



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
LONG RANGE PLANNING

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Hearing Date: Meeting of August 19, 2021
To: Humboldt County Planning Commission
From: John H. Ford, Director of Planning and Building Department
Subject: Continued Public Hearing on Draft Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO); Case No.: PLN-2020-17147

Table of Contents

Page

Agenda Item Transmittal	2
Recommended Action and Executive Summary	3
Draft Resolution of Approval	5
Attachments	
Attachment 1: Draft CCLUO Amendments	10
Attachment 2: Addendum to the certified Program Environmental Impact Report	55
Attachment 3: Public Comments	71

Please contact Michael Richardson, Supervising Planner, at 445-7541, or by email at mrichardson@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date August 5, 2021	Subject Clean Up Amendments to the Commercial Cannabis Land Use Ordinance	Contact Michael Richardson
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Project Description: This item involves proposed amendments to the Commercial Cannabis Land Use Ordinance (CCLUO) (Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code) to require that an application proposing relocation for two or more Retirement, Remediation and Relocation (RRR) sites on a single receiving site is required to get a discretionary special permit. This would require a public hearing and would enable the decisions to be appealed to the Board of Supervisors consistent with the Board's direction. These amendments would be applicable to all zoning clearance certificate applications for RRR sites and Relocation sites, including those submitted on or before December 31, 2016. Additionally, this item includes proposed amendments to the CCLUO Section 314-55.4 to remove the enhanced setback requirements for cannabis distribution and testing and research facilities. The Planning and Building Department is recommending the Planning Commission approve of the proposed changes to the Zoning Regulations. The Planning Commission will be making recommendations to the Board of Supervisors for final action.

Project Location: The proposed ordinance amendments would apply throughout the unincorporated inland areas of Humboldt County.

Present Plan Designations: Various.

Present Zoning: Various.

Environmental Review: An Addendum to the certified Program Environmental Impact Report (PEIR) for the CCLUO (SCH # 2017042022) has been prepared and is included herein as Attachment 3.

State Appeal Status: Project is NOT appealable to the California Coastal Commission.

AMENDMENTS TO THE INLAND COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO)

Recommended Commission Action

1. Open the public hearing.
2. Request that staff present the staff report.
3. Receive public testimony.
4. Deliberate and comment on the draft ordinance amendments, public input, and alternatives presented.
5. Take the following action:

“Based on evidence in the staff report and public testimony, make all the required findings and adopt Resolution #1 (Attachment 2) recommending that the Humboldt County Board of Supervisors consider the Addendum to the CCLUO PEIR, find that no new information has been presented that changes the findings of the PEIR pursuant to Section 15162 of the State CEQA Guidelines and adopt the proposed amendments to the CCLUO.”

Executive Summary: The first proposed amendment to the Inland Commercial Cannabis Land Use Ordinance (CCLUO) (Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code) to amend the Inland CCLUO to require that locating more than two Retirement, Remediation and Relocation (RRR) sites on a single receiving site is required to secure approval of a discretionary special permit. All zoning clearance certificate applications for RRR sites and Relocation sites, including those submitted on or before December 31, 2016, shall be subject to compliance with these amendments.

The CCLUO encourages relocation pre-existing cultivation sites out of areas where the slopes are in excess of 15% and there is not a legal water source and out of areas where the slopes are in excess of 15%, or the site is not served by a road meeting the access performance standards or where the cultivation site does not meet the required setbacks. The ordinance encourages relocation through the Retirement, Remediation and Relocation (RRR) program to move out of these areas by allowing a fourfold increase in permissible cultivation area up to 20,000 square feet. To further incentivize relocation, the RRR applications are permitted through a zoning clearance certificate, or a ministerial action.

The vision of the ordinance is to allow a cultivator to relocate to a more appropriate location and provide incentive to clean up the old site. However, RRR sites have become commodities and are being assembled in a manner that was not intended by the ordinances. There is no explicit limit on the number of RRR's which can be moved to a site, and since they are allowed with a zoning clearance certificate, there is very limited opportunity for public review of these projects.

The proposed amendments to the CCLUO to require discretionary permits for more than two RRR's on a single receiving site will allow for more public review of large RRR projects. The amendments would require a public hearing and would enable the decisions by the Planning Commission to be appealed to the Board of Supervisors.

Additional CCLUO amendments are proposed to eliminate the enhanced setback requirements for cannabis distribution and testing and research facilities. The enhanced setbacks were originally thought to be necessary to control odor impacts to nearby sensitive receptors, but based on site inspections of a number of permitted distribution and testing and research facilities, staff has determined enhanced setbacks for these facilities is unnecessary because there is such low amount of cannabis odors detectable in the immediate vicinity outside these types of facilities.

Discussion at the Planning Commission meeting and Public Comment on July 17, and August 5, 2021

At the Planning Commission meeting, Commissioners received public comment both for and against the proposed CCLUO amendments and deliberated on their proposed recommendations. There was broad support for the amendments to the RRR program, and the relaxing of setback requirements for cannabis distribution and research/testing facilities seemed to be supported as well.

There was considerable debate at the meeting and in the public comments about the proposed specific allowance for propagation area and allowing low-wattage lights in greenhouses, primarily for the purpose of maintaining plants in a vegetative state for a short period of the growing cycle, but also recognizing the lighting benefits employees working after dark in the greenhouses.

The proposed ordinance has been revised to delete these more controversial measures. Further consideration of those measures will be noticed and reviewed by the Planning Commission at a separate meeting in the future on a date that has yet to be identified.

Environmental Review

An Addendum to the certified Program Environmental Impact Report (PEIR) for the CCLUO (SCH # 2017042022) has been prepared and is included herein as Attachment 3.

Public Comment

Attachment 2 includes the public comments received for this project. None of the public comment received up to this point has expressed opposition to the proposed RRR and Cannabis Support Facility amendments.

Alternatives: The Planning Commission could include additional requirements for RRR relocation sites. This alternative is not recommended as there is no public comment supporting this alternative and the Board of Supervisors has signaled its desire for the County to align its ordinance with these changes to the RRR's.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 21-
Case Number PLN-2021-17147**

RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO SECTION 314-55.3 OF CHAPTER 4 OF DIVISION 1 OF TITLE III OF THE HUMBOLDT COUNTY CODE - THE INLAND COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO).

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on October 27, 2020, the Board of Supervisors directed staff to bring forward amendments to the County's Inland Commercial Cannabis Land Use Ordinance (CCLUO) 2599 to modify revisions to the Retirement, Remediation and Relocation (RRR) permits, as well as other minor revisions to the propagation and outdoor definitions in the CCLUO; and

WHEREAS, the proposed RRR Ordinance Amendments align with these directives of the Board of Supervisors; and

WHEREAS, the proposed amendments to the CCLUO to remove the enhanced setback requirements for cannabis distribution and testing and research facilities is necessary because the enhanced setback is not necessary to protect nearby sensitive receptors from odors from these types of facilities; and

WHEREAS, Exhibit A to this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning text; and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on July 1, 2021 during which the Planning Commission reviewed the staff report, took public comments, and deliberated on the draft RRR and other CCLUO amendments;

WHEREAS, a continued public hearing was held on the matter before the Humboldt County Planning Commission on August 5, 2021 where additional public comment was received; and

WHEREAS, at these public hearings the Planning Commission received public comment in support of the amendments to the RRR program, and the relaxing of setback requirements for cannabis distribution and research/testing facilities seemed to be supported as well; and

WHEREAS, at these public hearings there was considerable debate at the meeting and in the public comments about the proposed specific allowance for propagation area and allowing low-wattage lights in greenhouses for Outdoor cultivation, primarily for the purpose of maintaining plants in a vegetative state for a short period of the growing cycle, but also recognizing the lighting benefits employees working after dark in the greenhouses; and

WHEREAS, in the interest of moving the less contentious CCLUO amendments forward modifying the RRR program and eliminating enhanced setback requirements for cannabis distribution and research/testing facilities, the proposed ordinance has been revised to delete the proposed specific allowance for propagation area and the provisions allowing low-wattage lights in greenhouses for Outdoor cultivation.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission that the following findings are hereby made:

1. The proposed ordinance amendments are in the public interest; and
2. The proposed ordinance amendments are consistent with the General Plan; and
3. The proposed ordinance amendments do not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law; and
4. The Planning Commission makes the findings in Exhibit A of this resolution, which is incorporated fully herein, based on the evidence provided.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors of the County of Humboldt:

1. Hold a public hearing in the manner prescribed by law.
2. Consider changes to the Tax Code needed to achieve consistency with the recommended changes to the CCLUO.
3. Adopt the ordinance amending the Zoning Regulations of the Inland Zoning Ordinance (Section 314 of Title III, Division 1, Chapter 4 of Humboldt County Code) as shown in Attachment 2 of this staff report.
4. Direct the Planning Staff to prepare and file a Notice of Determination with the County Clerk.
5. Direct the Clerk of the Board to publish within 15 days of approval a post approval summary in a newspaper of general circulation and give notice of the decision to interested parties.

DECISION

Adopted after review and consideration of all the evidence on _____, 2021.

The motion was made by Commissioner ____ and seconded by Commissioner ____.

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

ABSENT: Commissioners:

DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John Ford, Director,
Planning and Building Department

Exhibit A – Required Findings of Approval

A. Required Findings for Amendments to the Zoning Regulations

State Planning and Zoning Law (Government Code Section 65000 et seq.), and Section 312-50 of the Humboldt County Code (HCC) state the following findings must be made to approve changes in the Zoning Maps and Regulations:

- (1) The proposed amendment is in the public interest;
- (2) The proposed amendment is consistent with the General Plan;
- (3) The proposed amendment does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

B. California Environmental Quality Act (CEQA)

The proposed Inland CCLUO amendments are exempt from environmental review. This project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15050(c)(2) and 15060(c)(3) of the CEQA Guidelines as detailed in the Evidence section below.

Facts Supporting the Required Findings

A. Findings for Amendments to the Zoning Regulations:

The following table identifies facts which supports finding that the proposed zoning ordinance amendment meets all the required findings in the zoning ordinance.

Section(s)	Required Finding
1. Public Interest §312-50 of Humboldt County Code (Zoning Ordinance)	The proposed CCLUO amendments are in the public interest.
<p>Facts. The proposed Inland CCLUO Amendments are in the public interest because it mitigates an unintended outcome of the RRR allowance to use Relocation Sites as commodities by assembling them in a manner that was not intended by the ordinances, and as a result, greatly increasing the amount of cultivation which can be permitted on a site by ministerial action without adequate public review. And amendments to remove the enhanced setback requirements for cannabis distribution and testing and research facilities is in the public interest because these facilities do not generate significant cannabis odors detectable in the immediate vicinity outside these types of facilities. The existing regulations are not needed to protect nearby sensitive receptors from odor impacts generated by cannabis distribution and testing and research facilities, and it is in the public interest to eliminate regulations that do not serve a legitimate public purpose.</p>	
Section(s)	Required Finding
2. General Plan Consistency §312-50 of Humboldt County Code	That the proposed zoning change is consistent with the General Plan.
<p>Facts. One purpose of the proposed Inland CCLUO Amendments are to allow for on properties permits on a single receiving site is required to apply for a discretionary special permit. All zoning clearance certificate applications for RRR sites and Relocation sites, including those submitted on or before December 31, 2016, shall be subject to compliance with these amendments. Due to an unexpected consequence of incentivizing RRR permitting allows much more cultivation on a property than could otherwise be permitted in agricultural settings. This is more typical of what is seen on industrially zoned properties. Typically, an acre is the maximum cultivation area that could be approved on agricultural land under normal permitting under both ordinances. By requiring discretionary review of relocation sites proposing up to or more than 40,000 sf of commercial cannabis production, this provides consistency with the Land Use Element of the General Plan Goal AG-G2 which seeks to preserve the maximum extent possible for continued agricultural use in parcel sizes that support economically feasible agricultural operations. When the County first adopted local regulations for RRR's 2016, it was not anticipated that some relocation sites would propose as much as six (6) acres of cultivation on one property. The other minor amendments in the CCLUO to remove the enhanced setback requirements for cannabis distribution and testing and research facilities reduce regulatory burdens that do not serve a legitimate public purpose. These amendments are consistent with Economic Development Element Goal ED-G8, Regulatory and Permit Streamlining, which encourages stated and clear permitting and licensing processes which engage with businesses, (including micro-enterprise and home-based startups) in a timely, effective and proactive manner.</p>	

Finding and Section(s)	Required Finding
<p>3. Consistency with Housing Element Densities §312-50 of Humboldt County Code</p>	<p>That the proposed ordinance will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation)</p>
<p>Facts. The proposed ordinance amendment will not affect Housing Element densities because it only involves properties zoned agricultural or having a resource production general plan land use designation, and does not involve parcels zoned Residential Single Family or Residential Multifamily that are included in the residential land inventory used the by the Department of Housing and Community Development in determining compliance with housing element law.</p>	

D. Environmental Review.

An Addendum to the certified Program Environmental Impact Report (PEIR) for the CCLUO (SCH # 2017042022) has been prepared and is included herein as Attachment 3.

ATTACHMENT
CCLUSIONS

55.4 COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS LAND USE REGULATION FOR THE INLAND AREA

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 Inland 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.

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 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 Section [313-55.1](#), [314-55.1](#), 313-55.2, or [314-55.2](#) 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 twenty-one (21) years of age or older.

55.4.3 Applicability and Interpretation.

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 outside of 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. Applications for commercial cannabis activity land use permits filed on or before December 31, 2016, shall be governed by the regulations in effect at the time of their submittal, except as follows and is otherwise prescribed herein. Zoning clearance certificate applications for open air cultivation filed on or before December 31, 2016, shall be controlled by the provisions of Section [314-55.4.6.7 below](#). Zoning Clearance Certificate applications for Retirement, Remediation and Relocation sites filed on or before December 31, 2016 shall be controlled by the provisions of Section 55.4.6.5.9.4 below.

55.4.3.1 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 regulations as well as other applicable provisions of the County Code.

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 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.

55.4.3.3 The definitions in this section are intended to apply solely to the regulations in this section. Applicable definitions in Section [314-135](#) et seq. and Section [111-1](#) et seq. may also apply to this section.

55.4.3.4 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 [314-55.3](#), 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.

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

55.4.3.6 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 twenty-one (21) years of age or older.

55.4.3.7 Zoning clearance certificates and permits issued for commercial cannabis activities pursuant to the commercial medical marijuana land use ordinance (CMMLUO) as set forth in this section shall remain valid, and shall be governed by the terms and conditions of this section until such time as the permit is modified. Holders of such permits may apply for State licenses for either medicinal or adult use license categories, or any combination thereof as may be permitted under State statute and regulations.

55.4.3.8 Notwithstanding the provisions of the right to farm ordinance, Section [314-43.2.6](#), 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 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, 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 and 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.

"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 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 Division [2](#) of this title.

"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 nonflowering plants by one (1) 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 1st and January 31st 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 cannabis cultivation on the site based on the reduced area of cultivation in the declaration. See also "propagation."

"Cultivation site" means the location or 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 aboveground 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, 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.

"Extraction, nonflammable" means the manufacture of cannabis products using cold water, heat press, lipid (butter, milk, oil) or other nonchemical extraction method to 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.

"Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one-half (1/2) inch wide at its widest point.

"Forbearance period" means the calendar days during which water may not be diverted from a water body. The default forbearance period shall occur each year between May 15th and October 31st, 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.

"Homesite area" means the land up to two (2) acres immediately surrounding a house or dwelling, including any closely associated buildings and structures, garden, storage, driveway and parking areas, but excluding any associated "open fields beyond," and also excluding any closely associated buildings, structures, or divisions that contain the separate activities of their own respective occupants with those occupying residents being persons other than those residents of the house or dwelling of which the building is associated.

"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 water body 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.

"Nondiversionary water source" means not involving the withdrawal of water from a water body.

"Nonforested 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.

"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 (1) 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 Section [314-147](#).

"Permaculture" means a set of design principles centered on whole systems thinking, simulating, or directly utilizing the patterns and resilient features observed in natural ecosystems. Commonly associated with permaculture include agro-forestry, swales, contour plantings, soil and water management, hedgerows and windbreaks, and integrated farming systems such as pond-dike aquaculture, aquaponics, intercropping, and polyculture. For the purposes of this section, permaculture includes the exclusive use of native soil; organic fertilizers, pesticides, rodenticides and insecticides; and use of water efficient irrigation systems for all commercial cannabis cultivation.

"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 percent (20%) in the individual or group holding the permit or less than five percent (5%) 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.

"Preexisting 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 (10) 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.

"Private roads" means all roads which are not maintained by the County of Humboldt, or State or Federal agencies.

"Propagation" means cultivation of immature, nonflowering 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 service districts or similar public or private utilities, serving eleven (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 one hundred percent (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 Section [314-55.3](#).

"Same practical effect" means an exception or alternative with the capability of providing equivalent access characteristics, including but not limited to: accommodating safe two (2) 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 road systems (roadsheds)" means networks of public and/or private shared use roads providing access to two (2) or more parcels, where year-round access through neighboring road systems is typically limited to one (1) or two (2) discrete intersections. The County shall define the location and general extent of all roadsheds, based upon current conditions and use.

"Shared use roads" means public and private road systems providing access to the cultivation site, including driveways, serving three (3) or more parcels or premises.

"Slope" means natural grade as defined in Section [314-142](#), which has not been filled or graded after January 1, 2016.

"State license," or "license," means a State license issued pursuant to MAUCRSA.

"Stored water" means water from captured rainfall or a local water source, when diverted and stored for noncontemporaneous 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 nontribal members.

"Water body" 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. "Water body" shall not include off-stream constructed reservoirs filled exclusively using nondiversionary 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 (600) feet 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 A special permit shall be required for any commercial cannabis activity in a TPZ zoning district, when authorized pursuant to Section [314-55.4.6.5](#) (preexisting cultivation sites).

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

55.4.5.1.4.1 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): Blue Lake, Fieldbrook–Glendale, Fortuna, Hydesville–Carlotta, McKinleyville, Rio Dell–Scotia, Shelter Cove, Trinidad–Westhaven, and Willow Creek. A conditional use permit shall also be required for any commercial cannabis activity where located within one thousand (1,000) feet of any incorporated city, tribal lands, or any of the community planning areas (CPAs) identified herein. For purposes of determining the Trinidad planning area, the Trinidad general plan shall be utilized.

55.4.5.1.4.2 **Early Notification to Surrounding Areas, Nearby Cities, and Tribes.** Whenever a permit application for a commercial cannabis activity is located within any of the areas specified in Section [314-55.4.5.1.4.1](#) 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 (1,000) feet 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 one thousand (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 Section [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.

55.4.5.1.4.3 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 SOIs and buffers, and to residents within CPAs, 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 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, 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 Chapter [1](#) of Division [5](#) of this title.

Whenever permit applicants seeking permits for new commercial activities initiate operations ahead of permit issuance or preexisting 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;

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

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 (8) acres of commercial cannabis cultivation permits may be issued to a single person. No more than ten (10) persons shall be granted permits authorizing three (3) or more acres of cultivation pursuant to the provisions of Section [314-55.4.6.1.2.3](#).

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 clearance or permit being sought (e.g., a combination of outdoor and mixed-light cultivation area of up to five thousand (5,000) square feet may be permitted on a parcel of between five (5) and ten (10) acres with a zoning clearance certificate per Section [314-55.4.6.1.2.1.1](#)).

