

ATTACHMENT 7

**Planning Commission Resolution and Staff Report, and
Public Comments Received by the Planning Commission**



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
LONG RANGE PLANNING

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Hearing Date: Meeting of August 20, 2020

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: Public Hearing on Draft Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO) for

- Small Cultivators (Case # PLN-2020-16447),
- Financial Security (Case # PLN-2020-16571), and
- Amendment to the Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance (Case # PLN-2020-16479)

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

AGENDA ITEM TRANSMITTAL

Hearing Date August 20, 2020	Subject Amendments to the Commercial Cannabis Land Use, Personal Use, and Cannabis Cultivation Tax Ordinances	Contact Elanah Adler
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Project Description: This item is comprised of three parts. First, a proposed amendment to the CCLUO to facilitate permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway (Small Cultivator Amendments). Second, amendments to the Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance to establish standards for cannabis cultivation for personal use on parcels larger than five acres in size (Personal Use Amendments). And lastly, the item proposes amendments to the CCLUO and the Commercial Marijuana Cultivation Tax Ordinance to establish financial security requirements in the CCLUO and better align the provisions of the CCLUO with the Marijuana Cultivation Tax Ordinance (Financial Security Amendments).

Project Location: The Small Cultivator and Personal Use Amendments would only apply outside of the coastal zone. The Financial Security Amendments would apply throughout the unincorporated areas of Humboldt County, including the Coastal Zone.

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 8. The proposed Personal Use and Financial Security Amendments are exempt from the California Environmental Quality Act (CEQA). An analysis supporting the finding of exemption for the adoption of the Personal Use and Financial Security Amendments is included herein as Attachment 9.

State Appeal Status: The portion of the Financial Security ordinance amendments that affects land use within the coastal zone must be certified or otherwise approved by the Coastal Commission prior to taking effect.

**SMALL CULTIVATOR, PERSONAL USE AND FINANCIAL SECURITY AMENDMENTS TO
HUMBOLDT COUNTY CODE**

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 amendments to the ordinances, public input, and alternatives presented.
5. Take the following actions:
 - a) "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 Small Cultivator Ordinance Amendments in Attachment 5."
 - b) "Based on evidence in the staff report and public testimony, make all the required findings and adopt Resolution #2 (Attachment 3) recommending that the Humboldt County Board of Supervisors find that the proposed Personal Use Ordinance Amendments are exempt from environmental review pursuant to Section 15061(b)(3), 15308, and 15321 of the State CEQA Guidelines and adopt the proposed Personal Use Ordinance Amendments in Attachment 6."
 - c) "Based on evidence in the staff report and public testimony, make all the required findings and adopt Resolution #3 (Attachment 4) recommending that the Humboldt County Board of Supervisors find that the proposed Financial Security Ordinance Amendments are exempt environmental review pursuant to Section 15321 of the State CEQA Guidelines and adopt the proposed Financial Security Ordinance Amendments in Attachment 7."

Executive Summary: The first part of this item is proposed amendments to the CCLUO for Small Cultivators to allow a streamlined permitting pathway for cultivation of up to 2,000 square feet (sf) on parcels with an existing home. The eligible farms minimize the impacts on the environment and archaeological resources because they are owner-occupied, the cultivation area is no more than 2,000 square feet in size and within the already disturbed curtilage area of the existing home. Also, water for irrigation is provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation is done outdoors or in permitted or ag exempted hoopouses/greenhouses and does not use generators for electrical power

The second part of this item is an amendment to the Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance. This amendment will clarify the allowances for personal use cultivation on parcels larger than five acres in size – presently the ordinance is silent on what is allowed on these parcels. The proposed standard would allow up to 400 square feet of cultivation area per parcel. In comparison, the current ordinance allows up to 200 square feet of cultivation area for parcels between one and five acres in size.

The third part of this item proposes amendments to the CCLUO and the Commercial Marijuana Cultivation Tax Code to better align the CCLUO with the requirements of the County's cannabis tax ordinance. The purpose of the proposed amendments is to ensure that taxes due in any given year will be paid on a timely basis. The proposed ordinance identifies different options for providing the necessary financial assurance. If an applicant is different from the property owner, some form of surety is required. Alternatively, the property owner may consent to pay the cannabis tax, which requires no additional surety.

In response to public comment that the Personal Use provisions for parcels larger than five acres should allow more cultivation area than smaller parcels, staff is recommending the ordinance allow up to four hundred square feet of cultivation area per parcel.

Consultation with the Karuk and Blue Lake Rancheria Tribes is on-going, and may lead to additional suggested edits. Pending the successful conclusion of Tribal consultation, staff believes the necessary findings can be made for the Commission to approve each of these amendments with the revisions responding to public comment and Tribal consultation and certify their compliance with CEQA.

Alternatives: Alternative language will be presented to the Planning Commission in response to the on-going Tribal Consultation on the proposed Small Cultivator Ordinance Amendments.

The Planning Commission could modify the Personal Use Amendments to set a limit of 200 square feet of cultivation area for parcels larger than five acres in size. This alternative should be selected if the Commission believes the 200 square foot limit on outdoor personal use cultivation that now applies to parcels between one and five acres in size is sufficient to accommodate the needs of those living on larger parcels as well.

No alternatives have been developed for the Financial Security Amendments.

ATTACHMENT 1

Discussion and Analysis of the Required Findings

Discussion:

The draft Small Cultivator Amendments to the CCLUO (Attachment 5) expands on the Small Cultivator provisions already in the CCLUO. The expanded allowances seek to minimize the impacts on the environment and archaeological resources through requirements for owner-occupancy, and a limit of no more than 2,000 sf in size within the already disturbed curtilage area of the existing home. Also, water for irrigation is required to be provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation must be done outdoors or in permitted or ag exempted hoophouses/greenhouses and not use generators for electrical power.

The proposed Small Cultivator Amendments have allowances for both new and pre-existing cultivators. For new cultivators, eligible parcels will be zoned Agriculture Exclusive (AE), Agriculture General (AG), Forestry Recreation (FR), and Unclassified (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 5 acres. Cultivation must be on a parcel confirmed to be a legally created, not be located on, above, or disrupting leach field areas or systems, and not be located on a parcel with any other Commercial Cannabis Activity. 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 (unless a Special Permit or Conditional Use is otherwise required). The proposed ordinance includes requirements the application shall be processed as a Zoning Clearance and approved within 30 days or will be automatically approved unless the applicant is notified in writing of specific deficiencies. Additionally, the proposed ordinance states the cost of the Zoning Clearance Certificate shall not exceed the initial deposit for processing the application.

