining the cost allocation, the Road Maintenance Association shall consider the recommendation or formula for cost sharing included in the report.
  - 3) With each annual inspection, all applicants for Commercial Cannabis Activities within any RMA shall provide evidence they are current on all applicable dues or other payments required by the RMA.

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e) Special Noticing Requirements

Wherever an exception to the Functional Capacity road standard is being sought, in addition to noticing property owners and occupants within 300 feet of the boundaries of the Parcel(s) or Premises, notice of the project will also be sent to all owners and occupants of property accessed through common Shared Use Private Road Systems.

55.4.12.1.9 The burning of plant material associated with the cultivation and processing of commercial cannabis is prohibited.

**55.4.12.1.10 Performance Standard – Biological Resource Protections**

Projects proposing new development activities shall implement the following mitigation measures from the Final Environmental Impact Report.

<b>Mitigation Measure #</b>	<b>Description of Mitigation</b>
3.4-1a	Biological reconnaissance surveys
3.4-1b	Special-status amphibian surveys and relocation/buffers
3.4-1c	Western Pond Turtle surveys and relocation/buffers
3.4-1d	Nesting raptor surveys and relocation/buffers
3.4-1e	Northern Spotted owl surveys
3.4-1f	Special-status nesting bird surveys/buffers
3.4-1g	Marbled Murrelet habitat suitability surveys/buffers
3.4-1i	American Badger surveys and buffers
3.4-1j	Fisher and Humboldt Marten surveys and den site preservation/buffers
3.4-1k	Bat Survey and Buffers
3.4-1l	Vole Survey and relocation/buffers
3.4-3a	Special-status plants surveys
3.4-4	Protection of sensitive natural communities, riparian habitat, wetland vegetation, including ESHA.
3.4-6b	Retention of fisher and Humboldt marten habitat features
3.4-5	Waters of the United States

Exception: This section shall not apply to new development activities within the footprint of existing structures or proposed on lands planned or zoned for commercial or industrial activities.

During permitting of pre-existing cultivation sites, the Department shall determine the necessity and focus of any biological evaluations required in concert with consultation with the California Department of Fish and Wildlife. For pre-existing cultivation sites within 0.7 miles of a known northern spotted owl activity center, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct a disturbance and habitat modification assessment to determine the presence of the species and whether the cultivation site can operate or have its operation modified to avoid take of the species. If it is determined that take of the species could occur, the cultivation site will be required to participate in the Retirement, Remediation, and Relocation provisions of the proposed ordinance to relocate the cannabis cultivation to outside of the northern spotted owl activity area.

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**55.4.12.1.11 Hazardous Material Site Assessments and Contingency Plans**

Where commercial cannabis activities are located or proposed on a property previously developed with an industrial or heavy commercial use, applications must be accompanied by a Phase I Environmental Site Assessment (ESA) for the presence of potential hazardous materials. If the initial assessment indicates the presence or likely presence of contamination, a Phase II ESA shall be prepared. Assessments shall be prepared in accordance with standards of the American Society for Testing and Materials (ASTM), and shall include an updated review of environmental risk databases. Phase II assessments shall include recommendations which consider project objectives/activities, applicable regulatory criteria, potential exposure pathways, and risk thresholds. Where demolition activities are proposed, ESA(s) shall include a survey for the presence of hazardous building materials, and specify appropriate treatment of solid waste during demolition and disposal.

- a) Where contamination at the project site has been verified, a hazardous materials contingency plan shall be submitted for County review and approval during permit review. The permittee, their employees, and any contractors shall abide by and implement the plan during any construction activities involving ground disturbance.
- b) Permit applications proposing work requiring demolition shall include a survey for the presence of hazardous building materials. ESA(s) shall provide recommendations for treatment of these materials during demolition as well as their disposal.
- c) If at any time during construction, evidence of soil and/or groundwater contamination with hazardous material is encountered, the project applicant shall immediately halt construction and contact Humboldt County Division of Environmental Health. Work shall not recommence until the discovery has been assessed/treated appropriately to the satisfaction of Humboldt County Division of Environmental Health, North Coast Regional Water Quality Control Board, and California Department of Toxic Substances Control (as applicable). This may include soil or groundwater sampling and remediation if potentially hazardous materials are detected above threshold levels.