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 noncompliance and the time period within which the noncompliance must be corrected. The statement shall also advise the clearance certificate or permit holder of their right to file an appeal of the noncompliance 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 reinspection 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 three (3) days following the postmarked date of mailing or verification of email transmittal. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection and cure any items of noncompliance within the prescribed time frames, 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 noncompliance, or the date of any reinspection, 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.

55.4.5.8.2 The decision of the Zoning Administrator may be appealed in accordance with Section [312-13](#). 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 shall be principally permitted with a zoning clearance certificate when meeting the following eligibility and siting criteria and all applicable performance standards, except when otherwise specified:

55.4.6.1 Eligibility Criteria - Resource Production and Residential Areas.

55.4.6.1.1 **Zoning.** AE, AG, FR, and U when accompanied by a resource production general plan land use designation (not including timberland) or residential land use designation requiring parcel sizes of more than five (5) acres.

55.4.6.1.2 Minimum Parcel Size and Allowed Cultivation Area.

55.4.6.1.2.1 Until September 30, 2025, on parcels five (5) acres or larger in size, up to two thousand (2,000) square feet of cultivation area is allowed on a property where all the following criteria are met:

55.4.6.1.2.1.1 Cultivation is located within the homesite area of the home, and the home existed prior to January 1, 2016; and

55.4.6.1.2.1.2 The property is owner-occupied; and

55.4.6.1.2.1.3 Water source for irrigation is permitted and non-diversionary; and

55.4.6.1.2.1.4 Cultivation is outdoor within permitted or ag exempted hoopouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of electrical power; and

55.4.6.1.2.1.5 Permaculture is practiced; and

55.4.6.1.2.1.6 Cultivation is not located on, above, or disrupting leach field areas or systems; and

55.4.6.1.2.1.7 The cultivation area is not located on a parcel with any other commercial cannabis activity; and

55.4.6.1.2.1.8 The parcel is confirmed to be a legally created parcel.

Where an application for cultivation meets all the above criteria, the application is exempted from Section [55.4.12.1.8](#), Performance Standard–Road Systems, and as long as a special permit or conditional use permit is not otherwise required, the application shall be processed as a zoning clearance and approved within thirty (30) days, or will be automatically approved unless the applicant is notified in writing of specific deficiencies related to compliance with this section. The cost of the zoning clearance certificate shall not exceed the initial deposit for processing the application.

55.4.6.1.2.2 Five (5) acre minimum parcel size, on parcels between five (5) and ten (10) acres in size:

55.4.6.1.2.2.1 Up to five thousand (5,000) square feet of cultivation area with a zoning clearance certificate;

55.4.6.1.2.2.2 Up to ten thousand (10,000) square feet of cultivation area with a special permit.

55.4.6.1.2.3 On parcels ten (10) acres or larger in size:

55.4.6.1.2.3.1 Up to ten thousand (10,000) square feet of cultivation area with a zoning clearance certificate;

55.4.6.1.2.3.2 Up to forty-three thousand five hundred sixty (43,560) square feet of cultivation area with a special permit.

55.4.6.1.2.4 On parcels three hundred twenty (320) acres or larger in size, up to forty-three thousand five hundred sixty (43,560) square feet of cultivation area per one hundred (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 areas 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 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.

55.4.6.2 Eligibility Criteria - Commercial and Industrial Areas.

55.4.6.2.1 **Zoning.** C-3, ML, MH, and U when accompanied by a commercial or industrial general plan land use designation, or where previously developed for a lawful industrial or commercial use.

55.4.6.2.2 **Minimum Parcel Size and Allowed Cultivation Area.** Two (2) acre minimum parcel size.

55.4.6.2.2.1 Open air cultivation activities of up to one (1) acre of cultivation area may be permitted with a zoning clearance certificate.

55.4.6.2.2.2 Additional open air cultivation activities in excess of one (1) acre may be allowed with a use 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 nondiversionary sources or water from a 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 diversionary sources for propagation areas and transplantation. Irrigation water sourced from diversionary sources may be permitted with a special permit pursuant to the streamside management area ordinance, Section [314-61.1](#), and subject to the performance standards for diversionary water use.

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 [314-55.4.12.1.8](#).

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 fifteen percent (15%) or less.

55.4.6.4.2 **Conversion of Timberland Prohibited.** Cultivation site(s) may only be located within a nonforested 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 twenty percent (20%) 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.

55.4.6.4.4.1 **Standard Setbacks.** Cultivation site(s) must observe all of the following setbacks:

55.4.6.4.4.1.1 **Property Lines.** Thirty (30) feet from any property line.

55.4.6.4.4.1.2 **Residences and Undeveloped Parcels.** Three hundred (300) feet from any residence on an adjacent separately owned parcel, and two hundred seventy (270) feet from any adjacent undeveloped separately owned parcel.

55.4.6.4.4.1.3 **Sensitive Receptors.** Six hundred (600) feet from a church or other place of religious worship, public park, 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.

55.4.6.4.4.1.4 **Tribal Ceremonial Sites.** One thousand (1,000) feet from all tribal ceremonial sites.

55.4.6.4.4.1.5 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.

55.4.6.4.4.1.6 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 six hundred (600) feet may be allowed with a special permit; provided, that advance 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 six hundred (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.

55.4.6.4.4.1.7 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.

55.4.6.4.4.1.8 Additionally, in cases where one (1) or more discrete premises span multiple parcels, the thirty (30) foot setback from shared boundary lines may be waived for cultivation activities which do not occur within a structure.

55.4.6.4.4.1.9 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 streamside management areas (SMAs) or other wet areas, as identified and described under Section [314-61.1](#). Under certain circumstances, a special permit may be required.

55.4.6.4.4.2 **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 Section [314-55.4.5.1.4](#) are subject to the following enhanced setbacks, unless confined within enclosed structures:

55.4.6.4.4.2.1 Six hundred (600) feet from the boundary of any residentially zoned area;

55.4.6.4.4.2.2 Six hundred (600) feet from any residence located on a separately owned parcel.

55.4.6.4.4.2.3 An applicant may seek an exception from the prescribed open air cultivation setbacks of Sections [314-55.4.6.4.4.2.1](#) and [314-55.4.6.4.4.2.2](#) 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.

55.4.6.4.4.2.4 Notwithstanding the above provisions, the enhanced setbacks of this section are not applicable to any commercial cannabis activities conducted on a parcel zoned MH or lands planned for General Industrial uses (IG).

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 within AE, AG, RA, FR, FP, TPZ, and U zoning districts, where accompanied by a resource production general plan land use designation or residential land use designation requiring parcel sizes of more than five (5) acres. Expansion of pre-existing cultivation sites is prohibited where located within TPZ zones or U zones where the general plan land use designation is "timberland." For other areas, where the size of a pre-existing cultivation site 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 nonforested areas with slopes of fifteen percent (15%) 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.

Except as stated below, applications for pre-existing cultivation sites submitted before December 31, 2018, may be permitted at one hundred percent (100%) 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 (50%) of the documented existing cultivation area. No new applications for pre-existing cultivation sites shall be accepted after December 31, 2019, except applications for cultivation sites of two thousand (2,000) square feet or less pursuant to Section [55.4.6.5.1.1](#): (a) may be submitted after December 31, 2019; and (b) may be permitted for one hundred percent (100%) of the documented pre-existing cultivation area up to two thousand (2,000) square feet.

55.4.6.5.1 **Small Cultivation Sites.**

55.4.6.5.1.1 Until September 30, 2025, on parcels five (5) acres or larger in size, up to two thousand (2,000) square feet of cultivation area is allowed on a property where all the following criteria are met:

55.4.6.5.1.1.1 On parcels five (5) acres or larger in size, up to two thousand (2,000) square feet of cultivation area is allowed on a property where all the following criteria are met:

55.4.6.5.1.1.1.1 Cultivation is located within the two (2) acre homesite area of the home, and the home existed prior to January 1, 2016; and

55.4.6.5.1.1.1.2 The property is owner-occupied; and

55.4.6.5.1.1.1.3 Water source for irrigation is permitted and nondiversionary; and

55.4.6.5.1.1.1.4 Cultivation is outdoor within permitted or ag exempted hoopouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of electrical power; and

55.4.6.5.1.1.1.5 Permaculture is practiced; and

55.4.6.5.1.1.1.6 Cultivation is not located on, above, or disrupting leach field areas or systems; and

55.4.6.5.1.1.1.7 The cultivation area is not located on a parcel with any other commercial cannabis activity; and

55.4.6.5.1.1.1.8 The parcel is confirmed to be a legally created parcel.

Where an application for cultivation meets all the above criteria, the application is exempted from Section [55.4.12.1.8](#), Performance Standard-Road Systems, and as long as a special permit or conditional use permit is not otherwise required, the application shall be processed as a zoning clearance and approved within thirty (30) days, or will be automatically approved unless the applicant is notified in writing of specific deficiencies related to compliance with this section. The cost of the zoning clearance certificate shall not exceed the initial deposit for processing the application.

55.4.6.5.1.2 On parcels five (5) acres or larger in size, up to three thousand (3,000) square feet of outdoor or mixed-light cultivation, or any combination thereof, may be permitted with a zoning clearance certificate, subject to the following additional requirements and allowances:

55.4.6.5.1.2.1 The operator's principal residence is located on the same parcel and the residence was in existence before January 1, 2016.

55.4.6.5.1.2.2 Not more than one (1) cultivation permit may be issued for the same parcel.

55.4.6.5.1.2.3 The road systems performance standards in Section [55.4.12.1.8.1](#) shall not apply.

55.4.6.5.1.2.4 The road systems performance standards in Sections [55.4.12.1.8.3](#) and [55.4.12.1.8.4](#) shall apply as follows:

55.4.6.5.1.2.4.1 Within one (1) year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a road maintenance association pursuant to

Section [55.4.12.1.8.4.1](#), and submit a report prepared pursuant to Section [55.4.12.1.8.3.2](#), unless one (1) has already been submitted for other commercial cannabis activity sites within the roadshed.

55.4.6.5.1.2.4.2 Improvements must be implemented within two (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.

55.4.6.5.1.2.5 The existing area of cultivation may be located on slopes greater than fifteen percent (15%), but less than thirty percent (30%) with a zoning clearance certificate.

55.4.6.5.2 On an AE-zoned parcel less than one (1) acre in size, up to two thousand five hundred (2,500) square feet of cultivation area may be permitted with a special permit.

55.4.6.5.3 On parcels between one (1) acre and five (5) acres in size, up to three thousand (3,000) square feet of cultivation area may be permitted with a special permit.

55.4.6.5.4 A cultivation site located on slopes greater than fifteen percent (15%) but not exceeding thirty percent (30%) may be permitted with a special permit.

55.4.6.5.5 In order to comply or best achieve compliance with applicable eligibility or siting criteria, or performance standard(s), reconfiguration of a preexisting cultivation site may be authorized with a special permit, subject to all applicable performance standards.

55.4.6.5.6 Energy Source for Ancillary Propagation Facility or Mixed-Light Cultivation. In TPZ zones and U zones (with a land use designation of timberland) the use of generators and mixed-light cultivation is prohibited. Where grid power is not available, preexisting 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.

55.4.6.5.6.1 Use of on-site generators to supply up to twenty percent (20%) of cannabis cultivation related energy demand may occur as a principally permitted use.

55.4.6.5.6.2 Use of on-site generators to supply greater than twenty percent (20%) 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:

55.4.6.5.6.2.1 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.

55.4.6.5.6.2.2 Restricting use of artificial lighting to between March through August (deprivation season and end of season restocking post-harvest).

55.4.6.5.6.2.3 Developing a plan to secure grid power or develop on-site renewable energy infrastructure capable of supplying eighty percent (80%) or more of cannabis-related electrical demand. Permit approval may be provisional subject to achieving grid power or eighty percent (80%) renewable target.

55.4.6.5.7 **Provisional Permitting.** An application for a preexisting 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 noncompliance 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 noncompliance 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 and Building Department within one (1) year of issuance of the provisional clearance or permit. All violations and areas of noncompliance shall be cured or abated at the earliest feasible date, but in no event no more than two (2) years after the date of issuance of a provisional clearance or permit, unless otherwise stipulated under the terms of the individual agreement. The terms of the compliance agreement may be appealed to the Planning Commission, who shall then act as Hearing Officer.

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

55.4.6.5.8 **Myers Flat Community Area.** In the Myers Flat Community Area, on any sized parcel, the cultivation area of a preexisting site may be permitted with a special permit, up to a maximum of three thousand (3,000) square feet. Expansion is prohibited on parcels less than one (1) acre in size. The cultivation area setback requirement specified in Section [314-55.4.6.4.4.1.1](#) shall be reduced to the setbacks applicable to the underlying principal zoning district. The cultivation area setback from residence requirement specified in Section [314-55.4.6.4.4.1.2](#) shall only apply to permanent residences constructed with approved building permits. Temporary use of an RV for up to six (6) months may be permitted in conjunction with cannabis cultivation if permitted pursuant to Section [314-81.1.1.5.1](#).

55.4.6.5.9 **Retirement, Remediation, and Relocation of Preexisting Cultivation Sites.** In order to incentivize, promote, and encourage the retirement, remediation and relocation of preexisting cannabis cultivation operations occurring in inappropriate, marginal, or environmentally sensitive sites to relocate to environmentally superior sites, the following provisions shall apply:

55.4.6.5.9.1 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 TPZ, RA, U, AG, FR or AE 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 (1) or more access performance standards specified under Section [314-55.4.12](#), or with slopes in excess of fifteen percent (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.

55.4.6.5.9.2 Sites eligible for relocation of RRR sites (relocation sites) shall be those meeting the eligibility criteria specified in Section [314-55.4.6.1](#) or [314-55.4.6.2](#) and the siting criteria specified in Sections [314-55.4.6.4](#) through [314-55.4.6.8](#), as well as all applicable performance standards specified in Section [314-55.4.12](#). In addition, RRR sites shall not be located within any special areas listed within Section [314-55.4.5.1.4](#). Applications for RRR sites shall not be accepted after December 31, 2018.

55.4.6.5.9.3 Operators of RRR sites shall be eligible to receive a zoning clearance certificate or Special Permit for commercial cultivation of cannabis on an eligible relocation site, for an area up to four (4) times the area of the preexisting RRR site, but in no event larger 20,000 square feet. Operators of RRR sites with a cultivation area exceeding 20,000 square feet may transfer all recognized prior cultivation area to an eligible relocation site, on a one (1) for one (1) basis (no multiplier) subject to approval of a special permit.

55.4.6.5.9.4 Relocation sites may be on leased premises for agricultural purposes allowable pursuant to the exclusion from the Subdivision Map Act, Government Code Section [66412\(k\)](#). Up to two RRR site zoning clearance certificates may be granted on relocation site parcels of ten (10) acres or larger; provided, that the cumulative total cultivation area for all commercial cannabis cultivation zoning clearance certificates issued for that parcel does not exceed twenty percent (20%) of the area of the relocation site parcel. With a Special Permit, more than two RRR sites may be located on relocation site parcels of ten (10) acres or larger provided the cumulative total cultivation area for all commercial cannabis cultivation does not exceed twenty percent (20%) of the area of the relocation site parcel. If the relocation site has prime agricultural soils on that parcel, the area utilized for cannabis cultivation on prime agricultural soils shall not exceed twenty percent (20%) of the area of prime agricultural soils on that parcel. All zoning clearance certificate applications for RRR sites and Relocation sites, including those submitted on or before December 31, 2016, shall be subject to compliance with the provisions of this paragraph.

In order to receive the benefits specified in Section [314-55.4.6.5.9.3](#), 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, reseeded 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 fifty thousand dollars (\$50,000.00). In the event 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 activities, 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 and cannabis waste products, imported soil and soil amendments not incorporated into native soil, generators, pumps, and structures not associated with noncannabis 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 noncannabis 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 three (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 Chapter [1](#) of Division [5](#) of this title.

55.4.6.7 Zoning Clearance Certificates for Open Air Cultivation Submitted under Prior Ordinance - Provisions for Neighborhood Compatibility.

Where located in or within one thousand (1,000) feet of any incorporated city, sphere of influence (SOI) of any incorporated city, tribal lands, or within any of the following mapped community planning areas: Blue Lake, Fieldbrook–Glendale, Fortuna, Hydesville–Carlotta, McKinleyville, Rio Dell–Scotia, Shelter Cove, Trinidad–Westhaven, and Willow Creek, zoning clearance certificate applications submitted prior to January 1, 2017, shall be subject to compliance with the following provisions, which are designed to ensure compatibility with surrounding land uses and control of potential nuisance, and are hereby retroactively applicable. For purposes of determining the Trinidad planning area, the city of Trinidad general plan shall be utilized.

55.4.6.7.1 Where there is no public controversy associated with an application, within three (3) months of effective date of this ordinance, the applicant may request the pending permit application or approved permit be considered or reconsidered as a special permit. If following appropriate public notice, there is no opposition to the special permit, the permit may be approved. In situations where there is public controversy, applicants and operators must choose to comply with one (1) of the following options:

55.4.6.7.1.1 Demonstrate all areas of open air cultivation activities maintain setbacks of six hundred (600) feet or greater from any residence(s) located on a separately owned parcel, and are located six hundred (600) feet or greater from any residentially zoned area or applicable community planning area boundary.

55.4.6.7.1.2 Confine all open air cultivation activities to enclosed structures.

55.4.6.7.1.3 **Secure a Conditional Use Permit.** In considering the use permit request, 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.

55.4.6.7.1.4 **Request Permit Cancellation.** Permit holders shall be eligible for relocation incentives pursuant to the provisions of Section [314-55.4.6.5.9](#) and may be required to perform remediation of the site, where necessary.

55.4.6.7.2 Within ten (10) working days of these provisions becoming effective, the Department will provide written notice to all applicants and permit holders of sites subject to these provisions. The notice will include a ninety (90) day deadline for applicants and permit holders to provide a written decision to the Planning and Building Department declaring which option has been chosen to achieve compliance with this section. Failure to provide a timely response is a violation of the ordinance and shall be grounds for permit cancellation, penalties and enforcement pursuant to Section [314-55.4.5.3](#).

55.4.6.7.3 Permittees must obtain approval of all plans within eighteen (18) months of receiving written notice pursuant to Section [314-55.4.6.7.2](#), and must complete all work within thirty-six (36) months of the effective date of these provisions.

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) shall be equally distributed among each of the twelve (12) discrete planning watersheds of Humboldt County as directed by the Board of Supervisors by resolution.

Once the permit cap for a given watershed 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 approves an increase in the cap. 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 and 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. Off-site processing, enclosed nurseries and community propagation centers must meet or exceed the setbacks from sensitive receptors and all cannabis support facilities must meet or exceed the setbacks from tribal ceremonial sites specified under Sections [314-55.4.6.4.4.1.3](#) and [314-55.4.6.4.4.1.4](#), unless waived or reduced pursuant to Section [314-55.4.6.4.4.1.6](#). Where conducted within an enclosed setting, cannabis support facilities shall not be subject to the setbacks from school bus stops prescribed within Section [314-55.4.6.4.4.1.3](#).