The proposed Small Cultivator Amendments give pre-existing cultivation site applicants another opportunity to apply for full credit of their pre-existing grows (up to 2,000 square feet) with submission of dated satellite imagery or other satisfactory evidence establishing the existence and area of cultivation between January 1, 2006 and December 31, 2015. No other new applications for Pre-Existing Cultivation Sites may be accepted.

One of the intended benefits of the proposed Small Cultivator Amendments is related to the moratorium on Industrial Hemp. When the federal government first legalized cultivation of industrial hemp in 2018, many in Humboldt County thought it would open a new market that small cannabis farmers could participate in. It was also seen as a way displaced former cannabis farmers who were unable to compete in the cannabis industry could regain a source of income that mirrored the work they had been doing for years.

However, the more scrutiny the Industrial Hemp industry received during review of the draft Industrial Hemp Ordinance in 2019, the more vocal the opposition from local cannabis industry participants. Strong concerns were raised at the Planning Commission and Board of Supervisors about potential damage from Industrial Hemp to the cannabis industry through cross pollination, pests and other pathogens, and in December, 2019 the Board decided to extend for another year the moratorium on Industrial Hemp cultivation. The proposed Small

Cultivator Ordinance Amendments can potentially create a new source of revenue for small cannabis farmers similar to Industrial Hemp, but without the risks to the existing cannabis industry from cross pollination, or the introduction of new pests or pathogens.

The draft amendments to the existing Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance in Attachment 6 seek to establish standards for cannabis cultivation for personal use on parcels larger than five (5) acres in size. This is essentially a clean-up item of the County's personal cannabis cultivation ordinances, because there are currently no provisions for Personal Use on parcels larger than five (5) acres in size. These amendments will clarify the Personal Use allowances on these larger parcels is 400 square feet, which is twice the allowance for parcels between one and five acres in size.

The proposed Financial Security Amendments to the CCLUO and the Commercial Marijuana Cultivation Tax Code (Attachment 7) are also essentially a clean-up item intended to better align the CCLUO with the requirements of the County's cannabis tax ordinance and to ensure timely payment of annual taxes. The amendments would add sections 313-55.4.12.2.9 and 314-55.4.12.9.9 to create alternative ways to provide surety for payment of cultivation taxes as imposed by Chapter 9 of Division 1 of Title VII of the Humboldt County Code.

Public Comment

The project was referred to numerous public agencies, the Native American Tribes, farming and cannabis industry associations, and individuals who expressed an interest in the CCLUO when it was being developed in 2018. In response to public comment that the Personal Use provisions for parcels larger than five acres should allow more cultivation area than allowances for smaller parcels, staff is suggesting revisions to allow up to 400 square feet of cultivation area per parcel as shown in Attachment 6.

Staff received requests for consultation from the Karuk and Blue Lake Rancheria Tribes, which is on-going, and may lead to additional suggested edits. Pending the successful conclusion of Tribal consultation, staff believes the necessary findings can be made for the Commission to approve each of these amendments with the revisions responding to public comment and Tribal consultation and certify their compliance with CEQA. Please see attached public comments received on the proposed amendments which are included in Attachment 5 for the Commission's consideration.

Analysis of the Required Findings

Required Findings: To approve the proposed zoning ordinance amendments, the Hearing Officer shall determine that there is evidence in support of making **all** of the following required findings.

A. Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes in the Zoning Ordinance

1. The proposed amendments to the zoning change are consistent with the General Plan.
2. The proposed change is in the public interest

B. Required Finding for Consistency With Housing Element Densities

1. Government Code Section 65302.81 requires specific findings supported by substantial evidence where a general plan amendment or zone reclassification is adopted that reduces 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 mid point of the density range specified in the plan designation).
2. In addition, the same Government Code sections also requires any proposed development to maintain the residential density for any parcel at or above that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation), unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.

C. Required Finding for Consistency With the California Environmental Quality Act

The California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA:

1.
 - a) The project either is categorically or statutorily exempt; or
 - b) There is no substantial evidence that the project will have a significant effect on the environment or any potential impacts have been mitigated to a level of insignificance and a negative declaration has been prepared pursuant to Section 15070 of the CEQA Guidelines; or
 - (c) An environmental impact report (EIR) has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

Finding A: Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes to the Zoning Ordinance

Section(s)	Applicable Requirements
§312-50 of the Zoning Ordinance	<p>Finding A1. That the proposed zoning change is consistent with the General Plan.</p>
<p>Evidence Supporting Finding A1 <i>Small Cultivator Amendments.</i> The purpose of the proposed Small Cultivator Amendments is to create a streamlined permitting pathway for small cannabis farmers on properties with existing homes to facilitate their entry into the cannabis marketplace. This is consistent with the Economic Development Element of the General Plan Implementation Measure ED-IM4, Permit Streamlining for Business Growth, which supports updating ordinances and permit processes to increase efficiency and reduce permit-processing times addressing constraints to business growth including micro enterprises and home-based businesses.</p> <p>The proposed environmental protection measures limiting the size of the cultivation area to 2,000 square feet within the already disturbed 2 acre curtilage area of an existing home, limiting water use to non-diversionary sources and not allowing artificial lighting supplied by generators is consistent with the Biological Resources Chapter of the General Plan Policy BR-P1, Compatible Land Uses, which requires discretionary land uses and building activity in proximity to sensitive habitats to be conditioned or otherwise permitted to prevent significant degradation of sensitive habitat.</p> <p>The proposed Personal Use Amendments are intended to clarify the limit of cannabis cultivation area for personal use on parcels larger than five acres in size. Presently the ordinance has standards for smaller parcels, but it is silent on what is allowed on these larger parcels. These proposed “clean up” amendments to fill a void in the County’s cannabis ordinances are consistent with the Land Use Element of the General Plan Policy UL-P21 which states cultivation of medical cannabis shall be regulated by ordinance to provide for the health, safety, and welfare of the community, but shall not interfere with the patient’s right to medical cannabis.</p> <p>Similarly, the proposed Financial Security Amendments are intended to “clean up” the existing cannabis ordinances by creating a better linkage between the allowances for commercial cannabis cultivation in the zoning ordinance and the Marijuana Tax Ordinance in the Revenue and Taxation code. These proposed amendments are consistent with Infrastructure Element Goal IS-G2, Sustainable Funding, which supports adequate and sustainable revenue sources for capital improvements and maintenance of infrastructure and services.</p>	