**55.4.12.1.12 Stormwater Management**

Projects shall include a plan detailing stormwater management for the property, including the location, capacity, and operation of all existing and proposed drainage facilities and features. The plan shall describe current drainage conditions and include analysis of any proposed alteration of on-site and off-site drainage flows. The plan shall prescribe measures to ensure that the project will retain pre-project drainage conditions, and in particular that there will be no net increase in the volume of stormwater runoff from the property. These measures shall be incorporated into the project design, subject to County review and approval during permit review. The plan shall specify maintenance intervals for all drainage improvements, which shall be observed for the lifetime of the permit.



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**55.4.12.1.13 Management of Waste and Hazardous Materials**

- a) All projects shall include a plan for disposal of project-related waste. Examples include solid waste such as: plant material, greenhouse framing, plastics and tarpaulin used in greenhouse sheathing and coverings, household trash, product packaging and containers, irrigation tubing, pots and similar containers used for propagation and cultivation, lighting, water bladders or tanks, pond liners, electrical lighting fixtures, wiring and related equipment, and fencing. Other forms of waste include effluent and byproducts from commercial activities (eg. water or wastewater rich in plant chlorophyll or salts, spent fuels or solvents, etc.)
- b) Where project-related activities involve storage and use of hazardous materials at a reportable quantity, applicants shall prepare a materials management plan which details: operating procedures and processes, associated equipment and cleaning procedures, chemical requirements and reactions, waste volumes, storage areas, chemical handling procedures, and emergency equipment.

**55.4.12.1.14 Protection of Historical Resources**

Projects proposing the removal or exterior alteration of structures over 45-years in age shall provide a report prepared by a historical consultant meeting the Secretary of the Interior's Professional Qualification Standards. The report shall include an evaluation and determination concerning whether the property contains historical resources which are listed or eligible for listing on any State, Federal, or Local register of Historical Resources, using applicable criteria and standards for listing, including section 15064.5 of the CEQA Guidelines. If resources included or eligible for inclusion in the National Register of Historic Places, California Register of Historic Resources, or Local Register are identified, an assessment of impacts on these resources shall be included in the report, as well as detailed measures to avoid impacts.

**55.4.12.1.15 Inadvertent Discovery of Archaeological and Paleontological Resources**

- a) If cultural resources are encountered during ground disturbing activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist, as well as the appropriate Tribal Historic Preservation Officer(s), are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided. The Planning and Building Department shall provide information regarding the appropriate Tribal point(s) of contact for a specific area. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately.
- b) If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and shall immediately contact the County. A qualified paleontologist shall be retained to observe all subsequent grading and excavation activities in the area of the

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find and shall salvage fossils as necessary. The paleontologist shall establish procedures for paleontological resource surveillance and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of fossils. If major paleontological resources are discovered that require temporarily halting or redirecting of grading, the paleontologist shall report such findings to the County. The paleontologist shall determine appropriate actions, in cooperation with the applicant and the County, that ensure proper exploration and/or salvage.

**55.4.12.2 Performance Standards for Commercial Cannabis Cultivation Activities**

Permittees and operators shall conduct all commercial cannabis activities in compliance with the following performance standards. Failure to comply shall be grounds for permit revocation and administrative penalties.

*General Standards applicable to all Commercial Cannabis Activities*

55.4.12.2.1 All applicable statutes, regulations and requirements of the North Coast Regional Water Quality Control Board and State Water Resources Control Board. To be eligible for submittal and processing, permit applications must include information detailing all measures to achieve compliance with relevant requirements of these agencies. These measures shall be subject to verification during subsequent permit inspection(s).

55.4.12.2.2 Any substantially equivalent rule addressing water quality protections and waste discharge that may be subsequently adopted by the County of Humboldt or other responsible agencies.

55.4.12.2.3 All terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

Where no prior agreement has been secured for prior work within areas of DFW jurisdiction, entering an agreement pursuant to 1602 of the Fish and Game Code shall not be completed until the County permit has finished.

55.4.12.2.4 All terms of any permit or exemption approved by the California Department of Forestry and Fire Protection (CAL-FIRE), including a less-than-3-acre conversion exemption or timberland conversion permit.

Where existing or proposed operations occupy sites created through prior unauthorized conversion of timberland, if the landowner has not completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE, the applicant shall secure the services of a registered professional forester (RPF) to evaluate site conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendation as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practices Act. The Planning Division shall circulate the report to CAL-FIRE for review and comment.