55.4.7.1 **Distribution, Off-Site Processing, Enclosed Nurseries, and Community Propagation Centers.** Within all zones specified in Sections [314-55.4.6.1.1](#) (AE, AG, FR, and U) and [314-55.4.6.2.1](#) (C-3, ML, MH, and

U), as well as C-2 and MB zones, distribution, off-site processing, enclosed nurseries, community propagation centers shall be principally permitted with a zoning clearance certificate when meeting all applicable performance standards, as well as the eligibility criteria in Sections [314-55.4.6.3.1](#) and [314-55.4.6.3.2](#) and the siting criteria specified in Sections [314-55.4.6.4.1](#), [314-55.4.6.4.2](#), and [314-55.4.6.4.3](#). Cannabis support facilities may also be permitted in CH and MB zones with a special permit, where meeting all applicable performance standards, as well as the eligibility criteria in Sections [314-55.4.6.3.1](#) and [314-55.4.6.3.2](#) and the siting criteria specified in Sections [314-55.4.6.4.1](#), [314-55.4.6.4.2](#), and [314-55.4.6.4.3](#).

55.4.7.2 Cannabis Testing and Research Laboratories. Cannabis testing and research laboratories shall be principally permitted with a zoning clearance certificate in C-2, C-3, MB, ML, MH zones, or U (when accompanied by a commercial or industrial general plan land use designation) or where previously developed for a lawful industrial or commercial use subject to meeting all applicable performance standards, the eligibility criteria in Sections [314-55.4.6.3.1](#) and [314-55.4.6.3.2](#) and the siting criteria specified in Sections [314-55.4.6.4.1](#), [314-55.4.6.4.2](#), and [314-55.4.6.4.3](#).

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 engineer's 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.

55.4.585.4.8.1 Indoor Cultivation. Indoor cultivation sites must comply with all applicable performance standards, meet the eligibility criteria specified in Sections [314-55.4.6.3.1](#) and [314-55.4.6.3.2](#) and comply with the siting criteria specified in Sections [314-55.4.6.4.1](#), [314-55.4.6.4.2](#), [314-55.4.6.4.3](#), and [314-55.4.6.4.4.1.3](#), [314-55.4.6.4.4.1.4](#), and [314-55.4.6.4.4.1.7](#). 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 Section [314-55.4.6.4.4.1.3](#). Indoor cultivation may be permitted as follows:

55.4.8.1.1 Within those zones specified under Section [314-55.4.6.1.1](#) (AE, AG, FR, and U), up to five thousand (5,000) square feet of indoor cultivation may be permitted with a zoning clearance certificate, but may only be conducted within a nonresidential structure which was in existence prior to January 1, 2016. On parcels three hundred twenty (320) acres or larger in size, with a special permit, up to 10,000 square feet of indoor cultivation may be permitted within a new or existing commercial structure, where the building is also approved and utilized for cannabis support facilities. All properties must meet the locational criteria of Section [314-55.4.8.1.3](#) (no exceptions permitted) and the structure must be sited and designed to minimize the fragmentation of usable agricultural land on the parcel. The cultivation area of the indoor facility shall be included in the calculation of total cultivation area of the parcel, where determining conformance with the (parcel size-specific) cultivation acreage limits of Section [314-55.4.6.1.2.3](#).

55.4.8.1.2 Within those zones specified under Section [314-55.4.6.2.1](#) (C-3, ML, MH, and U) and C-2 as part of a microbusiness provided all cannabis activities occur within a building that is two (2) stories or less in

height, cultivation area is limited to two thousand five hundred (2,500) square feet, and where the cultivation and cannabis activities are in scale with the surrounding community.

55.4.8.1.2.1 Up to five thousand (5,000) square feet of cultivation area may be permitted with a zoning clearance certificate.

55.4.8.1.2.2 Up to 10,000 square feet of cultivation area may be permitted with a special permit.

55.4.8.1.2.3 A use permit shall be required where more than one (1) 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 engineer's 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 anticipated traffic volumes, water quality objectives, and sensitive habitat.

55.4.8.2 **Manufacturing.** Manufacturing sites must comply with all applicable performance standards, as well as meet the eligibility criteria specified in Sections [314-55.4.6.3.1](#) and [314-55.4.6.3.2](#) as well as comply with the siting criteria specified in Sections [314-55.4.6.4.1](#), [314-55.4.6.4.2](#), [314-55.4.6.4.3](#), and [314-55.4.6.4.4.1.3](#), [314-55.4.6.4.4.1.4](#) and [314-55.4.6.4.4.1.7](#). 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 Section [314-55.4.6.4.4.1.3](#), except where otherwise specified. Manufacturing activities may then be permitted as follows:

55.4.8.2.1 Flammable Extraction.

55.4.8.2.1.1 Manufacturing activities involving flammable extraction may be permitted with a special permit in the MH zone, as well as the U zoning district, when accompanied by the industrial general (IG) land use designation.

55.4.8.2.1.2 Manufacturing activities involving flammable extraction may also be permitted with a conditional use permit in the C-3 and ML zones, as well as the U zoning district, where previously developed with a lawful heavy industrial use.

55.4.8.2.1.3 Manufacturing activities involving flammable extraction may also be permitted with a conditional use permit within those zones specified under Section [314-55.4.6.1.1](#) (AE, AG, FR, and U), on properties meeting the locational criteria of Section [314-55.4.8.2.3.3](#) (no exceptions permitted) where conducted within the footprint of a nonresidential structure that was in existence prior to January 1, 2016. On parcels three hundred twenty (320) acres or larger in size or on parcels with a minimum of forty (40) acres where an agricultural cooperative association is the applicant, flammable extraction may also be permitted within a new commercial structure. The structure must be sited and designed to minimize the fragmentation of usable agricultural land on the parcel.

55.4.8.2.1.4 All manufacturing activities involving flammable extraction must be conducted within a commercial structure. Where located within those zones specified under Sections [314-55.4.8.2.1.2](#) and [314-55.4.8.2.1.3](#), the structure must meet or exceed the following special setbacks:

55.4.8.2.1.4.1 One thousand (1,000) feet from the boundary of any residentially zoned area or community planning area boundary specified within Section [314-55.4.5.1](#).

55.4.8.2.1.4.2 One thousand (1,000) feet from any residence located on a separately owned parcel.

55.4.8.2.1.4.3 Six hundred (600) feet from any school bus stop currently in use at the time of project review.

55.4.8.2.1.4.4 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 Nonflammable Extraction.

55.4.8.2.2.1 Manufacturing activities involving nonflammable extraction may be principally permitted subject to issuance of a zoning clearance certificate within the C-3, ML, and MH zones, as well as the U zoning district, when accompanied by an industrial land use designation.

55.4.8.2.2.2 Manufacturing activities involving nonflammable extraction may also be permitted with a special permit within CH, C-2, C-3, MB, ML, and MH zones, as well as the U zoning district, when accompanied by a commercial or industrial land use designation, or where previously developed for a lawful industrial or commercial use.

55.4.8.2.2.3 Manufacturing activities involving nonflammable extraction may be permitted with a special permit within those zones specified under Section [314-55.4.6.1.1](#) (AE, AG, FR, and U).

55.4.8.2.3 Infusion.

55.4.8.2.3.1 Manufacturing activities involving infusion may be principally permitted subject to issuance of a zoning clearance certificate within the CH, C-2, C-3, MB, ML, and MH zones, as well as the U zoning district, when accompanied by a commercial or industrial land use designation, or where previously developed for a lawful industrial or commercial use.

55.4.8.2.3.2 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 Section [314-45.1.3](#), or with a special permit pursuant to Section [314-45.1.4](#).

55.4.8.2.3.3 **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 engineer's 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 **Adaptive Reuse of Industrial Sites.** On parcels two (2) acres or larger in size, within existing structures previously developed for a lawful heavy industrial operation, occupancy of up to one (1) acre of gross floor area may be permitted for use by commercial cannabis activities including: indoor cultivation, manufacturing, and cannabis support facilities. A zoning clearance certificate will be required for each discrete lease area. Where permitted occupancy and use of the site has reached one (1) acre, a use permit will be required to consider any further use of the site by commercial cannabis activities.

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 Section [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 **Farm-Based Retail Sales.** In addition to the zones in which cannabis retail facilities may be permitted pursuant to Section [314-55.3](#) et seq. applicable to medical cannabis dispensaries, retail sales of cannabis products limited to those produced on the same parcel(s) or premises where the cannabis was cultivated, may occur as follows; provided, that the cultivator also obtains a State cannabis retail sale license, if necessary. Sales of any cannabis products not cultivated on the same parcel is prohibited, unless pursuant to a microbusiness permit and license. Sites hosting on-site customer traffic may be permitted with a conditional use permit. Sites without on-site customer traffic, where all goods are provided to customers through delivery, off-site pickup, or similar means to the extent authorized by law, may be permitted with a zoning clearance certificate. Farm-based retail sales are not permitted on any parcel zoned TPZ, or a parcel zoned U with an underlying land use designation of timberland.

55.4.10.3 **Microbusiness.** Microbusiness activities are a permitted use, subject to a special permit, in any of the zones in which authorized cannabis activities is a permitted use (except on parcels zoned FP or TPZ).

55.4.10.3.1 **Locational Criteria.** Adult use retail sales, farm based retail sales with on-site customer traffic, 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 engineer's 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.

55.4.10.4 Temporary Special Events. Temporary special events authorizing on-site cannabis sales to, and consumption by, persons twenty-one (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 use permit as required by Section [314-62.1](#), 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 twenty-one (21) years of age; and (3) sale or consumption of alcohol or tobacco is not allowed within areas where cannabis consumption is authorized.

55.4.10.5 On-Site Cannabis Consumption (Retail, Microbusiness). On-site 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 twenty-one (21) years of age and older; (2) cannabis consumption is not visible from any public place or area open to persons under twenty-one (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 on-site consumption facilities comply with these standards and all other limitations and restrictions, including but not limited to Health and Safety Code Section [11362.3](#).

55.4.10.6 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, subject to meeting the following criteria:

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

55.4.10.6.2 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. 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.

55.4.10.7 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 special permit as specified in Section [314-44.1](#) applicable to bed and breakfast establishments.

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

55.4.10.9 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.

55.4.10.10 **Interim Permitting of Preexisting Cultivation Sites.** Where adequate evidence has been submitted demonstrating that a cultivation site existed prior to January 1, 2016, permit applications seeking authorization of commercial cannabis cultivation and ancillary activities at these sites shall be eligible to receive an interim permit, provided the application was filed prior to January 1, 2017, and has been determined to be complete for processing by the Director of the Planning and Building Department. Prior to issuance of any interim permit, the Department shall independently review evidence of prior cultivation and specify the size of preexisting cultivation area (if any) based upon aerial and satellite imagery, or other substantial evidence.

Approval of the interim permit is conditional and shall occur through issuance of a zoning clearance certificate and written compliance agreement on forms provided by the County. Compliance agreements will specify permit restrictions, penalties, and commitments to complete the permit process and confine continued operation to existing areas only. Violation of the compliance agreement shall be grounds for permit cancellation and disqualification of the property from future permitting.

The interim permit authorizes the permittee to seek state licensure and continue operations until completion of the local permit review process and issuance or denial of a County permit, or January 1, 2019, whichever occurs first. The Director may extend this deadline for cause. Refusal of the Director to issue or extend an interim permit shall not entitle the applicant to a hearing or appeal of the decision. Additionally, approval of any interim permit does not obligate the County to approve a noninterim permit or extension of the interim permit. Permit cancellation and disqualification of the property from future permitting shall be decided by the Zoning Administrator or the Planning Commission at a noticed public hearing. Those decisions may be appealed to the Board of Supervisors pursuant to the appeal procedures outlined under Section [312-13](#) of these regulations.

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 preexisting 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.

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.

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 twenty-four (24) hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 a.m. – 5:00 p.m., 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:

55.4.12.1.8.1 **Standard 1 - Dead-End Road Length.** Projects shall not be located more than two (2) miles (measured in driving distance) from the nearest intersection with a Category 4 road or 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 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.

55.4.12.1.8.2 **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 (1) of the following ways:

55.4.12.1.8.2.1 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 (2) ten (10) foot wide travel lanes require no further analysis, only a notation on the plans that the access to the site meets this requirement; or

55.4.12.1.8.2.2 Parcel(s) served by roads without a centerline stripe must submit a written assessment of the functional capacity of the 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 provided. The County reserves the right to independently verify general compliance with this standard.

55.4.12.1.8.2.3 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.

55.4.12.1.8.2.4 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).

55.4.12.1.8.3 **Standard 3 - Private Road Systems - Protections for Water Quality and Biological Resources.**

55.4.12.1.8.3.1 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:

55.4.12.1.8.3.1.1 Impacts from point source and nonpoint 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 storm water from road systems to enable settling of transported sediments, and minimize direct delivery to nearby watercourses, to the greatest extent feasible.

55.4.12.1.8.3.1.2 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.

55.4.12.1.8.3.2 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.

55.4.12.1.8.3.2.1 The report shall be prepared by a licensed engineer or similarly licensed professional.

55.4.12.1.8.3.2.2 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.

55.4.12.1.8.3.2.3 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.

55.4.12.1.8.3.2.4 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.

55.4.12.1.8.4 Road Maintenance Associations and Cost Sharing.

55.4.12.1.8.4.1 Where three (3) 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.

55.4.12.1.8.4.2 When one (1) 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.

55.4.12.1.8.4.3 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.

55.4.12.1.8.5 **Special Noticing Requirements.** Wherever an exception to the functional capacity road standard is being sought, in addition to noticing property owners and occupants within three hundred (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 provide the necessary information to implement the following mitigation measures from the final environmental impact report:

Mitigation Measure #	Description of Mitigation
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

Mitigation Measure #	Description of Mitigation
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
3.4-5	Waters of the United States
3.4-6b	Retention of Fisher and Humboldt marten habitat features

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 preexisting 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 preexisting cultivation sites that submitted for permitting prior to December 31, 2019, 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.

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.

55.4.12.1.11.1 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.

55.4.12.1.11.2 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.

55.4.12.1.11.3 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 **Storm Water Management.** Applications for cannabis activities shall include a plan detailing how storm water will be addressed 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 storm water 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.

55.4.12.1.13 Management of Waste and Hazardous Materials.

55.4.12.1.13.1 Applications shall include a plan for disposal of project-related waste, including: 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 (e.g., water or wastewater rich in plant chlorophyll or salts, spent fuels or solvents, etc.)

55.4.12.1.13.2 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.** Applications proposing projects which include the removal or exterior alteration of structures over forty-five (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.

55.4.12.1.15.1 If cultural resources are encountered during ground disturbing activities, the contractor on site shall cease all work in the immediate area and within a fifty (50) foot buffer of the discovery location. A qualified archaeologist, as well as the appropriate tribal historic preservation officer(s), shall 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 Section [7050.5](#) requires that the County Coroner be contacted immediately.

55.4.12.1.15.2 If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately one hundred (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 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 and Wildlife.

Where no prior agreement has been secured for prior work within areas of DFW jurisdiction, entering an agreement pursuant to Section [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 three (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.

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.

55.4.12.2.9 This performance standard shall apply to all permittees, regardless of whether an application was submitted prior to or after December 31, 2016. Permittees shall provide and maintain security in an amount the department determines to be sufficient to secure timely payment of annual taxes imposed by Chapter [9](#) of Division 1 of Title VII. Permittees shall provide and maintain such security in one (1) of the following forms:

55.4.12.2.9.1 Cash, or a cash equivalent;

55.4.12.2.9.2 A bond or bonds duly executed by an admitted surety insurer, as defined by Section [995.120](#) of the Code of Civil Procedure, payable to the County; or

55.4.12.2.9.3 Written agreement of the record owner of the premises consenting to collection on the property tax roll of all taxes, penalties, and other obligations arising out of Chapter 9 of Division 1 of Title VII, as to the premises. Upon such consent, the department shall inform the County Assessor, and the Tax Collector shall collect those sums at the time and in the same manner as ad valorem property taxes.

To maintain a permit or certificate, such security shall be in place by January 1st of each year that the permit or certificate is granted or prior to commencement of cultivation for permits granted after January 1st of that year. If the Planning Department does not receive the security prior to January 1st or commencement of cultivation, the permit or certificate shall be deemed to have expired.

55.4.12.3 [Reserved for Future Use]

55.4.12.4 Performance Standard for Light Pollution Control.

55.4.12.4.1 Structures used for mixed-light cultivation and nurseries shall be shielded so that no light escapes between sunset and sunrise.

55.4.12.4.2 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.

55.4.12.4.3 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 Section [314-55.4.5.3](#).

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 (1) or more of the following standards:

55.4.12.5.1 Grid power supplied from one hundred percent (100%) renewable source.

55.4.12.5.2 On-site renewable energy system with twenty percent (20%) net nonrenewable energy use.

55.4.12.5.3 Grid power supplied by partial or wholly nonrenewable source with purchase of carbon offset credits.

Purchase of carbon offset credits (for grid power procured from nonrenewable 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.

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 (24) hour measurements on three or more property lines when all cannabis related activities are not in operation.

55.4.12.6.1 In TPZ zones and U zones (with a general plan land use designation of timberland), the use of generators is prohibited.

55.4.12.6.2 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 fifty (50) decibels measured at a distance of one hundred (100) feet from the noise source or the edge of habitat, whichever is closer. Where ambient noise levels, without including cultivation related noise, exceed fifty (50) decibels within one hundred (100) feet from the cultivation related noise source or the edge of habitat, cultivation-related noise sources may exceed fifty (50) decibels provided no increase over ambient noise levels would result.

55.4.12.6.3 The permit application must include information demonstrating compliance with the noise standards, including but not limited to:

55.4.12.6.3.1 Site plan detailing the location of all noise sources, property lines, and nearby forested areas and sensitive receptors.

55.4.12.6.3.2 Existing ambient noise levels at the property line using current noise measurements (excluding cultivation related noise).

55.4.12.6.3.3 Details on the design of any structure(s) or equipment used to attenuate noise.

55.4.12.6.3.4 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 shall be required where irrigation of commercial cannabis cultivation activities occurs wholly or in part using one (1) or more diversionary sources of water. All cannabis irrigation, regardless of cultivation area, shall be subject to the following standards:

55.4.12.7.1 Documentation of Current and Projected Water Use. 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:

55.4.12.7.1.1 Information identifying the cultivation season(s).

55.4.12.7.1.2 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.

55.4.12.7.1.3 A listing of current or proposed areas of on-site water storage, showing volume in gallons.

55.4.12.7.1.4 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.

55.4.12.7.2 Forbearance Period and Storage Requirements.

55.4.12.7.2.1 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.

55.4.12.7.2.2 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.

55.4.12.7.2.3 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.

55.4.12.7.3 Metering and Recordkeeping.

55.4.12.7.3.1 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.

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

55.4.12.7.3.3 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:

55.4.12.8.1 Ponds and Reservoirs.

55.4.12.8.1.1 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.

55.4.12.8.1.2 To prevent occupancy by and survival of nonnative bullfrog species, ponds shall be designed to be drained. Draining may be required on an annual basis or other interval where determined necessary.

55.4.12.8.1.3 Introduction or maintenance of nonnative species is prohibited where an existing or proposed pond is filled from, or outlets to, a nearby stream or wetland.

55.4.12.8.1.4 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.

55.4.12.8.1.5 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 (1) year of sunset or cancellation of the permit, and completed within standard permitting time frames.

55.4.12.8.2 **Bladders and Aboveground Pools, and Similar Vessels.** Use of bladders, aboveground pools, and similar vessels is prohibited. Where a preexisting 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 two (2) years of provisional permit approval.