§312-50 of the Zoning Ordinance	Finding A2. That the proposed zoning change is in the public interest
<p>Evidence Supporting Finding A2</p> <p>The proposed Small Cultivator Amendments are in the public interest because they are intended to improve the economic stability of households by streamlining a pathway for entry into the cannabis marketplace. The environmental protection measures of the proposed amendments limiting the size of the cultivation area to 2,000 square feet within the already disturbed 2 acre curtilage area of an existing home, limiting water use to non-diversionary sources and not allowing artificial lighting supplied by generators minimize the impacts on the environment resulting from this type of economic development, which is also in the public interest.</p> <p>The proposed Personal Use Amendments are in the public interest because they clarify the allowed cannabis cultivation area for personal use cultivation on parcels larger than five acres in size.</p> <p>The proposed Financial Security Amendments are in the public interest because they clarify the relationship between the cannabis cultivation area permitted in the CCLUO and the cannabis cultivation tax requirements in the Marijuana Tax Ordinance. With the proposed amendments requiring demonstrated financial security for taxes that will become due on the permitted cannabis cultivation area, the tax obligations of permitted cannabis farmers will be shared more fairly by all permit holders whether they are the owners of the property underlying the cultivation site or they rent/lease the property.</p>	

Finding B: Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes to the Zoning Ordinance

Section(s)	Applicable Requirements
Government Code Section 65302.81	Finding B. That the proposed zoning change 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 mid point of the density range specified in the plan designation)
<p>Evidence Supporting Finding B</p> <p>None of the proposed ordinance amendments affect residential density, so they 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 Small Cultivator Amendments allow properties with existing homes to have small permitted commercial cannabis cultivation sites, the Personal Use Amendments set a maximum personal use cannabis cultivation area of 400 sf on parcels five acres or larger, and the Financial Security Amendments help ensure the ability to pay cannabis cultivation taxes when they become due.</p>	

Finding C: Required Finding for Consistency With CEQA

Section(s)	Applicable Requirements
Section 15091 of the CEQA Guidelines	Finding C. That the proposed zoning ordinance amendments comply with the requirements of CEQA
<p>Evidence Supporting Finding C</p> <p>An Addendum to the CCLUO PEIR has been prepared for the Small Cultivator Amendments which is included in Attachment 8 and an analysis for the CEQA exemption for the Personal Use and Financial Security Amendments is in Attachment 9. The Addendum in Attachment 8 explains that the proposed Small Cultivator Amendments would not change any previous conclusions associated with effects disclosed in the CCLUO PEIR. Impacts previously found to be less than significant would not be elevated to significant as a result of the proposed Small Cultivator Amendments, no new significant impacts or more severe impacts would result, and no changes would occur in the CCLUO PEIR analysis of significant impacts. Included in the Addendum is an analysis of Vehicle Miles Traveled (VMT), which was not a required topic of analysis when the document was sent out for public review in 2017 (CEQA Section 15007(c)). However, in the interest of full transparency, staff included a VMT analysis in the Addendum for the proposed Small Cultivator Amendments and the impacts have been found to be less than significant. 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 for the Small Cultivator Amendments. The Planning Commission considered this Addendum and the CCLUO Program EIR prior to making a decision on the project.</p> <p>The Analysis for the CEQA exemption for the Personal Use Amendments and Financial Security Amendments in Attachment 9 explains that both of these amendments are exempt from environmental review pursuant to Sections 15050(c)(2) and 15060(c)(3) of the CEQA Guidelines.</p>	

ATTACHMENT 2

RESOLUTION #1

DRAFT RESOLUTION APPROVING AMENDMENTS TO THE CCLUO FOR SMALL CULTIVATORS

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 20-**

Case Number PLN-2020-16447

RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 4 OF THE HUMBOLDT COUNTY CODE - REGULATIONS OUTSIDE THE COASTAL ZONE, GOVERNING THE COMMERCIAL CANNABIS LAND USE ORDINANCE.

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 proposed Small Cultivator Amendments to the CCLUO provide a streamlined permitting pathway for cultivation of up to 2,000 square feet (sf) in the County while minimizing the impacts on the environment and archaeological resources; and

WHEREAS, in August 2020 the Planning and Building Department solicited public comments to get public input on what should be included in the proposed Small Cultivator Amendments; and

WHEREAS, comments were received and those comments are provided herein for the Planning Commission's review and consideration; and

WHEREAS, on August 20, 2020, the Planning Commission held a public hearing on the proposed Small Cultivator Amendments in Attachment 5, reviewed and considered the staff report, the alternatives, the Addendum to the CCLUO PEIR prepared for the project, and the PEIR itself in Attachment 8, and the evidence, and other testimony presented to the Commission; and

NOW, THEREFORE, be it resolved and determined that the Planning Commission:

1. Makes the findings in Attachment 1 of this staff report which is incorporated by reference into this Resolution as if fully included herein based on the information contained in the public record; and
2. Recommends that the Board of Supervisors of the County of Humboldt:
 - Hold a public hearing in the manner prescribed by law.
 - Consider the Addendum and the Program Environmental Impact Report for the CCLUO in Attachment 8;
 - Adopt the findings that the proposed Small Cultivator Amendments to the CCLUO in Attachment 5 are consistent with the applicable provisions of the Humboldt County Code, General Plan and state law.

- Approve the Small Cultivator Amendments to the CCLUO in Attachment 5 as recommended by the Planning Commission.
- Direct the Planning and Building Department to prepare and file a Notice of Determination pursuant to CEQA for the project; and
- 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.

Adopted after review and consideration of all the evidence on _____, 2020.

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

ATTACHMENT 3

RESOLUTION #2

DRAFT RESOLUTION APPROVING AMENDMENTS TO THE PERSONAL USE CANNABIS ORDINANCE

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 20-**

Case Number PLN-2020-16479

RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 4 OF THE HUMBOLDT COUNTY CODE - REGULATIONS OUTSIDE THE COASTAL ZONE, GOVERNING THE OUTDOOR CULTIVATION OF CANNABIS FOR PERSONAL USE ON SMALL PARCELS.