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- 55.4.12.2.5 Trucked water shall not be allowed, except for emergencies. For purposes of this provision, “emergency” is defined as: “a sudden, unexpected occurrence demanding immediate action.
- 55.4.12.2.6 Provide and maintain an approved means of sewage disposal.
- 55.4.12.2.7 All federal, state, and local laws and regulations applicable to California Agricultural Employers, including those governing cultivation and processing activities.
- 55.4.12.2.8 All construction activity and use of heavy equipment shall take place between 7:00 A.M. and 6:00 P.M., Monday through Friday, and between 9:00 A.M. and 6:00 P.M. on Saturday and Sunday.

55.4.12.3 *[Reserved for Future Use]*

**55.4.12.4 Performance Standard for Light Pollution Control**

- a) Structures used for Mixed Light Cultivation and Nurseries shall be shielded so that no light escapes between sunset and sunrise.
- b) Where located on a Parcel abutting a residential Zoning District or proposed within Resource Production or Rural Residential areas, any Security Lighting for Commercial Cannabis Activities shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the Parcel(s) or Premises or directly focusing on any surrounding uses.
- c) The County shall provide notice to the operator upon receiving any light pollution complaint concerning the cultivation site. Upon receiving notice, the applicant shall correct the violation as soon as possible and submit written documentation within ten (10) calendar days, demonstrating that all shielding has been repaired, inspected and corrected as necessary. Failure to correct the violation and provide documentation within this period shall be grounds for permit cancellation or administrative penalties, pursuant to the provisions of 55.4.5.3.

**55.4.12.5 Performance Standards for Energy Use**

All electricity sources utilized by Commercial Cannabis Cultivation, Manufacturing, or Processing activities shall conform to one or more of the following standards:

- 55.4.12.5.1 grid power supplied from 100% renewable source
- 55.4.12.5.2 on-site renewable energy system with twenty percent net non-renewable energy use
- 55.4.12.5.3 grid power supplied by partial or wholly non-renewable source with purchase of carbon offset credits

Purchase of carbon offset credits (for grid power procured from non-renewable producers) may only be made from reputable sources, including those found on Offset Project Registries managed the California Air Resources Board, or similar sources and programs determined to provide bona fide offsets recognized by relevant state regulatory agencies.

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**55.4.12.6 Performance Standard for Noise at Cultivation Sites**

Noise from cultivation and related activities shall not result in an increase of more than three decibels of continuous noise above existing ambient noise levels at any property line of the site. Existing ambient noise levels shall be determined by taking twenty-four-hour measurements on three or more property lines when all cannabis related activities are not in operation.

- a) In TPZ and TC zones, the use of generators is prohibited.
- b) Where located within one (1) mile of mapped habitat for Marbled Murrelet or Spotted Owls where timberland is present, maximum noise exposure from the combination of background cultivation related noise may not exceed 50 decibels measured at a distance of 100 feet from the noise source or the edge of habitat, whichever is closer. Where ambient noise levels, without including cultivation related noise, exceed 50 decibels within 100 feet from the cultivation related noise source or the edge of habitat, cultivation-related noise sources may exceed 50 decibels provided no increase over ambient noise levels would result.
- c) The permit application must include information demonstrating compliance with the noise standards, including but not limited to:
  - i) site plan detailing the location of all noise sources, property lines, and nearby forested areas and sensitive receptors
  - ii) existing ambient noise levels at the property line using current noise measurements (excluding cultivation related noise)
  - iii) Details on the design of any structure(s) or equipment used to attenuate noise
  - iv) Details on the location and characteristics of any landscaping, natural features, or other measures which serve to attenuate noise levels at nearby property lines or habitat.

**55.4.12.7 Performance Standards for Cannabis Irrigation**

A Special Permit and Coastal Development Permit shall be required where Irrigation of Commercial Cannabis Cultivation Activities occurs wholly or in part using one or more Diversionary sources of water. All Cannabis Irrigation, regardless of cultivation area, shall be subject to the following standards:

*Documentation of Current and Projected Water Use*

55.4.12.7.1 All requests to permit Commercial Cannabis Cultivation Activities shall provide information detailing past and proposed use(s) of water on the Parcel(s) or Premises. Information in the plan shall be developed to the satisfaction of County staff and will be used to assist in identifying and establishing an appropriate Forbearance Period. At a minimum, the following items shall be included:

- a) Information identifying the cultivation season(s)
- b) A water budget showing monthly past or projected Irrigation demands, including periods of peak usage, broken out by each discrete Cultivation Site. Irrigation reporting or projections shall be differentiated where cultivation methods and conditions result in differences in water usage at specific cultivation sites.