55.4.12.8.3 **Tanks Located in Designated Flood Zones.** Tanks shall be sited at least one (1) 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 ten (10) acres or smaller where proposing or conducting irrigation with water from a proposed or existing well located within four hundred (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 nonoperation 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.**

55.4.12.11.1 Where an existing site does not conform to one (1) 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.

55.4.12.11.2 A biological resource protection plan must be included. The plan shall be prepared by a qualified professional and evaluate whether prior unpermitted development or disturbance has occurred within a streamside management area, sensitive plant community, or area of similar biological sensitivity.

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

Preexisting 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.

55.4.12.11.4 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.

55.4.12.11.5 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.

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

55.4.12.12.2 Interior changes or additions to facilities must not prevent future reoccupancy by new uses which are compatible with the base zoning district or consistent with historic prior operations.

55.4.12.12.3 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 Section [314-61.1](#), including the standards for documentation, reporting, and adaptive management.

55.4.12.14 Performance Standard for Public Accommodations.

55.4.12.14.1 Sites of permitted commercial cannabis activities may be authorized to host visits by the general public, as follows:

55.4.12.14.1.1 Public visitation may be principally permitted with a zoning clearance certificate at all sites within commercial and industrial zoning districts or where zoned unclassified and planned for or developed with lawful commercial or industrial uses, when meeting the requirements of this section.

55.4.12.14.1.2 Public visitation may be permitted with a special permit at sites located within those zones listed under Section [314-55.4.6.1.1](#) (AE, AG, FR, and U), 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 Section [314-55.4.12.1.8.5](#). 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.

55.4.12.14.1.3 Visitation by the general public may include tours and tour groups, farm stays, farm-based retail sales, and similar activities. Visitation does not include weddings, parties, or similar occasions. Special events and other temporary uses are permissible with a conditional use permit pursuant to Section [314-62.1](#).

55.4.12.14.2 The following standards apply to any commercial cannabis activity site open to the public:

55.4.12.14.2.1 Sites located in those zones specified in Section [314-55.4.6.1](#) shall limit hours of operation for public access other than employees to between 9:00 a.m. to 6:00 p.m.

55.4.12.14.2.2 Restroom facilities shall be provided for visitors to the site.

55.4.12.14.2.3 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).

55.4.12.14.2.4 Agricultural-exempt structures may not be opened to visitation by the general public.

55.4.12.14.2.5 Road System and Driveways.

55.4.12.14.2.5.1 **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 engineer's 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.

55.4.12.14.2.5.2 Sites shall have a driveway and turnaround area meeting the following requirements:

55.4.12.14.2.5.2.1 All driveways shall be constructed to a minimum Road Category 1 standard. Driveways shall have a minimum ten (10) foot traffic lane and an unobstructed vertical clearance of fifteen (15) feet along their entire length. Driveways in excess of one thousand three hundred twenty (1,320) feet in length shall be constructed to the standard for Road Category 2.

55.4.12.14.2.5.2.2 Driveways exceeding one hundred fifty (150) feet in length, but less than eight hundred (800) feet in length, shall provide a turnout near the midpoint of the driveway. Where a driveway exceeds eight hundred (800) feet, turnouts shall be spaced at intervals at approximately four hundred (400) foot intervals. The location and spacing of turnouts shall be in conformance with the County Roadway Design Manual.

55.4.12.14.2.5.2.3 A turnaround shall be within fifty (50) feet of the parking area.

55.4.12.14.2.5.2.4 The minimum turning radius for a turnaround shall be forty (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 sixty (60) feet in length.

55.4.12.14.2.5.2.5 Sites within the jurisdiction and service area of a local fire protection district shall meet the driveway and turnaround requirements of that agency.

55.4.12.14.2.6 Parking.

55.4.12.14.2.6.1 Sites shall provide adequately sized on-site parking for tour vehicles.

55.4.12.14.2.6.2 Sites shall include a minimum of six (6) parking spaces plus one (1) additional parking space for every two (2) employees.

55.4.12.15 Performance Standards for Tour Operators and Tour Sites.

55.4.12.15.1 **Tour Operators.** Tour operators shall comply with all of the following measures:

55.4.12.15.1.1 The use of sound amplification equipment outside the tour vehicle is prohibited.

55.4.12.15.1.2 Tour guests shall be restricted to adults twenty-one (21) years of age or older. Age shall be verified prior to the start of any tour.

55.4.12.15.1.3 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.

55.4.12.15.1.4 Tour operators shall observe any vehicle weight restrictions when visiting tour sites.

55.4.12.15.2 **Tour Site Eligibility Criteria.** Where authorized, the site(s) of any permitted commercial cannabis activity may host tours when meeting the following criteria:

55.4.12.15.2.1 The site(s) conform with the public accommodation performance standard.

55.4.12.15.2.2 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:

55.4.13.1 Cultivation area of three thousand (3,000) square feet or less.

55.4.13.2 Operated by a County permit and State license holder who resides on the same parcel as the cultivation site.

55.4.13.3 Grown exclusively with natural light.

55.4.13.4 Meets organic certification standards or the substantial equivalent.

55.5.1 **Right to Farm Disclosure.** When required to execute or make available a disclosure statement pursuant to Section [314-43.2](#), right to farm ordinance, said statement shall include information describing the possibility of commercial cultivation of cannabis.

**ATTACHMENT 3
CEQA ADDENDUM**

**CALIFORNIA ENVIRONMENTAL QUALITY (CEQA) ADDENDUM TO THE
ENVIRONMENTAL IMPACT REPORT FOR THE AMENDMENTS TO THE HUMBOLDT COUNTY CODE
REGULATING COMMERCIAL CANNABIS ACTIVITIES
(State Clearinghouse # 2017042022) September 1, 2017**

For the

HUMBOLDT COUNTY SMALL CULTIVATOR AMENDMENT

1.0 Introduction

This Addendum to the Certified Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities Environmental Impact Report (PEIR) (State Clearinghouse No. 2017042022) has been prepared by the Humboldt County Planning Department in conformance with the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.), and the CEQA Guidelines (Cal. Code Regs., Title 14, Chapter 3 § 15000 et seq.). The Addendum evaluates the potential environmental impacts of implementing the proposed changes to the Humboldt County Code involving changes to require that an application proposing relocation for two or more Retirement, Remediation and Relocation (RRR) sites on a single receiving site is required to get a discretionary special permit, and to remove the enhanced setback requirements for cannabis distribution and testing and research facilities (“Proposed Amendment”).

1.0 Background and Tiering

The Final Environmental Impact Report for the Commercial Cannabis PEIR was published in September 2017. This PEIR is a first-tier environmental document that evaluated amendments to Humboldt County Code regulating Commercial Cannabis Activities. The PEIR evaluated an ordinance which established land use regulations concerning the commercial cultivation, processing, manufacturing, and distribution of cannabis within Humboldt County.

As a part of Commercial Cannabis ordinance amendments, the Proposed Amendment is appropriately tiered from the PEIR because it (1) is geographically coincident with the Commercial Cannabis ordinance; (2) is a logical and foreseeable part of its contemplated action; (3) deals with regulations, plans, and other criteria to implement a continuing program; and (4) falls under the same authorizing statutory and regulatory authority and has generally similar environmental effects which can be mitigated in similar ways (see CEQA Guidelines §15168(a)).

The Proposed Amendment will require that an application proposing relocation for two or more Retirement, Remediation and Relocation (RRR) sites on a single receiving site is required to get a discretionary special permit. This would require a public hearing and would enable the decisions to be appealed to the Board of Supervisors consistent with the Board’s direction. These amendments would be applicable to all zoning clearance certificate applications for RRR sites and Relocation sites, including those submitted on or before December 31, 2016. Additionally, this item includes proposed amendments to the CCLUO Section 314-55.4 to remove the enhanced setback requirements for cannabis distribution and testing and research facilities. The amendment covers activities within the scope of the Commercial Cannabis PEIR and is a minor addition, the need for which has arisen subsequent to that document. When determining whether later activities under a Program EIR require an additional environmental document, §15168(c) states, in relevant part:

(c) Use with Later Activities. Later activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

This Addendum evaluates the Project's environmental effects in the light of the program EIR.

Section 1.1 of the PEIR states its purpose as a program EIR, in accordance with CEQA Guidelines Section 15168, that examines the environmental impacts of a series of actions, including issuing discretionary permits or zoning clearance certificates. The program EIR examined the county-wide environmental effects of the entire program and potential actions carried out as part of the program, including construction and operational activities. Further, it is intended to be used by the County to streamline environmental review of subsequent site-specific/individual application actions implementing the proposed ordinance as provided for under CEQA Guidelines Section 15168(c). Therefore, the proposed amendment pertaining to small farms adjacent to homes falls within the scope of the PEIR's contemplated actions.

Section 3 of this Addendum evaluates whether any of the conditions in §15162 of the Guidelines have occurred, requiring a subsequent EIR. Section 4.0 is a statement of findings, and Section 5 recites the conclusions leading to the preparation of this Addendum to the PEIR.

1.2 Prior EIRs Incorporated by Reference

This Addendum addresses updates and minor changes to the 2017 Amendments to Humboldt County Code Regulating Commercial Cannabis Activities, which was evaluated in a Programmatic Draft and Final Environmental Impact Report (PEIR) SCH 2017042022. Additionally, along with the Commercial Cannabis PEIR, the General Plan Update Final and Revised Draft Program EIR was used as background information and analysis to prepare this Addendum to the PEIR. They are a matter of public record and are hereby incorporated by reference.

- 2017 Amendments to Humboldt County Code Regulating Commercial Cannabis Activities (SCH 2017042022);
- 2017 General Plan Update Final and Revised Draft Program EIR (SCH 2007012089).

The documents are available for review during regular business hours at the Humboldt County Planning and Building Department at 3015 H Street, Eureka; or online at

<https://humboldt.gov/2308/Cannabis-EIR> and <https://humboldt.gov/547/General-Plan-Documents>.

The provisions, eligibility and siting criteria, and performance standards that make up the Proposed Amendment and the subject of this Addendum are attached here as Attachment 1 to the Staff Report.

1.3 Statutory Authority and Requirements

CEQA Guidelines §15164(a) states the following with respect to an Addendum to an EIR:

The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

CEQA Guidelines §15162, *Subsequent EIRs and Negative Declarations*, states the following with respect to Subsequent EIRs:

- (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The County of Humboldt is the Lead Agency. The Humboldt County Planning Commission and Humboldt County Board of Supervisors have approval authority over the Commercial Cannabis Land Use Ordinance and the Small Cultivator Amendment to the Ordinance.

1.4 Summary of Analysis and Findings for an Addendum

The Proposed Amendments are analyzed based on the Commercial Cannabis PEIR and the General Plan's Agricultural Resources Land Use goals, and policies to support these regulations. Evaluation of the new RRR requirements, as described in the ordinance, confirms the assumptions of the Commercial Cannabis PEIR that the Project does not involve changes that would result in new or more severe physical impacts, changes to land use designation, or rezoning with potential to increase development capacities. In re-examining the mitigation measures of the PEIR, no newly feasible or different measures or alternatives were found that would substantially reduce potential significant effects of the project. The RRR program amendments would simply increase the level of public review of proposed RRR projects.

The removal of the enhanced setback requirements for cannabis distribution and testing and research facilities will not result in any impacts addressed in the PEIR because based on site inspection of these types of facilities, there is such low amount of cannabis odors detectable in the immediate vicinity outside these types of facilities, no enhanced setback is necessary to protect sensitive receptors. Section 3 of this Addendum presents evidence supporting the decision not to prepare a subsequent EIR pursuant to §15162.

Based on evaluation of the potential environmental impacts resulting from the Project, none of the conditions

described in CEQA Guidelines §15162 have occurred, and this Addendum was prepared.

2.0 Project Description

The first proposed amendment to the Inland Commercial Cannabis Land Use Ordinance (CCLUO) (Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code) to amend the Inland CCLUO to require that locating more than two Retirement, Remediation and Relocation (RRR) sites on a single receiving site is required to secure approval of a discretionary special permit. All zoning clearance certificate applications for RRR sites and Relocation sites, including those submitted on or before December 31, 2016, shall be subject to compliance with these amendments.

The CCLUO encourages relocation pre-existing cultivation sites out of areas where the slopes are in excess of 15% and there is not a legal water source and out of areas where the slopes are in excess of 15%, or the site is not served by a road meeting the access performance standards or where the cultivation site does not meet the required setbacks. The ordinance encourages relocation through the Retirement, Remediation and Relocation (RRR) program to move out of these areas by allowing a fourfold increase in permissible cultivation area up to 20,000 square feet. To further incentivize relocation, the RRR applications are permitted through a zoning clearance certificate, or a ministerial action.

The vision of the ordinance is to allow a cultivator to relocate to a more appropriate location and provide incentive to clean up the old site. However, RRR sites have become commodities and are being assembled in a manner that was not intended by the ordinances. There is no explicit limit on the number of RRR's which can be moved to a site, and since they are allowed with a zoning clearance certificate, there is very limited opportunity for public review of these projects.

The proposed amendments to the CCLUO to require discretionary permits for more than two RRR's on a single receiving site will allow for more public review of large RRR projects. The amendments would require a public hearing and would enable the decisions by the Planning Commission to be appealed to the Board of Supervisors.

Also, the proposed amendments will eliminate the enhanced setback requirements for cannabis distribution and testing and research facilities. The enhanced setbacks were originally thought to be necessary to control odor impacts to nearby sensitive receptors, but based on site inspections of a number of permitted distribution and testing and research facilities, staff has determined enhanced setbacks for these facilities is unnecessary because there is such low amount of cannabis odors detectable in the immediate vicinity outside these types of facilities.

The passage of the County's Commercial Medical Marijuana Land Use Ordinance in 2016 was the first proactive step in the County's process of establishing regulations for commercial cultivation, processing, manufacturing, and distribution of cannabis in a manner consistent with California's recently enacted Medical Marijuana Regulation and Safety Act (MMRSA). In September 2017, a draft environmental impact report (Draft EIR) was prepared to evaluate the proposed Amendments to Humboldt County Code regulating Commercial Cannabis Activities, as part of a new ordinance to establish land use regulations concerning the commercial cannabis activities within Humboldt County. The final program EIR was certified in January of 2018. This Addendum evaluates potential environmental effects of the Proposed Amendment, within the scope of the certified PEIR regulating Commercial Cannabis Land Use Ordinance.

2.1 Project Location and Setting

Humboldt County is located along the north coast of California. It is bounded by the Pacific Ocean, Del Norte, Siskiyou, Trinity, and Mendocino counties. The proposed amendment would apply in appropriately zoned lands in the unincorporated area of Humboldt County and would not apply to the incorporated cities, tribal, state, and federal lands.

A complete description of the project location, setting, and existing conditions can be found in Section 2.3 of the Amendments to Humboldt County Code Regulating Commercial Cannabis Activities Project Draft Environmental Impact Report. Humboldt County consists of approximately 2.3 million acres, 75 percent of which is forested. Approximately 30 percent of the county is under federal, state, and tribal ownership. Incorporated cities consist of 24,000 acres and agricultural operations make-up 460,000 acres of the County. The reader is referred to Section

3.2, "Agriculture and Forest Resources," and 3.3, "Biological Resources," for a further description of the County's natural resources. A complete description of the Project's environmental setting is given in Section 3.1.3 of the PEIR.

2.2 Project Characteristics

Previous environmental review analyzed the potential effects of commercial cannabis cultivation, including establishment of land use regulations for commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis within the County. The Project is a modification of a subset of the same cultivation and regulation activities.

No existing measures that are intended to lessen environmental impacts resulting from the Commercial Cannabis PEIR are proposed to be deleted. The full text of the Amendments to Humboldt County Code Regulating Commercial Cannabis Activities, available for review on the County's website (Cannabis Environmental Impact Report) and incorporated into this Addendum by reference.

3.0 Evidence Supporting the Addendum

This section compares actions in the Proposed Amendment to those incorporated in the Humboldt County Code Regulating Commercial Cannabis Activities PEIR to determine whether any of the conditions in § 15162 have occurred. The decision-making body shall consider this addendum to the final certified Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities PEIR prior to making a decision on the project.

3.1 No Substantial Changes Requiring Major Revision

CEQA Guidelines §15162(a)(1) requires a subsequent EIR when substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The changes proposed in the Proposed Amendment pertain to the same cultivation activities examined in the previous EIR, and therefore will have, if any, the same types of impacts on the environment described previously. Further, the amendment includes limits on cultivation area and other criteria designed to prevent any significant effects. Therefore, the Project requires no major revisions to the previous EIR, and no new significant environmental effects or a substantial increase in the severity of previously identified significant effects will result from adoption of the amendment.

3.2 No Substantial Change in Circumstances

According to §15162(a)(1) of the Guidelines, a subsequent EIR must be prepared if substantial changes occur with respect to the circumstances under which the project is undertaken, that result in major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No substantial change in circumstances has occurred since the Commercial Cannabis PEIR was certified in 2017 that would trigger new or more severe significant environmental effects. Therefore, no new EIR is warranted on the grounds of changed circumstances.

3.3 No New, Previously Unknown Information of Substantial Importance

No new information of substantial importance has come to light, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete. In addition:

- (A) The Proposed Amendment requires public review of projects involving placement of more than two RRR sites. Also, the removal of the enhanced setback requirements for cannabis distribution and testing and research facilities will not result in any impacts addressed in the PEIR because based on site inspection of these types of facilities, there is such low amount of cannabis odors detectable in the immediate vicinity outside these types of facilities, no enhanced setback is necessary to protect sensitive receptors. The expected effects are similar to those of the whole project, with no new or more significant effects not previously discussed in the PEIR.
- (B) Because the Proposed Amendment requires public review of projects involving placement of more than two RRR sites, and the low amount of cannabis odors detectable in the immediate vicinity outside cannabis distribution and testing and research facilities, significant effects previously examined are anticipated to be minimal, or less severe than shown in the PEIR.
- (C) None of the mitigation measures or alternatives previously found not to be feasible are found in fact to be feasible, nor would they substantially reduce one or more significant effects of the project.
- (D) No new mitigation measures or alternatives are known which are considerably different from those analyzed in the previous EIR, that would substantially reduce one or more significant effects on the environment.

3.3 Environmental Impact Analysis

CEQA Guidelines §15162(a)(3) prescribe an additional EIR when a project results in new or substantially more severe significant effects not discussed in the previous EIR. This Addendum examines the potential, indirect environmental impacts of the Project measured in light of the Program EIR to determine whether there are effects not previously examined, or substantially more severe.

The EIR determined that approval of the CCLUO ordinances would have no impact on the physical environment with respect to Mineral Resources, Population and Housing, or Recreation. Evaluation of the Proposed Amendment finds no significant impacts to the physical environment with respect to these factors, and no further analysis is considered here.

3.3.1 Aesthetics

Section 3.1 of the Commercial Cannabis PEIR evaluates environmental effects related to Aesthetics. The PEIR found that cannabis operations are aesthetically not substantially different in appearance from other

agricultural operations, having less than significant aesthetic impacts.

Relevant Project Components. No Project components would impact aesthetics.

Impact Analysis. The minor changes proposed by the Project will not result in aesthetic impacts attributable to a change in activities. In light of the PEIR, the project would have no potential significant impacts.

3.3.2 Agriculture and Forestry Resources

Section 3.2 of the Commercial Cannabis PEIR evaluates environmental effects related to Agriculture and Forest Resources. The PEIR found that cannabis operations have no impact on agricultural resources or land use. Potential impacts of cannabis on conversion of forest land were found to be less than significant, as only existing cultivation sites may have had timberland conversion and on-site remediation would be subject to performance standards.