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, in October 2014 by Ordinance 2523, the Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance was adopted to the Humboldt Code Zoning Code; and

WHEREAS, it was anticipated that additional Medical Marijuana Ordinances would be forthcoming at that time that would later address cultivation on larger parcels, greater than five (5) acres in size; and

WHEREAS, the County has not subsequently adopted a new nor updated this existing Ordinance to address cannabis cultivation for personal use on larger parcel sizes above five (5) acres; and

WHEREAS, the proposed Personal Use Amendments to the Zoning Ordinance in Attachment 6 establish standards for cannabis cultivation for personal use on parcels larger than five acres in size; and

WHEREAS, in August 2020 the Planning and Building Department solicited public comments to get public input on what should be included in the proposed Personal Use Amendments; and

WHEREAS, comments were received and those comments are provided herein for the Planning Commission's review and consideration; and

WHEREAS, on August 20, 2020, the Planning Commission held a public hearing on the proposed Personal Use Amendments in Attachment 6, reviewed and considered the staff report, the alternatives, the analysis for CEQA exemption for the Personal Use Amendments in Attachment 9, evidence, and other testimony presented to the Commission; and

NOW, THEREFORE, be it resolved and determined that the Planning Commission:

1. Makes the findings in Attachment 1 of this staff report which is incorporated by reference into this Resolution as if fully included herein based on the information contained in the public record; and
2. Recommends that the Board of Supervisors of the County of Humboldt:
 - Hold a public hearing in the manner prescribed by law;
 - Consider the analysis for CEQA exemption for the Personal Use Amendments in Attachment 9;
 - Adopt the findings that the proposed Personal Use Amendments in Attachment 6 are consistent with the applicable provisions of the Humboldt County Code, General Plan, and state law;
 - Approve the Personal Use Amendments in Attachment 6 as recommended by the Planning Commission;
 - Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.
 - 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.

Adopted after review and consideration of all the evidence on _____, 2020.

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

ATTACHMENT 4

RESOLUTION #3

**DRAFT CCLUO AMENDMENTS AND COMMERCIAL MARIJUANA CULTIVATION TAX ORDINANCE
AMENDMENTS TO ENSURE FINANCIAL SECURITY**

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 20-**

Case Number PLN-2020-16571

RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO CHAPTER 3 OF THE ZONING REGULATIONS (REGULATIONS INSIDE THE COASTAL ZONE), DIVISION 1, TITLE III GOVERNING THE COMMERCIAL CANNABIS LAND USE ORDINANCE; CHAPTER 4 OF THE ZONING REGULATIONS (REGULATIONS OUTSIDE OF THE COASTAL ZONE), DIVISION 1, TITLE III GOVERNING THE COMMERCIAL CANNABIS LAND USE ORDINANCE; AND CHAPTER 9 OF DIVISION 1 (COMMERCIAL MARIJUANA CULTIVATION TAX), TITLE VII OF THE HUMBOLDT COUNTY CODE.

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, in December 2016 by Ordinance Ord. 2567, the Commercial Marijuana Cultivation Tax was added to the Humboldt County Finance, Revenue and Taxation Code; and

WHEREAS, the County has identified the need for "clean up" amendments to ensure the tax obligations of permitted cannabis farmers will be shared more fairly by all permit holders whether they are the owners of the property underlying the cultivation site or they rent/lease the property.

WHEREAS, the proposed Financial Security Amendments to the

WHEREAS, in August 2020 the Planning and Building Department solicited public comments to get public input on what should be included in the Financial Security Amendments; and

WHEREAS, comments were received and those comments are provided herein for the Planning Commission's review and consideration; and

WHEREAS, on August 20, 2020, the Planning Commission held a public hearing on the proposed Financial Security Amendments in Attachment 7, reviewed and considered the staff report, the alternatives, the analysis for CEQA exemption for the Financial Security Amendments in Attachment 9, evidence, and other testimony presented to the Commission; and

NOW, THEREFORE, be it resolved and determined that the Planning Commission:

1. Makes the findings in Attachment 1 of this staff report which is incorporated by reference into this Resolution as if fully included herein based on the information contained in the public record; and
2. Recommends that the Board of Supervisors of the County of Humboldt:
 - Hold a public hearing in the manner prescribed by law;
 - Consider the Analysis for CEQA exemption for the Financial Security Amendments in Attachment 9;
 - Adopt the findings that the proposed Financial Security Amendments in Attachment 7 are consistent with the applicable provisions of Humboldt County Code, General Plan and state law;
 - Approve the Financial Security Amendments in Attachment 7 as recommended by the Planning Commission;
 - Direct Planning staff to submit the Coastal Zoning Ordinance to the Coastal Commission for certification.
 - Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.
 - 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.

Adopted after review and consideration of all the evidence on _____, 2020.

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

ATTACHMENT 5

**DRAFT SMALL CULTIVATOR AMENDMENTS TO THE
COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO)**

ORDINANCE AMENDING SECTIONS 314-55.4.6.1, 314-55.4.6.5 AND 314-55.4.12.1.10 OF THE COMMERCIAL CANNABIS LAND USE ORDINANCE IN CHAPTER 4 - ZONING REGULATIONS (TITLE III OF HUMBOLDT COUNTY CODE) TO FACILITATE PERMITTING OF SMALL FARMS ADJACENT TO HOMES

ORDINANCE NO. _____

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

SECTION 1. PURPOSE. The ordinance facilitates permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway. The eligible farms minimize the impacts on the environment and archaeological resources because they are owner-occupied, the cultivation area is no more than 2,000 square feet in size and within the already disturbed homesite area of the existing home. Also, water for irrigation is provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation is done outdoors or in permitted or ag exempted hoophouses/greenhouses and does not use generators for electrical power.

SECTION 2. TEXT AMENDMENTS.

Section 314-55.4.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

55.4.4 **DEFINITIONS**

“Homesite Area” means the land up to 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.

“On-site Nursery” means a facility that produces only clones, immature plants, and seeds for licensed cultivators to be used specifically for on-site planting, propagation, and cultivation of cannabis, of which does not exceed 20% of the area of the Cultivation Area.

“Permaculture” means is 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.

Section 314-55.4.6.1 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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 5 acres.

55.4.6.1.2 Minimum Parcel Size and allowed Cultivation Area

- a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:
1. Cultivation is located within the Homesite Area of the home, and the home existed prior to December 31, 2016; and
 2. The property is owner-occupied; and
 3. Water source for Irrigation is permitted and non-diversionary; and
 4. Cultivation is full sun outdoor or 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 generators for electrical power; and
 5. Permaculture is practiced; and
 6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
 7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
 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 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.

- a) b) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size:
- 1) up to 5,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 10,000 sq. ft. of Cultivation Area with a Special Permit.
- b) c) On parcels 10 acres or larger in size:
- 1) up to 10,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 43,560 sq. ft. of Cultivation Area with a Special Permit.

e d) On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted. All cultivation 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.