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- c) A listing of current or proposed areas of on-site water storage, showing volume in gallons.
- d) A description of on-site water conservation measures including but not limited to: rainwater catchment systems, drip irrigation, timers, mulching, irrigation water recycling, and methods for insuring Irrigation occurs at agronomic rates

**Forbearance Period & Storage Requirements**

55.4.12.7.2 Operators of Cannabis Cultivation Site(s) shall forbear from diversions of Surface Water for Irrigation during periods of low or reduced stream flows, in accordance with requirements of the State Water Resources Control Board.

55.4.12.7.3 The County may require the submittal of a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar licensed professional, establishing a smaller or larger water storage and forbearance period, if required, based upon local site conditions.

55.4.12.7.4 Where subject to forbearance, the applicant shall provide a plan for developing adequate on-site water storage to provide for Irrigation, based on the size of the area to be cultivated.

**Metering and Recordkeeping**

55.4.12.7.5 A metering device shall be installed and maintained on all discrete points of diversion or other locations of water withdrawal (including wells). The meter shall be located at or near the point of diversion or withdrawal.

55.4.12.7.6 A metering device shall be installed and maintained at or near the outlet of all water storage facilities utilized for Irrigation.

55.4.12.7.7 Operators shall maintain a weekly record of water collected from Diversionary sources, as well as a record of all water used in Irrigation of permitted Cultivation Areas. A copy of these records shall be stored and maintained at the cultivation site and kept separately or differentiated from any record of water use for domestic, fire protection, or other irrigation purposes. Irrigation records shall be reported to the County on an annual basis, at least thirty (30) days prior to the date of each annual permit inspection. Records shall also be made available for review during site inspections by local and state officials.

**55.4.12.8 Performance Standards for Water Storage**

All facilities and equipment storing water for Irrigation shall be designed and managed in conformance with the following performance standards, as applicable:

**Ponds and Reservoirs**

- a) Except in limited circumstances where already permitted or existing, ponds shall be located "off-channel" from watercourses and adequately setback from streams, springs, and other hydrologic features.
- b) To prevent occupancy by and survival of non-native bullfrog species, ponds shall be designed to be drained. Draining may be required on an annual basis or other interval where determined necessary.
- c) Introduction or maintenance of non-native species is prohibited where an existing or proposed pond is filled from, or outlets to a nearby stream or wetland.

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- d) Ponds shall be designed with pathways enabling escape by local wildlife. These may include rock-lined portions or similar features providing equivalent means of egress.
- e) All ponds and reservoirs shall be designed by a licensed civil engineer where utilizing a dike, earthen dam, berm or similar feature to facilitate water storage. The engineer shall evaluate the risk of pond failure under natural conditions and specify provisions for periodic inspection, routine maintenance, and long-term management. An engineered reclamation and remediation plan shall be submitted for County approval within one year of sunset or cancellation of the permit, and completed within standard permitting timeframes.

*Bladders & Above-Ground Pools, and similar vessels*

- f) Use of bladders, above-ground pools, and similar vessels is prohibited. Where a Pre-Existing Cultivation site utilizes any of these means for water storage, removal and replacement with a substitute approved method of water storage (e.g. tank(s), reservoir, etc.) shall be completed within 2 years of provisional permit approval.

*Tanks located in designated Flood Zones*

- g) Tanks shall be sited at least one foot above the base flood elevation or wet flood proofed and anchored.

**55.4.12.9 Performance Standard for Wells on Small Parcels**

Cultivation Site(s) located within areas planned or zoned for lot sizes of forty acres or smaller where proposing or conducting Irrigation with water from a proposed or existing well located within 400 feet of a property line, shall be subject to groundwater testing to determine connectivity of the source supply well. These tests shall be preceded by a minimum of eight (8) hours of non-operation to maintain a static depth to water measurement. Results of testing are required to be provided with the permit application submittal. If the testing demonstrates use of the well results in the drawdown of any adjacent well(s), a Special Permit will be required. Use of the well for cannabis-related Irrigation may be prohibited, limited, or subject to provisional approval and monitoring.