Relevant Project Components. No Project components would impact agriculture and forestry resources.

Impact Analysis. The Project would not have any additional impacts to agricultural or forestry resources, as new cultivation would be limited to previously disturbed areas. In light of the PIER, the project would have no potential significant impacts.

3.3.3 Air Quality and Greenhouse Gas Emissions

Section 3.3 of the Commercial Cannabis PEIR evaluates environmental effects related to Air Quality and Greenhouse Gas Emissions. Humboldt County is in attainment of all federal and state criteria air pollutant standards except for State PM₁₀ levels, for which the entire North Coast Air Basin, including Humboldt County, is currently designated as a non-attainment area. For this reason, increases in PM₁₀ emissions related to increased traffic of employees during harvest season could create significant exceedances, and although harvest season lasts approximately four to six weeks and daily PM₁₀ emissions only exceed the NCUAQMD-recommended threshold during that time, the impacts remain significant and unavoidable. Additionally, exposure of people to objectionable odors was determined to be a significant impact. In certifying the Commercial Cannabis PEIR and CCLUO, the Board of Supervisors made findings that the benefits of implementing the CCLUO outweighed the unavoidable environmental effects.

Mitigation. While a NCUAQMD PM₁₀ Attainment Plan is in effect, no feasible mitigation measures have been identified that would reduce PM₁₀ to a level less than significant. Mitigation related to odors, specifically Mitigation Measure 3.3-4, prohibits the burning of cannabis and other vegetative material will reduce odors. However, the PEIR determined that it does not reduce the impact of the odors related to outdoor cultivation and processing of cannabis. Because no feasible mitigation has been identified that would reduce these impacts to a less than significant level, the impacts are considered to be significant and unavoidable.

Relevant Project Components. The Project components would have little or no impact to air quality with regard to PM₁₀ emissions because the Proposed Amendment would not create a significant increase in traffic. The Project components would have less than significant impact to air quality with respect to odors due to mitigation measures in the ordinance.

Impact Analysis. The Proposed Amendment components would have less than significant impact to air quality with respect to odors. The removal of the enhanced setback requirements for cannabis distribution and testing and research facilities will not result in any impacts addressed in the PEIR because based on site inspection of

these types of facilities, there is such low amount of cannabis odors detectable in the immediate vicinity outside these types of facilities, no enhanced setback is necessary to protect sensitive receptors. In light of the PEIR, the Project's potential impacts on air quality do not exceed those previously considered.

3.3.4 Biological Resources

Section 3.4 of the Commercial Cannabis PEIR evaluates environmental effects related to Biological Resources, and finds the impacts of the PEIR to be less than significant as mitigated.

Mitigation. Species protection is assured by assessing development impacts on species diversity in wetlands, mapped sensitive habitats, threatened/endangered species ranges and in SMAs as part of the review process for discretionary permits. The PEIR includes mitigation measures that restrict development and adds buffers around wildlife corridors and nursery sites; and maps biological resources to reduce potential conflicts.

Relevant Project Components. The Project components are carried out in agricultural and resource settings, and could potentially have indirect impacts on Biological Resources.

Impact Analysis. Potentially significant impacts on biological resources are reduced to less than significant levels by ordinance requirements. Permit requirements do not allow new ground disturbance, unpermitted or diverted water, artificial light, or cultivation using electrical power generation that are not considered in the PEIR. Therefore, these measures and adherence to state regulations already in place would reduce any impacts of the Project to a less than significant level.

3.3.5 Cultural Resources

Section 3.5 of the Commercial Cannabis PEIR evaluates environmental effects related to Cultural Resources. The Commercial Cannabis ordinance contains performance standards which protect historical and archaeological resources or mitigate impacts to them.

Mitigation. Mitigation measures in the Commercial Cannabis PEIR identify potentially significant historical and archaeological resources; however, potential impacts have been reduced to a less than significant level through mitigation measures for protection of historic resources (Mitigation Measure 3.5-1) and unique archaeological resources (Mitigation 3.5-2). In addition, ordinance requirements for compliance with California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097 would make this impact less than significant.

Relevant Project Components. The Project would not result in any new ground disturbance activities that are not considered in the PEIR.

Impact Analysis. In light of the PEIR, the Project's impacts on historic and archaeological resources are less than significant.

3.3.6 Energy

Section 3.14 of the Commercial Cannabis PEIR evaluates environmental effects related to Energy. The energy needs for construction of commercial cannabis cultivation sites would be temporary and would not require additional capacity or increase peak or base period demands for electricity or other forms of energy. The ordinance requires all new cultivation and non-cultivation sites to derive their energy from up to 100 percent renewable energy sources. Existing outdoor or mixed-light cultivation operations that are not on the grid are required to obtain at least 80 percent of their energy demand from renewable sources. Therefore, the project would not result in wasteful, inefficient, and unnecessary consumption of energy. Given the anticipated

development pattern of operations under the proposed ordinance and the amount of renewable energy that would be generated at individual sites, the impact to energy services and facilities was found to be less than significant.

Relevant Project Components. The Project components could use additional energy for cultivation, potential impacting energy use.

Impact Analysis. The Project does not change any provisions that affect energy use. No new energy use would be generated by requiring discretionary permits of some RRR projects, and no new energy use would occur from reducing enhanced setback requirements for distribution and testing/research facilities. In light of the PEIR, the Project's potential energy impacts are less than significant.

3.3.7 Geology and Soils

Section 3.6 of the Commercial Cannabis PEIR evaluates environmental effects related to Geology and Soils. The Commercial Cannabis ordinance contains performance standards which protect against damage as a result of geologic hazards or destruction of soil and undiscovered paleontological resources or mitigate impacts to them.

Mitigation. Mitigation measures in the Commercial Cannabis PEIR identify potentially significant damage to or destruction of undiscovered paleontological resources and potential impacts have been reduced to a less than significant level through mitigation measure to require the contractor to cease all work activities if paleontological discoveries are made (Mitigation Measure 3.6-5).

Relevant Project Components. The Project components are carried out in agricultural and resource settings, with potential indirect impacts from geological hazards, soil losses, or paleontological resources.

Impact Analysis. Potentially significant impacts relating to geology and soil resources are reduced to less than significant levels by adherence to existing law, and by ordinance requirements. All new cultivation permitted by the Proposed Amendment would comply with state and local regulatory requirements related to seismic or geologic hazards such that the exposure of people or structures to risk of loss, injury or death resulting from rupture of a known earthquake fault, strong seismic shaking, or exposure to expansive or unstable soils would be avoided or reduced. In light of the PEIR, the project's impacts on geology and soils are less than significant.

3.3.8 Greenhouse Gas Emissions

Greenhouse Gas Emissions and impacts related to Climate Change were also evaluated in Section 3.3 of the PEIR. That analysis found that construction and operation of commercial cannabis cultivation under the CCLUO would result in GHG emissions, but it is anticipated that existing cultivation sites would be required to use at least 80 percent renewable energy sources; this would substantially reduce GHG emissions from current operations, offsetting the emissions generated by new cultivation operations. The proposed ordinance would not conflict with any applicable plan, policy, or regulation of an agency adopted for reducing GHG emissions. Therefore, this impact would be less than significant.

Relevant Project Components. The Project components are limited in size compared with CCLUO projects as a whole, but potential impacts from greenhouse gas emissions are possible from cultivation and vehicle traffic.

Impact Analysis. It is anticipated that the Project would not have any significant impacts from greenhouse gas emissions. No new GHG emissions would be generated by requiring discretionary permits of some RRR projects, and no new GHG emissions would occur from reducing enhanced setback requirements for distribution and

testing/research facilities. In light of the PEIR, the Project's impacts on greenhouse gas emissions are less than significant.

3.3.9 Hazards and Hazardous Materials

Section 3.7 of the Commercial Cannabis PEIR evaluates environmental effects related to Hazards and Hazardous Materials, and finds that the Commercial Cannabis ordinance contains performance standards which protect damage as a result of hazards and hazardous materials or mitigate impacts to them. In addition, compliance with existing, applicable rules and regulations specifically designed to protect the public health would be sufficient to preclude significant hazardous materials impacts.

Mitigation. Mitigation measures in the Commercial Cannabis PEIR identify potentially significant impacts as a result of potential human hazards from exposure to existing on-site hazardous materials through requiring preparation of environmental site assessments would reduce the risks to less than significant (Mitigation Measure 3.7-2).

Relevant Project Components. The Project components could potentially expose people to hazards.

Impact Analysis. The Project components are carried out in agricultural and resource settings, and would not generally require intensive use or transport of hazardous materials. Proximity to schools or airports is not anticipated. The potential impacts of wildfires are anticipated to be reduced by adherence to existing laws. Activities carried out under the project have limited scope, and pose less potential risk than those evaluated in the PEIR. Therefore, in light of the PEIR, the Project's impacts on hazards and hazardous materials are less than significant.

3.3.10 Hydrology and Water Quality

Section 3.8 of the Commercial Cannabis PEIR evaluates environmental effects related to Hydrology and Water Quality, and finds the impacts of the PEIR to be less than significant as mitigated.

Mitigation. Mitigation measures listed in Section 3.8 were found to reduce significant and potential impacts to operational water quality, groundwater supply, surface drainage and on-site flooding, and diversion of surface water and through performance standards and mitigation measures, were reduced to levels less than significant. These Mitigation Measures include minimum size of commercial cultivation activities, annual groundwater and adaptive management, design features to attenuate increase in drainage, water diversion and monitoring and reporting requirements (Mitigation Measures 3.8-2, 3.8-3, 3.8-4, and 3.8-5)

Relevant Project Components. Project components could impact hydrology and water quality, as cultivation is carried out on agricultural and resource lands.

Impact Analysis. The activities carried out under the project are limited in area, and pose less potential risk than those evaluated in the PEIR. In light of the PEIR, the project's impacts on hydrology and water quality resources are less than significant.

3.3.11 Land Use and Planning

Section 3.9 of the Commercial Cannabis PEIR evaluates environmental effects related to Land Use and Planning, finding that the impacts of implementing the CCLUO would be less than significant.

Relevant Project Components. Project components are carried out on resource lands and may impact land use

and planning.

Impact Analysis. The Proposed Amendment allows an agricultural activity on lands designated for such use, and therefore does not create use conflicts. Project permitting requirements would manage conditions that create public nuisances by enacting restrictions on the location, type, and size of cannabis cultivation sites and commercial activities. Impacts would be less than those evaluated in the PEIR. In light of the PEIR, The Project's impacts on land use and planning are less than significant.

3.3.12 Noise

Section 3.10 of the Commercial Cannabis PEIR evaluates environmental effects related to Noise, including short-term construction noise, long-term operational noise, and long-term traffic noise, finding that the impacts of the second two categories were less than significant, and the impact of short-term construction noise was less than significant as mitigated.

Mitigation. Mitigation measures in the Commercial Cannabis PEIR identify potentially significant impacts of short-term, construction-related noise, and requires limiting the times of operation for outdoor construction activity and use of heavy equipment to 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.

Relevant Project Components. Activities of the Project pose potential impacts to noise similar to other CCLUO operations.

Impact Analysis. Any new construction that may result as part of the Proposed Amendment must adhere to the noise mitigation measure. In light of the PEIR, the Project's noise impacts are less than significant.

3.3.13 Public Services

Section 3.11 of the Commercial Cannabis PEIR evaluates environmental effects related to Public Services. It found that compliance with existing building, electrical, and fire code regulations as well as roadway access performance standards set forth in the ordinance provide a sufficient access for fire prevention and emergency response. Commercial cannabis production and operation under the ordinance would not require increased law enforcement services resulting in the need for new or altered facilities. Therefore, that the impacts to public services of implementing the CCLUO would be less than significant.

Relevant Project Components. No Project components would impact public services.

Impact Analysis. The Project would not have any additional impacts to public services, as its components occur on sites permitted under the regulatory framework of the CCLUO. In light of the PEIR, the project would have no potential significant impacts.

3.3.14 Transportation

Section 3.12 of the Commercial Cannabis PEIR describes environmental effects related to Transportation and Circulation, finding that the impacts of implementing the CCLUO would be less than significant. The analysis uses the Level of Service (LOS) metric to evaluate transportation

impacts. Beginning on July 1, 2020, amendments to the CEQA guidelines establish Vehicle Miles Traveled (VMT) as the preferred metric for transportation impacts.

Relevant Project Components. The Proposed Amendment could result in increases to transportation if it generates additional vehicle trips.

Impact Analysis. It is anticipated that the Proposed Amendment would not have any additional impacts to transportation and circulation. Under the proposed amendments, the discretionary permits of some RRR projects would be required, enhanced setback requirements for distribution and testing/research facilities would no longer be required. The Project would not generate any additional impacts to either VMT or LOS. In light of the PIER, the project would have no potential significant impacts.

3.3.15 Tribal Cultural Resources

Section 3.5 of the Commercial Cannabis PEIR evaluates environmental effects related to cultural resources and California tribal cultural resources. Potentially significant impacts that involve disturbance or destruction of cultural resources from land conversion and new development will be mitigated to a less than significant level through ordinance requirements to conduct a survey of the site and for submittal of associated technical reports documenting, assessing and avoiding impacts on resources in Areas of Traditional Tribal Cultural Affiliation in Sections 313-55.4.5.1.5 and 313-55.4.5.1.5. Further, impacts due to inadvertent discovery of human remains or tribal cultural resources would be prevented by ordinance requirements for compliance with California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097. Impacts of the CCLUO were therefore found to be less than significant.

Relevant Project Components. Cultivation permitted by the amendment could be located on lands that contain, or are nearby previously unknown tribal cultural resources.

Impact Analysis. Potentially significant impacts on cultural resources are reduced to less than significant levels by ordinance requirements. Projects are subject to the consultation requirements described in 314-55.4.5.1.5. Impacts due to inadvertent discovery of human remains or tribal resources on Project parcels are required by ordinance to comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097. Therefore, impacts of the Project are less than significant.

3.3.16 Utilities and Service Systems

Section 3.13 of the Commercial Cannabis PEIR evaluates environmental effects related to Utilities and Service Systems, finding that the impacts of implementing the regulations would be less than significant as mitigated.

Mitigation. Mitigation measures and performance standards listed in Section 3.13 were found to reduce significant and potentially significant impacts related to exceeding wastewater service demand, increases in water demand from public water systems, and contribution to solid waste generation. These Mitigation Measures include treatment programs and verified wastewater services, requiring verification of adequate water supply and service, and preparation of a treatment program for all new indoor and non-cultivation activities.

Relevant Project Components. Cultivation of immature plants permitted through the Proposed Amendment could have potential indirect impacts to Utilities and Service Systems by use of water for irrigation. Other services would not be impacted because no increase in residents or employees are associated with the project.

Impact Analysis. No new utility or service use would be generated by requiring discretionary permits of some RRR projects, and no new utility or service use would occur from reducing enhanced setback requirements for distribution and testing/research facilities. In light of the PIER, the project would have no significant impacts beyond those considered in the PEIR.

3.3.17 Wildfire

Section 3.7 of the Commercial Cannabis PEIR, relating to Hazards, evaluates environmental effects due to risk of wildfires. Commercial cannabis cultivation in rural areas, areas designated as High Fire Hazard Severity Zones, or at the urban-wildland interface could expose workers, structures, and firefighters to risk of loss from wildfire hazards. The analysis found that this hazard would not be substantially worse than that for other types of land uses in the same areas, and would be reduced compared to existing cannabis cultivation occurring under baseline conditions. Existing laws would be anticipated to reduce potential impacts. For these reasons, the impacts of implementing the CCLUO would be less than significant.

Relevant Project Components. Cannabis farms in rural areas, areas designated as High Fire Hazard Severity Zones, or at the urban-wildland interface could create a risk of loss from wildfire hazards.

Impact Analysis. State and local fire safety regulations are anticipated to reduce potential impacts; therefore, the Project would not have any additional impacts to wildfire risk beyond what was considered in the PEIR. In light of the PEIR, the project would have no potential significant impacts.

3.3.18 Significant Unavoidable Impacts

The Proposed Amendment would not change the conclusions reached by the certified 2017 Commercial Cannabis PEIR regarding the environmental effects addressed in the Significant Unavoidable Impact Section of the PEIR.

The Project, like the CCLUO it modifies, is intended to regulate cannabis cultivation in the county and to minimize impacts, including environmental impacts. Like the CCLUO, the Project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

The cumulative impacts of commercial cannabis cultivation have already been reviewed in the Commercial Cannabis PEIR. Cumulative impacts of the CCLUO overall are considered not cumulatively considerable except with respect to air quality (PM¹⁰ and odors) and water impacts. In those categories, cumulative impacts are found to be potentially significant and unavoidable. In its Resolution of May 8, 2018, the Board of Supervisors determined that the benefits of the CCLUO outweigh its unavoidable, adverse environmental impacts so that the impacts may be considered acceptable. In evaluating the Proposed Amendment, the incremental effects of permitting cannabis farms are likely to be similar to those observed in the past and as anticipated in the future. In light of the PEIR, cumulative impacts of implementing the Proposed Amendment are less than those previously considered in that document. Approval of the Project would, for that reason, have impacts that are both individually and cumulatively limited.

Project Environmental Impact Conclusions. The proposed CEQA Project would have no significant impact on any of the topical issues reviewed above, beyond those identified in the PEIR. Although the Commercial Cannabis PEIR identified significant unmitigated impacts associated with a particular area of assessment, the Proposed Amendment would not result in an increase in the severity of any of those potential impacts. Accordingly, for

purposes of this Addendum, the Proposed Amendment would only result in less than significant changes in the level of impact identified or the mitigation measures proposed by the Commercial Cannabis PEIR.

4.0 STATEMENT OF FINDINGS

An addendum to a previous EIR is appropriate when all of the required findings described below can be made.

1. No substantial changes are proposed in the project which will require revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects [§15162(a)(1)].

The changes proposed in the Proposed Amendment pertain to the same cultivation activities examined in the previous EIR, and therefore will have, if any, the same types of impacts on the environment described previously. Further, the amendment includes limits on cultivation and other criteria designed to prevent any significant effects. Therefore, the Project requires no major revisions to the previous EIR, and no new significant environmental effects or substantial increase in the severity of previously identified significant effects will result from adoption of the amendment.

2. No substantial changes occur with respect to the circumstances under which the project is undertaken which will require revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects [§15162(a)(2)].

No substantial change in circumstances has occurred since the Commercial Cannabis PEIR was certified in 2017 that would trigger new or more severe significant environmental effects. Therefore, no new EIR is warranted on the grounds of changed circumstances.

3. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Board of Supervisors certified the previous EIR, shows any of the following:

a. The project will not have one or more significant effects not discussed in the previous EIR [§15162(a)(3)(A)];

The expected effects of the Proposed Amendment are similar to those of the whole project, with no new or more significant effects not previously discussed in the PEIR. Therefore, there is no evidence that the Proposed Amendment will result in one or more significant new effects not discussed in the Commercial Cannabis PEIR.

b. Significant effects previously examined will not be substantially more severe than shown in the previous EIR [§15162(a)(3)(B)];

In light of the limits built into the Proposed Amendment, changes in significant effects previously examined are anticipated to be minimal, or less severe than those considered in the PEIR. No new information of substantial importance has been introduced that would increase the severity of the identified cumulative impacts or cause new significant effects not discussed in the Commercial Cannabis PEIR. Based on projected development, adopting the Proposed Amendment will not have significant effects substantially more severe than shown in the Commercial Cannabis PEIR.

c. No mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative [§15162(a)(3)(C)];

No new information of substantial importance has been introduced that would make mitigation measures or alternatives previously found not to be feasible that were discussed in the Commercial Cannabis PEIR to now be feasible. No significant impacts are anticipated as a result of the Proposed Amendment, beyond those identified in the PEIR. Statements of overriding consideration were adopted for those significant and unavoidable impacts of the CCLUO, which relate to air quality (PM¹⁰ and odors) and water supply capacity. Additional mitigation measures and alternatives that were previously considered would not reduce the identified impacts for the same reasons stated in the Commercial Cannabis PEIR. Therefore, no mitigation measures or alternatives previously found not to be feasible would in fact be feasible that would substantially reduce one or more significant effects of the project.

d. No mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative [§15162(a)(3)(D)].