Section 314-55.4.6.5 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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 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 Non-Forested areas with Slopes of 15 percent or less.

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

Except as stated below, applications for Pre-Existing Cultivation Sites submitted before December 31, 2018 may be permitted at one hundred percent of the documented pre-existing cultivation area and applications for pre-existing cultivation submitted between January 1, 2019 and December 31, 2019 shall not be approved for more than fifty percent of the documented existing cultivation area. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019, except applications for cultivation sites of 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 of the documented pre-existing Cultivation Area up to 2,000 square feet.

55.4.6.5.1 Small Cultivation Sites

55.4.6.5.1.1 On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

1. Cultivation is located within the 2-acre Homesite Area of the home, and the home existed prior to December 31, 2016; and
2. The property is owner-occupied; and
3. Water source for Irrigation is permitted and non-diversionary; and
4. Cultivation is full sun outdoor or outdoor within permitted or ag exempted hoophouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of generators for electrical power; and
5. Permaculture is practiced; and
6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
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 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 5 acres or larger in size, up to 3,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Zoning Clearance Certificate, subject to the following additional requirements and allowances:

- a) The operator’s principal residence is located on the same parcel and the residence was in existence before January 1, 2016
- b) Not more than one cultivation permit may be issued for the same Parcel.
- c) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply
- d) The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:
 - i. Within one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant 55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.
 - ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.
- e) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

55.4.6.5.2 On an AE zoned parcel less than one acre in size, up to 2,500 square feet of Cultivation Area may be permitted with a Special Permit.

55.4.6.5.3 On parcels between one acre and five acres in size, up to 3,000 square feet of Cultivation Area may be permitted with a Special Permit.

Section 314-55.4.12.1.10 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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
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 pre-existing cultivation sites, the Department shall determine the necessity and focus of any biological evaluations required in concert with consultation with the California Department of Fish and Wildlife. For pre-existing cultivation sites 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.

SECTION 3. SEVERABILITY. The individual parts of this ordinance are severable, such that if one or more parts are determined to be invalid, all the other parts will remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED, AND ADOPTED the ____ day of _____, 2020, on the following vote, to wit:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

ESTELLE FENNELL, Chair
Board of Supervisors, County of Humboldt
State of California

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

ATTACHMENT 6

**DRAFT AMENDMENTS TO THE OUTDOOR CULTIVATION OF CANNABIS FOR
PERSONAL USE ON SMALL PARCEL ORDINANCE**

ORDINANCE AMENDING SECTIONS 314-55.2 OF CHAPTER 4 OF THE ZONING REGULATIONS (TITLE III OF HUMBOLDT COUNTY CODE) TO ESTABLISH STANDARDS FOR OUTDOOR CULTIVATION OF CANNABIS FOR PERSONAL USE ON PARCELS LARGER THAN FIVE ACRES IN SIZE

ORDINANCE NO. _____

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

SECTION 1. PURPOSE OF QUALIFICATIONS. The ordinance will amend the existing Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance to establish standards for cannabis cultivation for personal use on parcels larger than five acres in size.

SECTION 2. TEXT AMENDMENTS.

Section 314-55.2.7 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

55.2.7 Outdoor Residential Cultivation for Personal Use. The County shall not interfere with a qualified patient’s outdoor cultivation of medical marijuana for that patient’s personal use outside the coastal zone, so long as the cultivation is in conformance with this Code and state law.

In order to eliminate the potential nuisance and health and safety impacts to the greatest extent possible, outdoor medical marijuana cultivation and processing for personal use ~~on parcels five (5) acres or less in size~~ shall be in conformance with the following standards:

55.2.7.1 Parcel size shall be determined in accordance with the definition of “Lot Size” found under Section ~~314-147~~ of the code.

55.2.7.2 ~~On parcels five (5) acres or less in size, it~~ It shall not be deemed a nuisance per se for a qualified patient to cultivate medical marijuana outdoors for personal use as an alternative to indoor cultivation, as defined herein, if the following restrictions are adhered to:

55.2.7.2.1 On parcels one (1) acre or smaller in size, the total plant canopy of the medical marijuana cultivated outdoors may not exceed one hundred (100) square feet in size, nor may cultivation occur within twenty (20) feet of a property boundary line; and

55.2.7.2.2 On parcels greater than one (1) acre and up to five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoors may not exceed two hundred (200) square feet in size, and on parcels larger than five acres in size, the total plant canopy of medical marijuana cultivated outdoors may not exceed four hundred (400) square feet in size. ~~nor may e-~~Cultivation may not occur within forty (40) feet of a property boundary line, where the neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size; and

SECTION 3. SEVERABILITY. The individual parts of this ordinance are severable, such that if one or more parts are determined to be invalid, all the other parts will remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED, AND ADOPTED the ____ day of _____, 2020, on the following vote, to wit:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

ESTELLE FENNELL, Chair
Board of Supervisors, County of Humboldt
State of California

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

ATTACHMENT 7

**DRAFT AMENDMENTS TO THE CCLUO AND CHAPTER 9, DIVISION 1 OF
TITLE VII OF THE HUMBOLDT COUNTY CODE
(COMMERCIAL MARIJUANA CULTIVATION TAX ORDINANCE), TO ENSURE FINANCIAL SECURITY.**

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT AMENDING THE CCLUO IN TITLE III, DIVISION 1, CHAPTER 3 (REGULATIONS INSIDE THE COASTAL ZONE); TITLE III, DIVISION 1, CHAPTER 4 (REGULATIONS OUTSIDE THE COASTAL ZONE); AND CHAPTER 9, DIVISION 1, TITLE VII (COMMERCIAL MARIJUANA CULTIVATION TAX) OF THE HUMBOLDT COUNTY CODE.

ORDINANCE NO. _____

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

SECTION 1. Severability of Provisions. If any title, division, chapter, section, subsection, paragraph, sentence, clause, or phrase of this ordinance is held invalid or unconstitutional for any reason by a court, that decision does not affect the validity or constitutionality of the remainder of this ordinance. The board of supervisors declares that it would have adopted each part of this ordinance irrespective of the validity of any other part.

SECTION 2. Subdivision 313-55.4.12.2.9 of Title III, Division 1, Chapter 3 of the Humboldt County Code is added as follows:

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 of this Code. Permittees shall provide and maintain such security in one of the following forms:

1. Cash, or a cash equivalent;
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
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, of this Code 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.