**55.4.12.10 Soils Management Performance Standard**

A soils management plan shall be provided detailing the use of imported and native soil on the Parcel(s) or Premises. The plan shall provide accounting for the annual and seasonal volume of soil that is imported and exported and documentation of the approved location of any Parcel(s) used for off-site disposal of spent soil if this occurs or is proposed.

**55.4.12.11 Existing Site Reconfiguration**

- a) Where an existing site does not conform to one or more performance standards or eligibility criteria, or cannot comply with local, state, or federal regulatory requirements, reconfiguration of the cultivation site and associated infrastructure may be permitted, provided that the reconfiguration results in an improvement in the environmental resources of the site, and the site is brought into compliance with the requirements of this section.

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b) A Biological Resource Protection Plan must also be included. The plan shall be prepared by a qualified professional and evaluate whether prior unpermitted development or disturbance has occurred within Environmentally Sensitive Habitat Area.

c) Any new timberland conversion proposed in association with cultivation site reconfiguration must not exceed the areas of existing conversion to be relocated.

Pre-Existing cultivation areas to be relocated must be restored to pre-disturbance conditions and restocked and/or managed to promote recovery by native vegetation and tree species.

f) Existing interior driveways and road networks may be reconfigured to achieve better design and compliance with road standards and watercourse protections.

All relocated road segments must be fully decommissioned and restored to pre-disturbance conditions or mothballed and stabilized to ensure that they are no longer a threat to water quality. Relocated road systems occupying the site of converted timberland shall be restocked and/or managed to promote recovery by native vegetation and tree species.

g) All remediation activities shall be performed in accordance with the Remediation Performance Standard.

**55.4.12.12 Performance Standard for Adaptive Reuse of Developed Industrial Site(s)**

All Commercial Cannabis Activities shall be conducted in a way which avoids displacing or destroying existing buildings or other infrastructure on the Parcel developed for prior commercial or industrial uses. Adaptations shall be carefully designed to preserve future opportunity for future resumption or restoration of other commercial or industrial uses after Commercial Cannabis Activities have ceased or been terminated.

a) Development of additional buildings or infrastructure only allowed once existing infrastructure has been fully occupied.

b) Interior changes or additions to facilities must not prevent future re-occupancy by new uses which are compatible with the base zoning district or consistent with historic prior operations.

c) Newly constructed facilities must comply with all development standards of the principal zoning district(s)

**55.4.12.13 Performance Standard for Remediation Activities**

All remediation activities shall be conducted in accordance with the requirements for Mitigation and Monitoring Plans described within 313-61.1 of the Humboldt County Code, including the standards for documentation, reporting, and adaptive management.

**55.4.12.14 Performance Standard for Public Accommodations**

Sites of permitted Commercial Cannabis Activities may be authorized to host visits by the general public, as follows:

a) Public visitation may be principally permitted with a Zoning Clearance Certificate at all sites within Commercial and Industrial Zoning Districts when meeting the requirements of this section.

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- b) Public visitation may be permitted with a Special Permit and Coastal Development Permit at sites located within those zones listed under 55.4.6.1.1 (AE and RA), when meeting the requirements of this section. Where access to the site is provided through Shared Use Private Road Systems, notice of the project will also be sent to all owners and occupants of property accessed through these common road systems, pursuant to 55.4.12.1.8(e). The permit may limit or specify the size and weight of vehicles authorized to visit the site, periods during which visitation may occur, and other measures to ensure compatibility with neighboring land uses and limit impacts to Shared Use Private Road Systems.
- c) Visitation by the general public may include Tours and Tour Groups, Farmstays, and similar activities. Visitation does not include weddings, parties, or similar occasions. Special Events and other Temporary Uses are permissible with a Coastal Development Permit and Conditional Use Permit pursuant to 314-62.1.