No new information of substantial importance has been introduced that would require mitigation measures or alternatives which are considerably different from those that were discussed in the Commercial Cannabis PEIR and/or that would substantially reduce one or more significant effects on the environment. Statements of overriding consideration were adopted for the previously identified impacts. No new or previously rejected mitigation measures or alternatives would reduce potential impacts.

5.0 Conclusion Regarding Preparation of an Addendum

The Proposed Amendment would not change any previous conclusions associated with effects disclosed in the Commercial Cannabis PEIR. Impacts previously found to be less than significant would not be elevated to significant as a result of the Proposed Amendment. No new significant impacts or more severe impacts resulting from the proposed modifications were identified, and no changes would occur in the Commercial Cannabis PEIR analysis of significant impacts. Therefore, based on the information above, none of the conditions described in Section 15162 of the CEQA Guidelines have occurred and there is no substantial evidence to warrant the preparation of a subsequent EIR. The decision-making body shall consider this addendum to the final certified 2017 Amendments to Humboldt County Code Regulating Commercial Cannabis Activities Program EIR prior to making a decision on the project.

ATTACHMENT 3
PUBLIC COMMENTS

From: Alison Rivas <ali@oxaliscalifornia.com>

Sent: Friday, May 14, 2021 2:06 PM

To: Adler, Elanah <EAdler@co.humboldt.ca.us>

Cc: Holly Carter <holly@oxaliscalifornia.com>; Richardson, Michael <MRichardson@co.humboldt.ca.us>

Subject: Re: CCLUO Revisions, request for feedback on lighting provisions

Hello Lana,

Thank you again for sharing your thoughts and openness to feedback. I hope I can provide a little more operational insight into the lighting discussion, as well as the nursery space allowance based on my observations over time. The RRR portion seems clear, I did note there is not an ultimate cap beyond the 20% of the parcel size. Do the county limits on 8 and 10 acre projects remain in effect?

I see the difference for propagation lighting (nursery/immature hereafter), though your email is asking after cultivation supplemental lighting- hope I'm on the right track.

Nursery spaces function best with a higher wattage than cultivation supplemental lighting, as the nursery space can accelerate growth to prepare for placing into (flowering) canopy areas, while the canopy areas use supplemental light to only hold the vegetative state. I think folks have limited their operations to work within the lower wattage ranges to access permits, but if we're looking into what is best for farms and getting allowance for nursery areas the following hopes to speak to potential considerations. Currently our local commercial nurseries are overwhelmed with supply demand, and are a more costly route for cultivators. If we can get more cultivators to be able to support their own needs it would help our local industry.

Propagation lighting

Practices can vary here, for maintaining plants in vegetative states the 60 watt allowance works to keep the phase, however, it's minimal for increasing plant growth and can limit operating efficiency. In nurseries it can be highly beneficial to increase plant growth rate beyond maintaining the vegetative state. Typically lower wattages used for flowering canopy vegetative stage do not require as high of wattage as they are only place-holding the stage and not used for growth increase. This becomes crucial especially in light deprivation operations because it allows cultivators to make tight time requirements for speeding up immature plant growth in the nursery to be large enough for successive planting rounds into the flowering areas. Immature plants typically must move to flowering canopy areas immediately after the soil has been prepared post harvest. Though some would not be able to use the higher wattage due to energy requirements I think it would be most supportive for those with proper power access to be able to get up to 600 watts, and I had discussions with four experienced nursery operators who called for 600-1000 watts as reasonable and necessary for growth. I realize this is a vast difference in what is proposed, but I hope the difference on timing and phases between nursery and flowering stages and areas provides some insight. Fewer bulbs would be required, and a higher wattage over a shorter period of time in the nursery area could even decrease the total energy consumption, as well as decreasing ancillary fuel consumption and wear and tear on roads from decreased staffing hours required for maintaining nursery spaces for shorter periods.

Another way to consider writing this is using wattage per square foot in the propagation areas rather than individual bulbs, especially if electricity use is the concern. This would allow for higher wattage bulbs, which could be spaced reasonably to achieve perhaps anywhere between 8-30 watts/SF. It would also place an energy cap, and allow for flexibility for operators to choose what lighting is best for any time (high growth vs low growth needs in vegetative phase) while still meeting the requirements without the potential need to call out every bulb wattage at one time as may differ pending on the amount of growth needed over various times in vegetative stage.

For the state licensing guidelines, Outdoor and Mixed-Light licenses are allowed to have supplemental lighting in their immature areas. There is no specification of wattage allowance outside of the canopy areas (eg: mixed light tier 1 up to 6 watts/SF in flowering areas) written into current regulation. Identifying watts per bulb and per SF are required for canopy areas, but they are not required for any immature areas on any type of cultivation license including commercial nurseries. Folks have/should be navigating the nursery areas by matching their county area allowance and submitting to the state the nursery size in dimensions and square feet only.

Nursery size

Glad to see the potential increase here, it's critical to operations, especially light deprivation and mixed light. Due to the timing of harvest and replanting for successive cultivation rounds the current allowance of 10% nursery space stunts operations and product production. The increase to 25% is better, but I see **at least** the need for up to 35% for operations to be seamless, especially for those who have both mother plants and immature plants growing at the same time during certain portions of the season. Mothers can get quite large. Even without mother plants most nursery areas I've seen have significant crowding of their immature plants in the propagation areas, which affects the growth pattern and doesn't set them up for maximum production based on plant structure (they become taller and more spindly rather than bushing out and increasing lateral bud growth).

Quick support note on existing permits- I hope there may be an allowance for those who came in early to modify their permits if the county chooses to increase nursery space size. It can be a hard choice if not, operators would need to meet other measures not originally placed in their permit allowance. I'm concerned for the small operators being able to stay viable as larger entities come online, especially when so much time and resources have been placed into these projects to help us all get to refining the ordinance.

I'd be happy to get on a call or more here if more questions or clarifications would help.

Thanks for all you do,

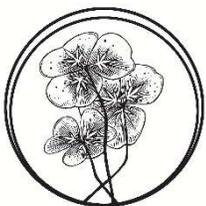
Ali

Alison Rivas

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From: Dolf, Jeff <JDolf@co.humboldt.ca.us>

Sent: Wednesday, May 19, 2021 4:15 PM

To: Adler, Elanah <EAdler@co.humboldt.ca.us>

Subject: RE: CCLUO Revisions, request for feedback on lighting provisions

Hi Elanah,

Thank you for your patience waiting responses to comments on the proposed changes to the CCLUO. I have shared and discussed the revisions with field staff who perform State license cultivation site inspections and their observations are:

Staff frequently observe low wattage string lights in greenhouses, which are not necessarily used for supplemental lighting but rather because cultivators claim that CalOSHA requires them to provide supplemental lighting for the safety of employees working in the greenhouses at night. Of course the use of low wattage string lights to maintain plants in the vegetative state is common especially early in the season. Some cultivators remove the lights and some leave them up. CalCannabis view is in this situation cultivators must have a mixed-light license and a lighting diagram explaining when the lights are used and when they are removed.

Of course Planning is aware that CalCannabis considers any supplemental lighting to be inconsistent with an outdoor license even when the licensee asserts that the lights are in place for the safety of employees. Staff has asked CalCannabis for an interpretation and was told they are reviewing the CalOSHA requirements, but seemed skeptical of the claim the supplemental lights are in place to comply with OSHA requirements. We still do not have a definitive answer from CalCannabis on supplemental lighting for the safety of employees. Staff mentioned it is common for farms that use light deprivation to have an outdoor permit, a mixed-light tier 1 license and to have work lights hanging in hoop houses. In this case, for the State license the work lights need to be added to their lighting diagram, but their presence is not in conflict with the license type, but is with the permit type.

I hope this feedback is helpful.

Jeff

LINK TO THE PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE CCLUO

<https://humboldt.gov/DocumentCenter/View/62689/Humboldt-County-Cannabis-Program-Final-EIR-60mb-PDF>

ATTACHMENT 3B
PUBLIC COMMENTS

Cannabis Propagation

Myths vs. Facts & Real-Life Case Study

— **By Margro Advisors** —

Propagation Area

The propagation process is about nurturing plants prior to planting them in the final cultivation area.

Myth: “More propagation area means more plants”

Fact: The final Cultivation Area, which is fed by the propagation process, is FIXED by the permitting and licensing regulations.

Keep in Mind: The number of plants used for Cannabis farming is based on the fixed cultivation area NOT the propagation area. This is why the State of California does NOT limit propagation area and does NOT include it in cultivation size.

Water Impacts

The propagation process uses significantly less water than cultivation irrigation.

Myth: “More propagation area means a significant impact to already low water levels”

Fact: With additional propagation the number of plants allowed has not changed, so the amount of water usage remains the same as prior years.

Keep in Mind: The amount of plants used for propagation is based on the fixed cultivation area. As these are small growing plants they are watered significantly less than when placed in the gardens for cultivation.

Energy Impacts

Minimal supplemental lighting is needed to help the crop remain stable during the vegetative cycle.

Myth: “More propagation area means significantly more power usage”

Fact: Dedicated greenhouses use minimal lighting, approximately four hours a day for eight weeks. Expanding the area does not automatically require significantly more lighting, the impacts of which are already minimal.

Keep in Mind: A longer or wider propagation greenhouse does not necessarily mean significantly more lighting. In addition, the light itself is only used a for small part of the season.

Taxation

The cultivation area is taxed by the county whether a crop is successful or fails, and the product is taxed by the state at a high fixed rate when sold, regardless of the sales price.

Myth: "Propagation area should be taxed"

Fact: Except for commercial nurseries, propagation is an expensive, labor intensive process which generates NO revenue.

Keep in Mind: More propagation does not generate more revenue itself, but it does lower cost to the farmer. By increasing the healthy environment for the plant, it improves efficiency with less likelihood of lost plants, which cause wasted water, nutrients, and labor costs. More space means more effective farming.

State Alignment

Dedicated propagation areas are not limited by size or usage of lighting by the State of California.

Myth: “Propagation area should only be allowed in the permitted cultivation areas”

Fact: Forcing propagation into existing cultivation areas would not only grossly misalign with state regulations, but would be detrimental to farms by removing a proportion of their already limited cultivation space for vegetation activities.

Keep in Mind: Forcing them to reduce cultivation area results in lost revenue for the farmer, county, and the state.

Real Farm Example: 10% Propagation

A 11,600 Sq Ft
permitted farm



Can support up to
2,100 mature plants

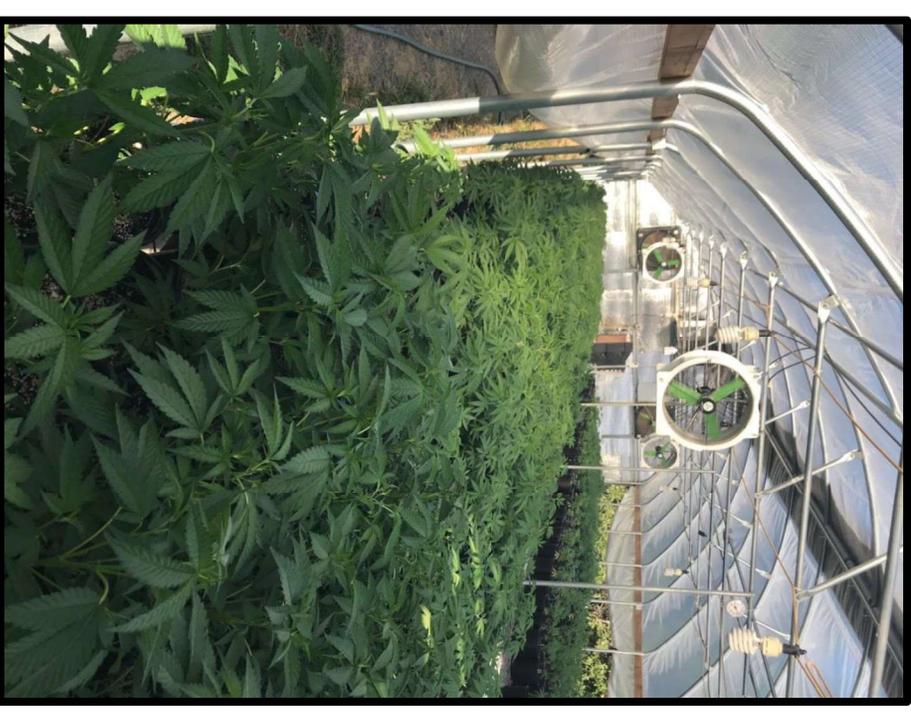


- Currently has a 1,000 square foot nursery greenhouse to stay below 10%
- The nursery can properly support about 1,000 immature plants
- Farmer is forced to overflow with 1,300 plants at most

Real Farm Example: Overcrowded Nursery

Nursery overcrowding is a risky practice:

- Prime environment for Mold & Mildew
- Restricted plant growth
- Ineffective application of water and nutrients due to lack of accessibility
- Delayed removal of weak or diseased plants due to lack of visibility
- Delayed response to pest infestation due to lack of visibility



Overcrowding = Lost Plants

Real Farm Example: 10% - Results

- On average at least 10% of plants are lost to overcrowding
 - Of the 1,300 planted, 1,170 plants will remain
 - Only 7,000 sq ft is planted = 60% of permitted space
 - The farmer filed a county reduction form for past two years
- = \$4,600 **lost** expected **tax revenue** to Humboldt County per year
- = Up to **40% lost revenue** to the **farmer**
(1,170 instead of 2,100 plants)
- = **10% of wasted water, nutrients, and labor** from plant failure due to overcrowding
- = Up to **40% lost tax revenue** for the **State** of California

Real Farm Example: 25% Propagation

11,600 Sq Ft
Permitted farm



Can support up to
2,100 mature plants

Farmer uses a 2,500
Sq Ft Nursery



Greenhouse will support
the 2,100 immature plants
needed for cultivation

- 0% of plants will be lost to overcrowding
- ~2,100 immature plants will remain

Real Farm Example: 25% - Results

Farmer is able to **utilize** their **farm** to **full potential** which was already **permitted and approved** for water source, energy use, and responsible resource management.

- 0% of plants are lost to overcrowding
- 0% wasted water, plants, nutrients, or labor to overcrowding
- 2,100 plants remain
- Full 11,600 permitted area is cultivated
- Full farm revenue opportunity is utilized
- No County reduction filing needed
- 100% expected tax revenue is remitted to the county
- 100% tax opportunity is provided to the State of California

Conclusion - Focus on Solutions

- **Allow the 25% propagation** area needed for Cannabis farming
- **Utilize** a portion of the **\$18M** CA state local jurisdiction assistance **grant** to provide **incentives** for **water storage** and conservation measures
- **Streamline** and prioritize land use and building **permitting** for **rain catchment ponds**
- **Review** water use practices on **ALL farms**, not just Cannabis

Final Ask - Acknowledge the Challenge

Legal Cannabis farms are often being blamed for the atrocities of illegal grows, historic logging damage, and now climate change water shortages

Acknowledge the **reductions** in surface **diversions, chemicals, pesticides, and wastes** accomplished by the legal Cannabis farm community

Acknowledge the **adoption** of a variety of conservation and **sustainability** **measures** these farmers have done over the past five years

-drip irrigation, rain catchment systems, solar fans, living soils, natural pest management, water quality best practices, road improvements, and more.

Thank You

— **By Margro Advisors** —

June 28, 2001

To: Humboldt County Planning Commission
Humboldt County Planning Director Ford

Re: Planning Commission Meeting July 1, 2001
Agenda Item: Public Hearing #4, Record # PLN-2021-17147

Dear Director Ford & Planning Commissioners,

The work to try remedying some of the problems the RRR program has created is appreciated. I realize the program was planned to prevent further environmental destruction and possibly mitigate damage that had been done. Hopefully this change will help.

Unfortunately the proposal imbedded halfway through this item to "Update" or "modify" the definition of outdoor is not acceptable.

The proposal:

The definition for "Outdoor" has been modified to allow artificial lighting using light bulbs requiring 60 watts of electricity or less to maintain plants in a vegetative state and for the safety of those working in greenhouses after dark.

CCLUO 2.0 Commercial Cannabis Ordinance Definitions

"**Outdoor**" means outdoor cultivation using no artificial lighting. Pg. 8

"**Mixed Light,**" means cultivation using a combination of natural and supplemental artificial lighting" pg. 7

If you use lights you would apply for a Mixed Light permit.

If growers were allowed to use lights with an "outdoor" permit they would need electricity to power those lights. Which leads us to more use of generators for cannabis. This would greatly increase fire danger, noise pollution and the ever-enlarging carbon footprint of the cannabis industry.

This was absolutely not considered in your EIR and you would be in violation of CEQA if you approved this item.

This proposal would cause further environmental & social damage.

Right now if someone has a permit for “Mixed light” they are required to cover the lights at night. They are also required to have noise reduction mitigations. And hopefully some type of fire prevention and mitigation strategy in place. Your staff is not able to oversee these necessary and critical mitigations as it is now. It is up to neighbors to identify and report to the planning commission or code enforcement if there are violations. How could this change possibly be managed? Who and how would there be oversight and enforcement?

The proposal you are considering is in direct conflict with the State as shown in the Staff report.

In the report before you - Cal Cannabis comments state:

Staff frequently observe low wattage string lights in greenhouses, which are not necessarily used for supplemental lighting but rather because cultivators claim that CalOSHA requires them to provide supplemental lighting for the safety of employees working in the greenhouses at night. Of course the use of low wattage string lights to maintain plants in the vegetative state is common especially early in the season. Some cultivators remove the lights and some leave them up. **Cal Cannabis view is in this situation cultivators must have a mixed-light license and a lighting diagram explaining when the lights are used and when they are removed.** Of course Planning is aware that Cal Cannabis considers any supplemental lighting to be inconsistent with an outdoor license even when the licensee asserts that the lights are in place for the safety of employees. Staff has asked Cal Cannabis for an interpretation and was told they are reviewing the CalOSHA requirements, but seemed skeptical of the claim the supplemental lights are in place to comply with OSHA requirements.

Please do not approve this agenda item as is.

Thank you,
Robie Tenorio
Citizens for a Sustainable Humboldt

June 30, 2021

Hello Commissioners.

I am writing about agenda item #4 “Zoning Ordinance Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO), Record ID #PLN-2021-17147.”

I am requesting on behalf of my client an additional amendment to this item. **We are requesting the commission to consider and discuss an amendment for an additional section under “Setbacks” to be added in the ordinance for undeveloped land zoned TPZ and owned by a Industrial Timber Companies to have setbacks of 100’ defensible space from the property line.** This recommendation should be considered for these following reasons.

While these parcels are subject to different taxation than land used for residence, land in timber production is tax exempt until they harvest, and no land on industrial timber land will be taxed as residential or intent on having residential.