SECTION 3. Subdivision 314-55.4.12.2.9 of Title III, Division 1, Chapter 4 of the Humboldt County Code is added as follows:

55.4.12.2.9 Notwithstanding section 55.4.3.1, 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 of this Code. Permittees shall provide and maintain such security in one of the following forms:

1. Cash, or a cash equivalent;
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
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, of this Code 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.

SECTION 4. Section 719-4 regarding Imposition of Tax in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-4. Imposition of Tax.

In addition to any requirements imposed by Title III of this Code, each ~~property owner whose property is subject to~~ person issued a commercial marijuana cultivation permit shall pay an annual tax of \$1 per square foot of outdoor cultivation area, \$2 per square foot of mixed-light cultivation area or \$3 per square foot of indoor cultivation area regardless of whether or not marijuana is actually grown on such property.

SECTION 5. Section 719-6 regarding Collection and Remittance in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-6. Collection and Remittance.

(a) The tax imposed by this chapter shall be collected by the Humboldt County Treasurer-Tax Collector in the same or similar manner as other taxes fixed and collected by the County of Humboldt to capture the calendar year taxes required by this chapter upon information provided by the Humboldt County Planning and Building Department. For purposes of this chapter, taxes

shall be owed for each and every year in which a commercial marijuana cultivation permit is issued by the Humboldt County Planning and Building Department.

(b) The Humboldt County Planning and Building Department shall submit to the Humboldt County Treasurer-Tax Collector's Office sufficient information ~~in order for~~ *so* tax invoices (bills) ~~to can be sent out to all property owners whose properties are subject to a commercial marijuana cultivation permit~~ persons liable for payments due under this chapter.

SECTION 6. Section 719-7 regarding Penalties in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-7. Penalties.

(a) Any ~~property owner~~ person that fails to pay the tax required by this chapter within thirty (30) days after the due date shall pay, in addition to the tax, a penalty for nonpayment in a sum equal to ten percent (10%) of the total amount due. All taxes and penalties remaining unpaid through December 31st each year will accrue interest at the rate of one and one-half percent (1.5%) per month, for a total of eighteen percent (18%) per year, beginning January 1st and will continue to accrue until redeemed. A cost recovery fee will also be added each time a notice regarding overdue payments is mailed. Receipt of the tax payment by the Humboldt County Treasurer-Tax Collector's Office shall govern the determination of whether the tax is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

(b) The Humboldt County Treasurer-Tax Collector is hereby authorized to waive or cancel any penalties, costs or other charges resulting from nonpayment of the tax required by this chapter where the failure to make a timely payment was due to circumstances beyond the taxpayer's control.

SECTION 8. Section 719-12 regarding Application of Provisions in Title VII, Division 1, Chapter 9 of the Humboldt County Code is repealed and replaced (deletions in ~~strikeout~~, additions in *italics*) to read as follows:

719-12. Application of Provisions.

(a) ~~In the event that the commercial cultivation of marijuana for casual and/or recreational use is legalized or decriminalized in the State of California, the~~ The provisions of this Chapter shall apply, ~~without subsequent voter approval,~~ to each ~~property owner whose property is subject to~~ person holding a permit authorizing the commercial cultivation of marijuana for such purposes in accordance with the applicable provisions of this Code and all other applicable state and federal laws and regulations.

(b) No payment of any tax required under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Chapter implies or authorizes that any activity connected with the cultivation, possession or provision of marijuana is legal unless otherwise authorized and allowed by the State of California and permitted by the County. (Ord. 2567, § 1, 12/13/2016)

SECTION 9. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

SECTION 10. This ordinance is intended to restore the provisions of Chapter 9 of Division 1 of Title VII of the Humboldt County Code as they read before the adoption of Ordinance No. 2575 and to eliminate references suggesting property owners who are not permitted cannabis cultivators have an obligation to pay the tax due under that chapter. It shall be interpreted in light of that intent.

PASSED, APPROVED, AND ADOPTED the _____ day of _____, 2020, on the following vote, to wit:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

ESTELLE FENNELL, Chair
Board of Supervisors, County of Humboldt
State of California

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

ATTACHMENT 8

**ADDENDUM AND LINK TO THE PROGRAM ENVIRONMENTAL IMPACT REPORT (PEIR) FOR THE
AMENDMENT OF SMALL CULTIVATORS TO THE CCLUO**

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 changes to the Humboldt County Code known as the Small Cultivator 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 Small Cultivator 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 Small Cultivator Amendment (the Project) will facilitate permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway. 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://humboldtgov.org/2308/Cannabis-EIR> and <https://humboldtgov.org/547/General-Plan-Documents>.

The provisions, eligibility and siting criteria, and performance standards that make up the Project and the subject of this Addendum are contained in the Small Cultivator Amendment, 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 Small Cultivator Amendment (the Project) is 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 streamlined permitting for small farms adjacent to homes that existed prior to December 31, 2016, 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. 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 Small Cultivator Amendment (the Project) amends the Commercial Cannabis Land Use Ordinance (CCLUO) to allow streamlined and reduced cost permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016. Cultivation area for Project parcels is limited to 2000 square feet, and other location and operating criteria apply in order for the eligible farms to have minimal impacts on the environment, and on cultural, tribal, and archaeological resources. The Small Cultivator Amendment addresses inequities and cost barriers to licensing faced by traditional, small scale cultivators.

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 Small Cultivator 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.

The Project potentially affects parcels zoned AE, AG, FR and U that have a Resource Production General Plan land use, that are between one and five acres in size, and that have a home that existed before December 31, 2016. Under current code, the subject parcels are not eligible for cultivation with a zoning clearance permit because a five-acre minimum parcel size applies. As part of the streamlining process, under the amendment, small farms eligible for a zoning clearance through the amendment are presumed to have little to no potential for significant impacts to Tribal Cultural Resources, however, are not subject to consultation requirements. The Project amends the five-acre minimum requirement, subject to criteria including owner-occupancy, a limit on cultivation areas of 2,000 square feet, and location within the already disturbed homesite area of the existing home. In addition, eligible farms will have limits on water source, will require permaculture practice, and cultivation must be done outdoors or in a permitted or ag-exempt hoop house or greenhouse that does not use generators for electrical power. 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 Small Cultivator 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 Small Cultivator 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 Project extends permits for small scale cultivation on a limited class of parcels where no permit was allowed previously. 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 of an owner-occupancy requirement; a 2,000 square-foot limit on cultivation area; a requirement that site location be within the already disturbed homesite area of the existing home; a prohibition on water diversion; a requirement of permaculture practice; and a requirement that cultivation is done outdoors or in a permitted or ag-exempt hoop house or greenhouse that does not use generators for electrical power, 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 Small Cultivator 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. Potential lighting/glare impacts of small scale cultivation are counteracted by the requirement that cultivation must be conducted without use of artificial lighting. 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 PEIR, 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 small farms 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. Subject farms are required to be owner-occupied, and are limited to 2000 square feet of cultivation area, eliminating the need for additional employees at harvest time, and thereby eliminating an increase in traffic-related PM₁₀ emissions. The Project components would have less than significant impact to air quality with respect to odors due to the minimum parcel size of one acre combined with the cultivation area size limit. 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. The Small Cultivator Amendment limits new permits to already disturbed areas within the homesite area of an existing home. Permit requirements do not allow new ground disturbance, unpermitted or diverted water, artificial light, or cultivation using electrical power generation. 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, as cultivation activities must be carried out within the two (2) acre area of homes that existed before December 31, 2016.