55.4.12.14.1 The following standards apply to any Commercial Cannabis Activity site open to the public:

- a) Sites located in those zones specified in Section 55.4.6.1, shall limit hours of operation for public access other than employees to between 9:00 am to 6:00 pm.
- b) Restroom facilities shall be provided for visitors to the site.
- c) All facilities open to the public (parking, structures, restrooms, etc.) shall be designed and managed in compliance with relevant provisions for accessibility, as established in compliance with the Americans with Disabilities Act (ADA).
- d) Agricultural-exempt structures may not be opened to visitation by the general public.
- e) Road System & Driveways
  - 1) *Locational Criteria* The Parcel(s) or Premises shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.
  - 2) Sites shall have a driveway and turnaround area meeting the following requirements:
    - i. All driveways shall be constructed to a minimum Road Category 1 standard. Driveways shall have a minimum 10-foot traffic lane and an unobstructed vertical clearance of 15 feet along their entire length. Driveways in excess of 1,320 feet in length shall be constructed to the standard for Road Category 2.
    - ii. Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where a driveway exceeds 800 feet, turnouts shall be spaced at intervisible points at approximately 400-foot intervals. The location and spacing of turnouts shall be in conformance with the County Roadway Design Manual.
    - iii. A turnaround shall be within 50 feet of the parking area.



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- iv. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.
  - v. Sites within the jurisdiction and service area of a local fire protection district shall meet the driveway and turnaround requirements of that agency.
- f) Parking
- 1) Sites shall provide adequately sized on-site parking for tour vehicles.
  - 2) Sites shall include a minimum of six (6) parking spaces plus one (1) additional parking space for every two employees

### **55.4.12.15 Performance Standards for Tour Operators and Tour Sites**

#### **Tour Operators**

Tour Operators shall comply with all of the following measures:

- a) The use of sound amplification equipment outside the tour vehicle is prohibited.
- b) Tour guests shall be restricted to adults 21 years of age or older. Age shall be verified prior to the start of any tour.
- c) Travel shall only be made to sites eligible for hosting visits by the general public. Prior to initially visiting any site, the tour operator shall contact the Planning and Building Department to confirm the eligibility of the site, and any applicable special conditions.
- d) Tour operators shall observe any vehicle weight restrictions when visiting tour sites.

#### **Tour Site Eligibility Criteria**

Where authorized, the site(s) of any permitted Commercial Cannabis Activity may host tours when meeting the following criteria:

- e) The site(s) conform with the Public Accommodation Performance Standard
- f) Visitation is restricted to vehicles in compliance with the applicable weight restriction

### **55.4.12.16 Invasive Species Control**

It is the responsibility of a certificate or permit holder to work to eradicate invasive species. As part of any application, the existence of invasive species on the project parcel need to be identified, including the type(s) of invasive plant species, where they are located, and a plan to control their spread. All invasive plant species shall be removed from the cultivation site and associated infrastructure using measures appropriate to the species. Removal shall be confirmed during subsequent annual inspection. Corrective action may be required if invasive species are found to have returned.

### **55.4.13 HUMBOLDT ARTISANAL BRANDING**

The county shall develop a program for recognition and certification of commercial cannabis cultivators meeting standards to be established by the Agricultural Commissioner, including, but not limited to, the following criteria:

- a) Cultivation area of 3,000 square feet or less

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- b) Operated by a County permit and state license holder who resides on the same parcel as the cultivation site
- c) Grown exclusively with natural light
- d) Meets organic certification standards or the substantial equivalent

**55.4.14 RIGHT TO FARM DISCLOSURE**

When required to execute or make available a disclosure statement pursuant to 313-43.2 of the code "Right to Farm Ordinance", said statement shall include information describing the possibility of commercial cultivation of cannabis.

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**SECTION 5.** The repeal of Section 313-55.4, Section 313-55.3.11.7, Section 313-55.3.7, and Section 313-55.3.15 of Chapter 3 of Division 1 of Title III of the Humboldt County Code and re-adoption of Section 313-55.4 of Chapter 3 of Division 1 of Title III of the Humboldt County Code (Regulations Inside the Coastal Zone) shall take effect immediately upon certification of the proposed amendments to the Local Coastal Program by the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED the 8<sup>th</sup> day of May, 2018, on the following vote, to wit:

AYES: Supervisors Bass, Fennell, Sundberg, Bohn  
NOES: Supervisors Wilson  
ABSENT: Supervisors --



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RYAN SUNDBERG, Chair  
Board of Supervisors, County of Humboldt  
State of California

ATTEST:  
Kathy Hayes, Clerk of the Board of Supervisors  
of the County of Humboldt, State of California

By:   
Ryan Sharp, Deputy Clerk

Date: May 8, 2018