CAL FIRE requires 100’ defensible space from your residence. A 270’ setback from an industrial timber site is excessive if no actual residence is established or intended.

Furthermore, we hope to hear the commission have a discussion about this and consider this amendment.

Thank you.

Angelina Lasko
Ag Efficiencies

Richardson, Michael

From: Jeff and Marisa St John <upperredwoodcreek@gmail.com>
Sent: Thursday, July 1, 2021 10:11 AM
To: Richardson, Michael; Planning Clerk
Cc: Madrone, Steve
Subject: Planning Commission 7/1/2021 21-909

Hello,

Thank you for proposing amendments that would "increase the public review of RRR proposed projects" (CEQA Addendum).

Please postpone any decision regarding these amendments to the Zoning Ordinance Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO), until:

1. CalCannabis weighs in on whether or not the supplement lighting is required by CalOSHA for worker safety (if yes, then restrict work to daylight hours and if no, then reapply for the license that allows for supplemental lighting). Refer to the Humboldt County Agricultural Commissioner's response to the single Public Comment.
2. Humboldt County Planning and Building Department shares their scientific research and analysis on why these proposed changes would:

2.1 "Incentivise" the 4000+ illegal growers (<https://www.times-standard.com/2021/06/29/illicit-cannabis-grows-remain-in-the-thousands-humboldt-county-sheriffs-office-says/>) to apply for RRR. What didn't incentivise them with the original ordinance?

2.2 "Encourage onsite propagation of plants..."

2.3 Not negatively impact "Sensitive Receptors" by reducing the Enhanced Setbacks for Research, Testing, and Distribution in the original ordinance are not reduced by these amendments.

3. Makes the RRR approval subject to the prior clean up of the existing sites.

4. Humboldt County creates a database to track the cumulative effect of proposed estimated water usage and sources within a specific area (ex. Smaller than Willow Creek), as well has a procedure to track actual usage.

5. Explains how these changes will benefit the proposed Titlow Hill Subdivision Applicants and Zoning Changes and negatively affect all parcel owners and the environment.

Sincerely,
Marisa Darpino
Titlow Hill / Upper Redwood Creek
District 5

June 30, 2021

[Submitted via email to planningclerk@co.humboldt.ca.us]

Mr. Alan Bongio, Chairperson
Humboldt County Planning Commission
3015 H St.
Eureka, CA 95501

***RE: July 1, 2021 Planning Commission Hearing: CCLUO Amendment
Agenda Item No. 4***

Dear Chairperson Bongio and Members of the Commission,

This correspondence contains comments on the proposed Commercial Cannabis Land Use Ordinance (“CCLUO”) amendment before you on July 1, 2021.

Prior to the comments there are two important items to note. First, this proposed amendment should be continued from July 1, 2021, to a later date to give cultivators additional time to review and respond to the proposed changes. Many permitted cultivators were unaware of these changes, and the Planning Department did not effectively circulate notice to ensure adequate public participation and comment. Put simply, there is not enough knowledge or time for affected permittees to present well-crafted comments to the proposed changes.

Secondarily, it should be noted that the proposed CCLUO amendment that allows for supplemental lighting for outdoor cultivation activities is a step in the right direction for permitted cannabis cultivators, and the Planning Department should be commended for this. The County should allow outdoor cultivators to use supplemental lighting for workplace safety and to maintain plants in a vegetative state, as is, and always has been the industry’s practice. Moreover, the County should petition the relevant state agencies for a similar provision in state law to provide for the use of low wattage supplemental lighting for outdoor cannabis cultivation licenses. This would prevent crops from prematurely flowering causing potential catastrophic crop damage.

With those initial points in mind, the proposed CCLUO amendment has items that require further clarification and comment. This correspondence addresses two of these.

First, the CCLUO should not limit “propagation” to twenty-five percent of the approved cultivation area. For the reasons set out below this is not consistent with state regulations and would hinder many permitted cultivators. The propagation area should only be limited on a case-by-case basis in circumstances where physical constraints would necessitate it. Also, to remain consistent with state regulations, the CCLUO should be amended so that the definition of “propagation” is changed and new definition for “immature plant area” is added.

Secondly, the proposed CCLUO amendment would allow for lighting over the cultivation area, limited at 60 watts per 100 square feet. This proposed amendment is beneficial, but it should

be changed and modified. Limiting the lights to 60-watt bulbs, and using 60 watts per 100 square feet is not the best way to allow cultivators to use supplemental and safety lighting. The County should instead allow 0.06 watts per square foot of permitted cultivation area, and let the cultivators decide the lighting that works best within these parameters.

The full discussions of these points are set out further below.

Propagation Area

As stated above, the proposed CCLUO amendment is not consistent with state law. As it currently exists, the CCLUO and the California Department of Food and Agriculture CalCannabis (“CalCannabis”) regulations, both allow for two types of areas associated with cannabis activity. These two areas are the actual canopy or cultivation area where the permit/license holder cultivates the mature cannabis plants, and also an area to keep immature plants prior to moving them to the canopy or cultivation area. The proposed CCLUO amendment would make the CCLUO more exacting than the CalCannabis regulations.

The CCLUO currently defines “propagation” as:

[The] 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.

(CCLUO section 55.4.4.)

In simple terms, the CCLUO draws a distinction between the “cultivation area” that is permitted and the propagation area. The CCLUO makes clear that propagation area may be excluded from the calculation of the cultivation area, and it is also important to note that the CCLUO currently does not limit the propagation area based on a percentage of the cultivation area.

The CalCannabis regulations are similar to the CCLUO. The CalCannabis regulations do not define propagation or immature plant area, but instead require cannabis cultivation license applications to identify areas where immature plants are maintained. (California Code of Regulations [“CCR”] Title 3, section 8106(a)(1)(B).) Similar to the CCLUO, the CalCannabis regulations draw a distinction between the canopy and the immature plant area. The CalCannabis regulations require these immature plants to be kept in an area outside the licensed canopy. (See *ibid.*) Again, in simple terms, the CalCannabis regulations allow for a canopy area, with a distinct and separate immature plant area. Similar to the CCLUO, the CalCannabis regulation do not limit the size of the immature plant area.

The proposed CCLUO amendment would make the CCLUO more restrictive than state regulations, and remove the consistency outlined above. The staff report for the proposed CCLUO amendment states that the CCLUO amendment limiting propagation area to twenty-five percent of the approved cultivation area is done “to help align the CCLUO better with common commercial cannabis practices.” (Staff report at p.4.) However, it is unclear why staff cites that common

practice is to limit the propagation area to twenty-five percent of the cultivation area. In fact, given the physical ability and the space to do so, many permitted cannabis cultivators use more than twenty-five percent of the permitted cultivation area for propagation. Giving permitted cultivators this flexibility allows them to respond to variable conditions and conduct successful cultivation activities.

Moreover, many permits granted under the CCLUO include a condition of approval that only allow the propagation area to a certain percent of the permitted cultivation area- several examples of which are before the Planning Commission tonight. If the Planning Department currently limits propagation area on a case-by-case basis, it is unclear why a blanket limitation is necessary now.

Undoubtedly, there are many projects and circumstances which require propagation areas that are limited in size. For instance, on parcels with slopes exceeding a certain gradient, near sensitive biological resources, or near other residences, limiting the propagation area would be beneficial and further the objectives of the CCLUO. However, in circumstances where the physical components of the project and the particular layout of the parcel allow for a larger propagation area, there is no need to limit it. The proposed CCLUO amendment would provide a blanket ceiling on the size of the propagation area that would apply to all projects, regardless of the circumstances. In many cases, this ceiling would disrupt and limit local cannabis businesses from efficiently conducting cannabis cultivation.

As an alternative to the Planning Department's proposed amendment, the following are two simple changes that would greatly benefit the cannabis industry. First, the Planning Commission should include a definition for "immature plant area" and stop using the term "propagation" or "propagation area." This changed definition would mirror the CalCannabis regulations and help avoid confusion when discussing the underlying requirements of the County permits vis-à-vis the CalCannabis licenses. Secondly, the Planning Commission should not limit the size of the propagation area to twenty-five percent of the approved cultivation area. The Planning Department could, as is the current practice, at its discretion limit the propagation area where physical or other constraints indicate that it is appropriate. These changes would align the County's ordinance with state law and help many cultivators conduct successful cultivation activities.

Lighting in Cultivation Areas

As stated at outset, the County should allow supplemental and task lighting in cultivation areas to provide, as required by CalOSHA law, workplace safety. (See 8 CCR § 3449.) The supplemental lighting also allows cultivators to maintain plants in a vegetative state, and prevent catastrophic crop failures. This change is an important step in assisting County farmers to conduct successful operations. The proposed amendment limiting supplemental lighting should not, however, limit the types of lighting used to 60-watt or less bulbs.

The proposed amendment would limit the supplemental light to 60 watts per 100 square feet, and only allows for 60-watt bulbs. This standard is confusing, and difficult to implement. Many cultivators will need to be able to use stronger lights in certain areas in order to provide

adequate lighting for workplace safety and to maintain plants in a vegetative state. Moreover, CalCannabis regulations currently calculate light usage on a square foot basis, and do not dictate the type of light used. (See e.g. 3 CCR § 8000(t)(2) [defining the watts per square foot of mixed light licenses].) The County should likewise implement a wattage per square foot basis, with no limitation on type of lighting. Therefore, to remain consistent with the analysis contained in the staff report, the County should implement a 0.06 watts per square foot requirement, and eliminate a maximum wattage on the bulbs used. This would give cultivators the flexibility to utilize low level lights in the manner that best suits their needs, while also remaining within the bounds of the County's proposed amendment.

* * *

I thank the Commission for the opportunity to present these comments, and I hope that the Commission takes them into consideration when making its final determination.

Sincerely,

A handwritten signature in black ink that reads "Robert T. Renfro, Jr." with a stylized, cursive script.

Robert T. Renfro, Jr.
Panther Gap Farms
Innovation West Corporation

From: [Scott Raymond](#)
To: [Planning Clerk](#)
Subject: Proposed Changes to the CMMLUO
Date: Thursday, July 01, 2021 10:26:36 AM

55.4.6.4.4.1.2 Residences and Undeveloped Parcels. Three hundred (300) feet from any residence on an adjacent separately owned parcel, and two hundred seventy (270) feet from any adjacent undeveloped separately owned parcel.

I would like to request the commission take a look at this language regarding undeveloped parcels.

Most residential parcels in the county are surrounded by other similarly sized parcels. Residential parcels in the 5-10 acre and higher range usually situate the Residence at least 100 feet off the property line. So, effectively, in these neighborhoods, a cannabis cultivation site can be located between 100 to 200 feet off the property line because the amount that the neighboring home is already inset into its own parcel (often 100-200ft) counts towards the 300ft buffer.

With the way the adjacent undeveloped neighboring property line is written, there is no way to reduce this setback and a cultivation site must be a FULL 270 feet away from a VACANT parcel.

As a result, the way the ordinance is written, undeveloped and unoccupied parcels often have a FAR GREATER setback than developed and inhabited parcels. If 300 feet is sufficient for a setback from residences, what does the property line of an undeveloped parcel need all that setback for?

I imagine some of the intent must be to preserve these undeveloped parcels so that at sometime in the future they can be developed without having cannabis cultivation sites right on top of them, thus hampering the future value and desirability of the homesite?

But planning and developing has always come with a certain time variable. First in time and first in right, so to speak. If someone owns an undeveloped parcel in the city center, the zoning of all the parcels around that undeveloped parcel is not limited in height and density so as to preserve some hypothetical use and value in the future for the undeveloped lot. If you have a lot in a city center, you are expected to assume it will be impacted by the neighboring uses of the neighboring parcels to some degree.

I propose the neighboring undeveloped parcel setback be reduced to a much more reasonable 100ft.

I look forward to some discussion about this amongst the members of the Planning Commission - thanks!

Scott Raymond

To Humboldt County Planning Commission
From: Bonnie Blackberry
For: July 1, 2021 Planning Commission Meeting

RE: Proposed changes to CCLUO Definitions

Planning Commissioners,

Please consider my following comments regarding the proposed changes to the CCLUO.

The first proposed change is to "update" the definition for "Propagation" to allow an area, not to exceed 25% of the cultivation area, for the use of nursery and immature plants.

Current CCLUO definitions:

"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".

"Cultivation Area" means the sum of the area(s) used for cannabis cultivation, calculated 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.

It appears that the "propagation area" may or may not be included in the "cultivation area" at the discretion of the Planning Director, whatever that means. And the propagation area is being considered as "outdoor", even though it uses artificial lighting, plus.

Proposing up to 25% of cultivation in an area that is categorized as "outdoor", to be used in greenhouse/hoop-houses for propagation with artificial lights, when the propagation with lights should be defined as mixed-light is difficult to comprehend.

Additionally, the proposed updated definition for "Outdoor" allows use of lights requiring 60 watts of electricity or less to be used to maintain plants in a non-flowering state in the area approved for Propagation. No matter how many watts, it's still supplemental light

Current CCLUO Ordinance definitions:

"Outdoor" means outdoor cultivation using no artificial lighting.

"Mixed Light" means cultivation using a combination of natural and supplemental artificial lighting"

Now the proposal is to redefine outdoor to include the use of artificial supplemental light, when the use of artificial lighting is already the definition of "mixed light".

It's very simple, use of any artificial lights is in reality, mixed light.

Also the idea that the Planning Dept. would be able to monitor to insure that a certain size of a light bulb was used during a specified time is almost laughable. Current monitoring consists of a once a year check (maybe).

Allowing and permitting activities that you are unable to monitor in a timely manner to insure verification of adherence to the conditions of the permit is very problematic, on many levels. This is already happening. Adding more exceptions, and now saying use of lights in not really supplemental mixed-light, is difficult to make sense of.

I urge the Planning Commissioners to vote against changing the meaning of the words "outdoor" and "mixed light", by not changing the definition of "outdoor" to include artificial lighting. The use of artificial light is currently defined as "mixed light", which is a clear definition and it should remain for use of artificial lights in whatever form or wattage. And if nursery and propagation activities need to use artificial light, they should be in the mixed light category.

We've got big issues to deal with as this historic drought continues, as the Planning Commission and Zoning Administrator continue to approve permits, as if all is OK and we'll get to adjusting to the situation later. Now is the time to consider the reality of our current situation and where we are heading with water and fire and covering the landscape with plastic and generator grows. Why is the county continuing to issue permits for new grows, especially the large, multi crop ones, when there are serious issues with water and carrying capacity in our watersheds that have not been adequately addressed?

Respectfully,
Bonnie Blackberry

From: [Mike Gordon](#)
To: [Planning Clerk](#)
Cc: [Bohn, Rex](#); [Bushnell, Michelle](#); [Wilson, Mike](#); [Bass, Virginia](#); [Madrone, Steve](#)
Subject: CCLUO Updates
Date: Tuesday, June 29, 2021 4:27:21 PM

Hello Planning Commissioners,

This coming Thursday July 1st, The Planning Commission is going to discuss changes to CCLUO which, if approved, will place additional restrictions on Humboldt County cultivators further limiting our ability to compete in the State Arena. Below you will find the Proposed Changes to the CCLUO, current reality, and my opinions and recommendations. Every single change to our current ordinance must not go unnoticed and these changes, although small on the face, can have great implications to how we operate our businesses compliantly. Please feel free to email me at any time if you would like to discuss in greater detail.

PROPOSED CHANGES TO CCLUO (changes in blue)

"Outdoor" means outdoor cultivation using no artificial lighting except artificial lighting that is shielded and directed to illuminate only the cultivation area using light bulbs requiring 60 watts of electricity or less per 100 square feet of canopy area used for employee safety and/or to maintain plants in a non-flowering vegetative state in the area approved for cultivation or propagation.

"Mixed-light" means cultivation using a combination of natural and supplemental artificial lighting that exceeds the 60 watt limit for artificial lighting allowed for Outdoor cultivation.

"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 provided the area used for Propagation does not exceed 25% of the cultivation area. See also "cultivation area."

CURRENT REALITY

State and County Regulations do NOT currently have a limit for square footage of Immature Plant Area or Propagation Areas

State and County Regulations do NOT limit the amount of light that can be used for Immature Plant Areas and Propagation Areas

OPINION

"60 watts of electricity or less per 100 square feet" is NOT sufficient to Propagate Clones or to "Harden Off" clones prior to planting outdoors in full sun.

Cal OSHA Requires MINIMUM thresholds of Task Lighting to be employed in all areas where night time or low light activities are being performed based on candle foot per square foot NOT Wattage per square foot. see link below

<https://www.dir.ca.gov/title8/3449.html>

RECOMMENDATIONS (strike outs with added language in red)

"Outdoor" means outdoor cultivation using no artificial lighting except artificial lighting that is shielded and directed to illuminate only the cultivation area using light bulbs requiring 60 watts of electricity or less per 100 square feet, up to 0.6 watts per square foot of electricity in canopy area used for employee safety and/or to maintain plants in a non-flowering vegetative state in the area approved for cultivation or propagation, as well as work lights needed to meet the minimum threshold of Cal-OSHA's task lighting candle-foot requirements.

"Propagation" "Immature Plant Area" means the area used for the 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 and may be excluded from the calculation of cultivation area at the discretion of the Planning Director or Hearing Officer provided the area used for Propagation does not exceed 25% of the cultivation area. See also "cultivation area."

REASONING

"Outdoor" cultivators in Humboldt County need to be treated equitably. Mother Plants and Clones are an essential part of "Outdoor" cultivation businesses and this change would make it all but impossible to compliantly propagate clones, maintain mother plants or grow immature plants prior to full sun exposure. We should not compromise by limiting the number of watts necessary for propagation and/or immature plants, since State Law does not impose this limit. Codifying a LIMIT on the amount of light that is allowed for Propagation and Immature Plants is not in line with State Regulations and operational efficiencies will be negatively impacted. "Outdoor" Cultivators must be principally entitled to have mother plants and to propagate onsite to be able to maximize profit margins while maintaining control over genetic stock.

The definition of "Propagation" should be changed to "Immature Plant Area" to more closely align with State Regulations. Currently the County and State do not have a limit on Immature Plant Areas and Humboldt County would be remiss to limit the amount of Immature Plant Areas to 25%. This adjustment to county code would eliminate the ability of cultivators to be granted additional discretionary entitlements above this threshold. Considering the reduction of overall environmental impact due to the success of the "abatement program" and coupled with the relatively small size of most of Humboldt Counties Permitted Farms should be justification to allow up to 100% Immature Plant Areas at the discretion of the Planning Director or Hearing Officer. We can not afford to implement restrictive policy change at the same time other regions are currently permitting Massive Mega Farms.

Thank you for all the hard work you do and are prepared to do!

Mike Gordon

Fibonacci Management

707-407-7884

July 14, 2021

Hello Commissioners.

I am requesting on behalf of my client an additional amendment to this item. **We are requesting the commission to consider an amendment for an additional section under “Setbacks” to be added in the ordinance for undeveloped land zoned TPZ, and owned by Industrial Timber Companies to have setbacks of 120’ defensible space from the property line.** This recommendation should be considered for these following reasons.

While TPZ parcels are subject to different taxation than land used for residence, land in timber production is tax exempt until they harvest, and no industrial timber would be taxed as residential or intent on having residential.

CAL FIRE requires 100’ defensible space around your home, and 0-150’ for fire hazard tree removal. The current 270’ setback from undeveloped land is excessive if no actual residence is established or intended to be.