Impact Analysis. The Project allows small scale cannabis cultivation within previously disturbed areas, eliminating the potential disturbance of historic or archaeological resources. 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 allows small scale cannabis cultivation in full sun outdoor or outdoor within permitted or ag-exempt hoopouses or greenhouses without the use of lights or fans or other components would require the use of generators for electrical power. Cultivation at Project scale would be significantly less than that considered in the PEIR. 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 Project 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. The potential for substantial soil erosion or loss of topsoil from small farm cultivation would be reduced through the required practice of permaculture. In addition, cultivation may not be located on, above, or disrupting leach field areas or systems. 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 (odors) and PM¹⁰ (traffic).

Impact Analysis. It is anticipated that the Project would not have any significant impacts from greenhouse gas emissions. Under the proposed amendment, eligible properties must have a pre-existing home that is occupied by the owners. Given that requirement, cultivation activities undertaken by property owners is unlikely to require additional employees beyond the existing homeowners. No new traffic would be generated, and small farms would not generate any additional impacts to greenhouse gas emissions. 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 affect locations adjacent to existing homes, and 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. Permaculture and polyculture depend on non-chemical means of moving nutrients and as pest control, reducing the potential for exposure to 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 Project permits small scale cultivation where the water source for irrigation is permitted and non-diversionary; permaculture is practiced; and cultivation is not located on, above, or disrupting leach field areas or systems. Cultivation using agro-forestry, swales, contour plantings, hedgerows and windbreaks, and integrated farming systems such as pond-dike aquaculture, aquaponics, intercropping, and polyculture all promote on-site soil and water management, and protect water quality. 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 Project 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 on small farms. 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. The Project limits cultivation area to 2000 square feet, and precludes the use of lights or fans or other components that would require the use of generators for electrical power. Any new construction that may result as part of the Project must adhere to the noise mitigation measure. Overall, permitted small farms would pose significantly less potential noise impacts than those considered in the PEIR due to size of cultivation sites and locations on parcels at least one acre in size. 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 adjacent to existing homes, in areas previously disturbed. In light of the PIER, 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 Project could result in increases to transportation if permitted small farms generate additional vehicle trips.

Impact Analysis. It is anticipated that the Project would not have any additional impacts to transportation and circulation. Under the proposed amendments, eligible properties must have a pre-existing home that is occupied by the owners. Given that requirement, cultivation activities undertaken by property owners will not generate any additional vehicle trips. Additionally, 2,000 square feet of cannabis is unlikely to require additional employees beyond the existing homeowners. 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. Small cannabis cultivation permitted by the amendment could be located on lands that contain, or are nearby previously unknown tribal cultural resources.

Impact Analysis. Small farms with up to 2,000 square feet of cultivation area would be located entirely within the two (2) acre area of homes that existed prior to December 31, 2016, and therefore, there is no potential for significant impacts due to disturbance or destruction of cultural

resources from land conversion and new development. The amendment presumes that cultivation in previously disturbed areas has little to no potential for significant impacts to Tribal Cultural Resources, however, 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. Small farms permitted through the Project could have potential indirect impacts to Utilities and Service Systems by use of additional water for irrigation. Other services would not be impacted because no increase in residents or employees are associated with the project.

Impact Analysis. It is anticipated that Project farms may require additional water for irrigation. Criteria set forth in the amendment include verification of a permitted and non-diversionary water source. This criterion, in combination with existing law and regulations, and permaculture practices that conserve, manage and recycle water, assure that the subject farms would not have a significant impact to water supply beyond what was considered as part of the PEIR. Permaculture practices generally recycle waste on-site and are anticipated to have less than significant impacts to the environment. Processing of cannabis in the small quantities produced in a 2000 square foot area are anticipated to have impacts on wastewater treatment that are less than significant. In light of the PEIR, 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. Small 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. Small farms with up to 2,000 square feet of cultivation area would be located entirely within the two (2) acres area of homes that existed prior to December 31, 2016, and therefore the risk of wildfire would not be substantially worse than that for the existing home. Cultivation at the scale permitted in the Project is unlikely to require additional employees beyond the existing homeowners, thereby minimizing potential impacts of additional residents. 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 Small Cultivator Amendment (Project) 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 Project, the incremental effects of permitting small cannabis farms are likely to be similar to those of any agricultural activity carried on in conjunction with a residence, as observed in the past and as anticipated in the future. In light of the PEIR, cumulative impacts of implementing the Small Cultivator 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 Project would not result in an increase in the severity of any of those potential impacts. Accordingly, for purposes of this Addendum, the

proposed Project 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 Small Cultivator 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 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 Project extends permits for small scale cultivation on a limited class of parcels where no permit was allowed previously. The expected effects 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 Small Cultivator 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 scale of permitted cultivation under the Project, combined with eligibility criteria, 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 Small Cultivator 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 Project, 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 Small Cultivator 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 Small Cultivator 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.

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 9

**ANALYSIS FOR CEQA EXEMPTION FOR THE AMENDMENTS TO THE OUTDOOR CULTIVATION OF
CANNABIS FOR PERSONAL USE ON SMALL PARCEL ORDINANCE AND
FINANCIAL SECURITY AMENDMENTS**

CEQA Compliance: The purpose of the Personal Use Amendment is to allow outdoor cultivation of medical marijuana for personal use on parcels larger than 5 acres in size. This extends the current regulations allowing outdoor cultivation of medical marijuana for personal use on parcels smaller than 5 acres in size. The current Medical Marijuana Land Use Ordinance for inland areas, Section 314-55, allows outdoor cultivation of medical marijuana for personal use on parcels smaller than 5 acres in size. It places limits on these parcels and establishes standards for cultivation in order to prevent neighborhood nuisance impacts and harmful environmental impacts that may occur as a result of unregulated marijuana cultivation. The limits and standards established by the existing ordinance will apply equally to parcels over five acres added by the amendment. Since measures to prevent nuisance impacts are anticipated to be even more effective on parcels larger than 5 acres, where potential impacts are less, the amendment would not pose any potentially significant environmental impacts. Because compliance with the ordinance will protect the environment, staff believes the activity covered by the amendment is not subject to CEQA.