After hearing the discussion on the Morris project, we amended our initial public comment sent. We propose that the 120’ setback required combined with the 30’ setback required for residences from a property line, to equal a total of 150’ setback be suffice.

Furthermore, we hope to hear the commission have a discussion about this and consider this amendment.

Thank you.

Angelina Lasko; Ag Efficiencies,
Dave Shea; Humboldt Bud Co.,
Gabe DeMartini; Humboldt Bud Co.

To Humboldt County Planning Commission
From: Bonnie Blackberry
For: July 15, 2021 Planning Commission Meeting

RE: Proposed changes to CCLUO Definitions

Planning Commissioners,

Please consider my following comments regarding the proposed changes to the CCLUO.

The first proposed change is to "update" the definition for "Propagation" to allow an area, not to exceed 25% of the cultivation area, for the use of nursery and immature plants.

"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".
"Cultivation Area" means the sum of the area(s) used for cannabis cultivation, calculated 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."

It is my understanding that on May 8, 2018 the Board of Supervisors passed a resolution setting county wide limits/caps on the total number of permits and acres of cannabis cultivation within 12 watersheds. The resolution describes cultivation activities to include Outdoor, Mixed Light Cultivation and Nurseries. (see attachment)

The limits were set to address environmental impacts. When up to 25% of the cultivation area is excluded from the cultivation area calculations, it provides an inaccurate, and misleading assessment of the actual area used for cultivation purposes.

The proposal to include artificial lights to the definition for outdoor cultivation is in direct conflict with the current definition and the common accepted meaning of outdoor. When you visualize outdoor, I am sure you aren't seeing plastic hoop houses filled with lights, and fans.

All cannabis cultivation activities, including nurseries should be included in the cultivation area permit calculations.

All use of artificial lights, no matter the wattage should be categorized as mixed light, which is defined as *"cultivation using a combination of natural and supplemental artificial lighting"*

Respectfully,
Bonnie Blackberry,
Civil Liberties Monitoring Project (CLMP) Rep.

**Resolution Establishing a Cap on the Number Permits and Acres
Which May Be Approved for Commercial Cannabis Cultivation**

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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

RESOLUTION NO. 18-43

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ESTABLISHING A LIMIT (CAP) ON THE NUMBER OF PERMITS AND ACRES WHICH MAY BE APPROVED FOR COMMERCIAL CANNABIS CULTIVATION WITHIN UNINCORPORATED AREAS OF THE COUNTY OF HUMBOLDT.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, the Board of Supervisors has adopted a series of comprehensive amendments to the Humboldt County Zoning Regulations, governing commercial activities involving the Cultivation, Processing, Manufacturing, and Distribution of Cannabis within the unincorporated areas of the County of Humboldt, known as the Commercial Cannabis Land Use Ordinance (CCLUO); and

WHEREAS, pursuant to the California Environmental Quality Act, a Programmatic Environmental Impact Report was prepared for the Commercial Cannabis Land Use Ordinance, which evaluated, mitigated, and disclosed potentially significant environmental impacts from the proposed ordinance amendments (CCLUO); and

WHEREAS, during adoption of the Commercial Cannabis Land Use Ordinance the Board of Supervisors certified that the Final Environmental Impact Report (FEIR) prepared for the CCLUO had been completed in compliance with CEQA, making the findings required by Public Resources Code Section 21081(a) and CEQA Guidelines Sections 15091 and 15092, including adoption of a Statement of Overriding Considerations pursuant to Public Resources Code Section 21081 (b) and CEQA Guidelines Section 15093; and

WHEREAS, the Commercial Cannabis Land Use Ordinance includes provisions for the Board of Supervisors to establish by separate resolution a limit (cap) on the number of permits and acres which may be approved for Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation within each of the twelve (12) discrete planning watersheds of Humboldt County; and

WHEREAS, by approving this Resolution, the Board of Supervisors establishes a limit on the number of permits and acres permits which may be approved for Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation to ensure that further permitting beyond that limit will not proceed until the County has performed further analysis of the condition of these planning watersheds, including review of water flow data and applicable studies or information prepared by the following state and local 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.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors, that the Board finds as follows based on the administrative record:

1. An Environmental Impact Report (EIR) (SCH# 2017042022) was prepared and certified for the Commercial Cannabis Land Use Ordinance, which evaluated and addressed the potential environmental impacts from the ongoing regulation of commercial cannabis activities, including a limit on the number of permits and acres of cultivation. No additional review is required under section 15162 of the CEQA Guidelines because establishing a limit on the number of permits and acres of cultivation consistent with the EIR will not cause new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No substantial changes in the circumstances under which the resolution is being adopted will require any revisions of the certified Environmental Impact Report (EIR). There is no substantial new information which was not known and could not have been known with the exercise of reasonable diligence at the time that the EIR was certified that shows this resolution setting a limit on the number of permits and acres of cultivation consistent with the EIR will have any significant effects not discussed in the EIR, or that the significant effects examined in the EIR will be substantially more severe.
2. It is appropriate to limit the total number of Open Air Cultivation (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation permits granted as well as the total permitted acreage of cultivation as shown in the following table.

Cap Distribution		
Watershed	Permits	Acres
Cape Mendocino	650	223
Eureka Plain	89	31
Lower Eel	336	116
Lower Klamath	161	56
Lower Trinity	169	58
Mad River	334	115
Middle Main Eel	360	125
Redwood Creek	141	49
South Fork Eel	730	251
South Fork Trinity	86	29
Trinidad	19	6
Van Duzen	425	146
TOTAL	3,500	1,205

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

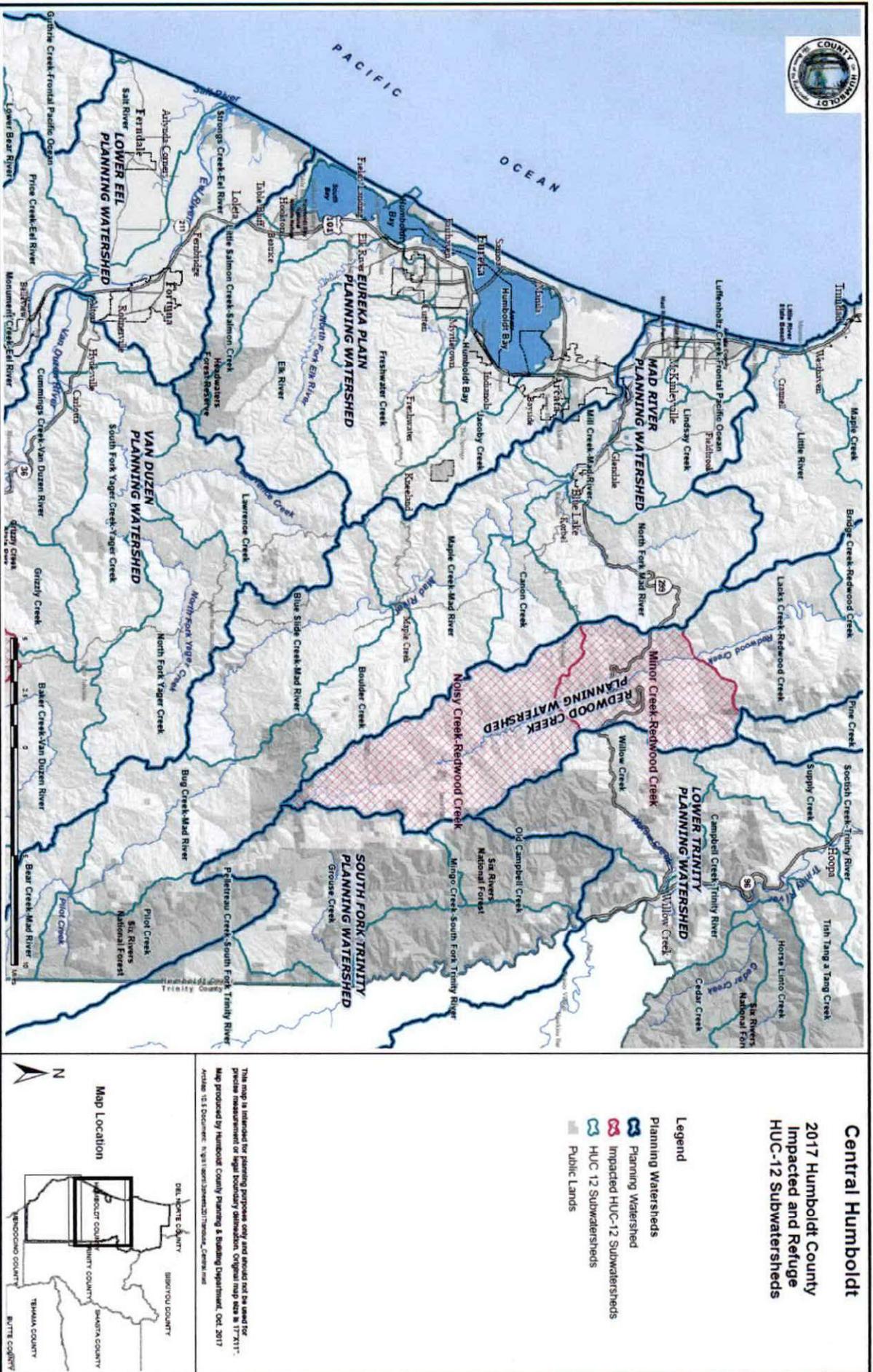
Certified copy of portion of proceedings; meeting on May 8, 2018

3. Certain subwatersheds are hereby declared to be impacted by low streamflows due to high concentrations of current cannabis cultivation activities. Additionally, certain other subwatersheds are hereby declared to be refuges critical to the recovery strategy for key populations of California Coho Salmon, as well as a number of other aquatic species currently listed pursuant to the federal Endangered Species Act. These subwatersheds are identified by their USGS HUC-12 (Hydrological Unit Code) names and grouped by planning watershed in the following table and mapping. Permits for new Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation Activities or expansion of lawful pre-existing sites shall be temporarily prohibited within these subwatersheds, until all known pre-existing cultivation sites (established or in operation prior to January 1, 2016) have either been suspended, permitted, or are under a compliance agreement to remediate pursuant to the Retirement, Remediation, and Relocation provisions of the Commercial Cannabis Land Use Ordinance, found in section 314-55.4 of Division 1, Title III of Humboldt County Code.

Impacted & Refuge HUC-12 Subwatersheds by Planning Watershed
PLANNING WATERSHED #1 CAPE MENDOCINO
<i>* Headwaters Mattole River</i>
Middle Mattole River
Upper Mattole River
PLANNING WATERSHED #8 REDWOOD CREEK
Noisy Creek-Redwood Creek
Minor Creek-Redwood Creek
PLANNING WATERSHED #9 SOUTH FORK EEL RIVER
Redwood Creek
Salmon Creek
<i>* Sprowel Creek</i>
PLANNING WATERSHED #12 VAN DUZEN RIVER
Hoagland Creek-Van Duzen River
Butte Creek
Little Van Duzen River
<i>* Refuge watersheds</i>

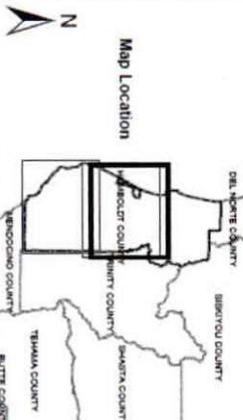
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Central Humboldt 2017 Humboldt County Impacted and Refuge HUC-12 Subwatersheds

- Legend**
- Planning Watersheds
 - Planning Watershed
 - Impacted HUC-12 Subwatersheds
 - HUC 12 Subwatersheds
 - Public Lands



This map is intended for planning purposes only and should not be used for precise measurement or legal boundary determination. Original map size is 17"x11".
Map produced by Humboldt County Planning & Building Department, Oct 2017
A15168 1:5.0 DocId:32612017 Humboldt County map

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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4. Following the establishment of a countywide cap on the total number of permits and acreage of cultivation that may be approved, beginning in May of 2019, the Board of Supervisors agrees to conduct an annual review of the limits and prescribed distribution of permitting and acreage allowances found in the above table. Review shall occur at a noticed public hearing held during a meeting of the Board of Supervisors, during which the Board shall receive and consider a report providing an update on local permitting efforts. The report shall provide information detailing the number and status of all applications received, permits approved, compliance agreements that have been executed, and code enforcement actions undertaken by the Department. Law enforcement and other relevant officials from local and state agencies shall be contacted and invited to provide and present input and information to be considered by the Board during annual review. After holding a public hearing and considering all information and testimony received, the Board may choose to establish new caps on acreage and permits as well as change their distribution within watersheds.

Adopted May 8, 2018

Adopted on motion by Supervisor Fennell, seconded by Supervisor Bass, and the following vote:

AYES: Supervisors: Bass, Fennell, Sundberg, Bohn
NAYS: Supervisors: Wilson
ABSENT: Supervisors: --
ABSTAIN: Supervisors: --



RYAN SUNDBERG, CHAIRMAN,
HUMBOLDT COUNTY BOARD OF SUPERVISORS

(SEAL)

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

From: Alison Rivas <ali@oxaliscalifornia.com>
Sent: Friday, May 14, 2021 2:06 PM
To: Adler, Elanah <EAdler@co.humboldt.ca.us>
Cc: Holly Carter <holly@oxaliscalifornia.com>; Richardson, Michael <MRichardson@co.humboldt.ca.us>
Subject: Re: CCLUO Revisions, request for feedback on lighting provisions

Hello Lana,

Thank you again for sharing your thoughts and openness to feedback. I hope I can provide a little more operational insight into the lighting discussion, as well as the nursery space allowance based on my observations over time. The RRR portion seems clear, I did note there is not an ultimate cap beyond the 20% of the parcel size. Do the county limits on 8 and 10 acre projects remain in effect?

I see the difference for propagation lighting (nursery/immature hereafter), though your email is asking after cultivation supplemental lighting- hope I'm on the right track.

Nursery spaces function best with a higher wattage than cultivation supplemental lighting, as the nursery space can accelerate growth to prepare for placing into (flowering) canopy areas, while the canopy areas use supplemental light to only hold the vegetative state. I think folks have limited their operations to work within the lower wattage ranges to access permits, but if we're looking into what is best for farms and getting allowance for nursery areas the following hopes to speak to potential considerations. Currently our local commercial nurseries are overwhelmed with supply demand, and are a more costly route for cultivators. If we can get more cultivators to be able to support their own needs it would help our local industry.

Propagation lighting

Practices can vary here, for maintaining plants in vegetative states the 60 watt allowance works to keep the phase, however, it's minimal for increasing plant growth and can limit operating efficiency. In nurseries it can be highly beneficial to increase plant growth rate beyond maintaining the vegetative state. Typically lower wattages used for flowering canopy vegetative stage do not require as high of wattage as they are only place-holding the stage and not used for growth increase. This becomes crucial especially in light deprivation operations because it allows cultivators to make tight time requirements for speeding up immature plant growth in the nursery to be large enough for successive planting rounds into the flowering areas. Immature plants typically must move to flowering canopy areas immediately after the soil has been prepared post harvest. Though some would not be able to use the higher wattage due to energy requirements I think it would be most supportive for those with proper power access to be able to get up to 600 watts, and I had discussions with four experienced nursery operators who called for 600-1000 watts as reasonable and necessary for growth. I realize this is a vast difference in what is proposed, but I hope the difference on timing and phases between nursery and flowering stages and areas provides some insight. Fewer bulbs would be required, and a higher wattage over a shorter period of time in the nursery area could even decrease the total energy consumption, as well as decreasing ancillary fuel consumption and wear and tear on roads from decreased staffing hours required for maintaining nursery spaces for shorter periods.

Another way to consider writing this is using wattage per square foot in the propagation areas rather than individual bulbs, especially if electricity use is the concern. This would allow for higher wattage bulbs, which could be spaced reasonably to achieve perhaps anywhere between 8-30 watts/SF. It would also place an energy cap, and allow for flexibility for operators to choose what lighting is best for any time (high growth vs low growth needs in vegetative phase) while still meeting the requirements without the potential need to call out every bulb wattage at one time as may differ pending on the amount of growth needed over various times in vegetative stage.

For the state licensing guidelines, Outdoor and Mixed-Light licenses are allowed to have supplemental lighting in their immature areas. There is no specification of wattage allowance outside of the canopy areas (eg: mixed light tier 1 up to 6 watts/SF in flowering areas) written into current regulation. Identifying watts per bulb and per SF are required for canopy areas, but they are not required for any immature areas on any type of cultivation license including commercial nurseries. Folks have/should be navigating the nursery areas by matching their county area allowance and submitting to the state the nursery size in dimensions and square feet only.

Nursery size

Glad to see the potential increase here, it's critical to operations, especially light deprivation and mixed light. Due to the timing of harvest and replanting for successive cultivation rounds the current allowance of 10% nursery space stunts operations and product production. The increase to 25% is better, but I see **at least** the need for up to 35% for operations to be seamless, especially for those who have both mother plants and immature plants growing at the same time during certain portions of the season. Mothers can get quite large. Even without mother plants most nursery areas I've seen have significant crowding of their immature plants in the propagation areas, which affects the growth pattern and doesn't set them up for maximum production based on plant structure (they become taller and more spindly rather than bushing out and increasing lateral bud growth).

Quick support note on existing permits- I hope there may be an allowance for those who came in early to modify their permits if the county chooses to increase nursery space size. It can be a hard choice if not, operators would need to meet other measures not originally placed in their permit allowance. I'm concerned for the small operators being able to stay viable as larger entities come online, especially when so much time and resources have been placed into these projects to help us all get to refining the ordinance.

I'd be happy to get on a call or more here if more questions or clarifications would help.

Thanks for all you do,

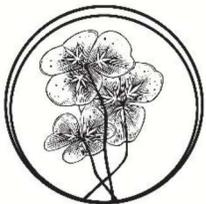
Ali

Alison Rivas

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From: Dolf, Jeff <JDolf@co.humboldt.ca.us>

Sent: Wednesday, May 19, 2021 4:15 PM

To: Adler, Elanah <EAdler@co.humboldt.ca.us>

Subject: RE: CCLUO Revisions, request for feedback on lighting provisions

Hi Elanah,

Thank you for your patience waiting responses to comments on the proposed changes to the CCLUO. I have shared and discussed the revisions with field staff who perform State license cultivation site inspections and their observations are:

Staff frequently observe low wattage string lights in greenhouses, which are not necessarily used for supplemental lighting but rather because cultivators claim that CalOSHA requires them to provide supplemental lighting for the safety of employees working in the greenhouses at night. Of course the use of low wattage string lights to maintain plants in the vegetative state is common especially early in the season. Some cultivators remove the lights and some leave them up. CalCannabis view is in this situation cultivators must have a mixed-light license and a lighting diagram explaining when the lights are used and when they are removed.

Of course Planning is aware that CalCannabis considers any supplemental lighting to be inconsistent with an outdoor license even when the licensee asserts that the lights are in place for the safety of employees. Staff has asked CalCannabis for an interpretation and was told they are reviewing the CalOSHA requirements, but seemed skeptical of the claim the supplemental lights are in place to comply with OSHA requirements. We still do not have a definitive answer from CalCannabis on supplemental lighting for the safety of employees. Staff mentioned it is common for farms that use light deprivation to have an outdoor permit, a mixed-light tier 1 license and to have work lights hanging in hoop houses. In this case, for the State license the work lights need to be added to their lighting diagram, but their presence is not in conflict with the license type, but is with the permit type.

I hope this feedback is helpful.

Jeff