The purpose of the proposed Financial Security Amendments is to ensure that taxes due in any given year will be paid on a timely basis. The proposed ordinance identifies different options for providing the necessary financial assurance.

Pursuant to Sections 15050(c)(2) and 15060(c)(3) of the CEQA Guidelines, an activity is not subject to CEQA when it will not result in a physical change to the environment either directly or indirectly. The Financial Security Amendments will not result in a change to the environment because it only affects financial aspects of cultivation. Furthermore, staff believes the activity covered by the ordinance does not constitute a “project” as defined under Section 15378 of the Guidelines, in that the adoption of the Financial Security Amendments will not result in a reasonably foreseeable direct or indirect physical change in the environment.

Even if the activity governed by the ordinance is a project under CEQA, the ordinance is exempt from CEQA under the following sections:

- §15061(b)(3) “common sense exemption”: “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”.
- §15308, Class 8: Actions taken by a regulatory agency to assure protection of the environment where the regulatory process involves procedures for protection of the environment.
- §15321, Class 21: Enforcement actions by regulatory agencies.

For the above reasons, staff believes the proposed Personal Use Amendment and Financial Security Amendment are exempt from environmental review under CEQA.

ATTACHMENT 10
PUBLIC COMMENTS

Adler, Elanah

From: Thomas Mulder <hrh707@outlook.com>
Sent: Sunday, August 2, 2020 10:06 PM
To: Richardson, Michael
Cc: Adler, Elanah; Ford, John
Subject: RE: Proposed Small Farmer and Personal Use Cannabis Ordinance Amendments

Thank you for this! Yes please include me in any further information regarding this proposed amendment. I feel this is really crucial to our community's survival.

I agree with the idea of the licensed premise within the curtilage area to streamline the process while mitigating potential environmental concerns. With that said can there be a provision added for allowing those small operators to process in an ag exempt building? As they would be doing this themselves and have access to their personal residence for bathrooms and hand washing. Processing is anywhere from 7-15% of your gross depending on market prices so it would be amazing to try to protect those small operators to be able to do that work themselves to try to stay above water as well as preserving quality control.

In regards to personal use I would love to see an area larger than 200 sqft on parcels over five acres. Would it be possible to allow up to 400 sqft if a parcel over 5 acres had two legal residences and had separate curtilage, ie each residence was allowed 200 sqft as long as it was separate?

This is all I have at first reading but if I have more I will contact you or add those comments to the public participation part during the ordinance adoption.

Thank you

Thomas Mulder

From: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Sent: Saturday, August 1, 2020 11:44 AM
To: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Cc: Adler, Elanah <EAdler@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>
Subject: Proposed Small Farmer and Personal Use Cannabis Ordinance Amendments

Hi all,

I hope you are doing well.

Attached for your review and comment are proposed Small Farmer and Personal Use Cannabis Ordinance Amendments.

What is Being Proposed

The Small Farmer amendments facilitate permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway. The eligible farms minimize the impacts on the environment and archaeological resources because they are owner-occupied, the cultivation area is no more than 2,000 square feet in size and within the already disturbed curtilage area of the existing home. Also, water for irrigation is provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation is done outdoors or in permitted or ag exempted hoopouses/greenhouses and does not use generators for electrical power.

The proposed Personal Use on Small Parcel Ordinance amendments establish standards for cannabis cultivation for personal use on parcels larger than five acres in size. The maximum allowed personal use

cultivation area on these parcels is proposed to be 200 square feet, which is the same as the maximum amount allowed on parcels between one and five acres in size.

Opportunities for Community Involvement

The Planning Commission is scheduled to review the draft ordinances at a public hearing on Thursday, August 20, 2020 beginning at 6pm where they will receive public comment. I will send you the official public notice for that meeting when it gets published.

The Planning Department will also be holding a public workshop via Zoom to explain the proposed ordinances and to gather public input in advance of the Planning Commission hearing. I will also send you the notice for that meeting when it gets scheduled in the coming days.

If You Have Questions or Comments

Please contact:

Lana Adler

Planner II

Humboldt County Planning and Building Department

3015 H Street, Eureka, CA 95501

eadler@co.humboldt.ca.us

707-268-3736

Thank you so much for your help reviewing these proposed ordinance amendments!

Michael Richardson

Supervising Planner

Humboldt County Planning and Building Department

mrichardson@co.humboldt.ca.us

(707) 268-3723

PS: We are sending these to you because you expressed an interest in the County's Commercial Cannabis Ordinance back in 2018. If you're not interested in receiving further information about this project, please let me know and I'll take you off the list of recipients.

Adler, Elanah

From: Thomas Mulder <hrh707@outlook.com>
Sent: Friday, August 7, 2020 5:17 PM
To: Ford, John; Richardson, Michael
Cc: Adler, Elanah
Subject: Re: Adding Financial Security Cannabis Ordinance Amendments

Ok thank you for the clarification and at that point that would make total sense for the county to have some sort of "insurance " if not able to place it on the tax rolls.

Thank you
Thomas Mulder

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From: Ford, John <JFord@co.humboldt.ca.us>
Sent: Friday, August 7, 2020 5:09:56 PM
To: hrh707@outlook.com <hrh707@outlook.com>; Richardson, Michael <MRichardson@co.humboldt.ca.us>
Cc: Adler, Elanah <EAdler@co.humboldt.ca.us>
Subject: RE: Adding Financial Security Cannabis Ordinance Amendments

Hi Thomas:

Thanks for looking at this. The surety provisions are options and there are three. If an applicant is different from the property owner there are three options. The first 2 require no involvement of the property owner. The third simply requires the property owner to consent to pay the cannabis tax. This requires no additional surety. If the applicant wants to pay the taxes, then some form of surety is required.

Hope this helps.

John



John H. Ford
Director
[Planning and Building Department](#)
707.268.3738

From: Thomas Mulder <hrh707@outlook.com>
Sent: Friday, August 07, 2020 4:57 PM
To: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Cc: Adler, Elanah <EAdler@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>
Subject: Re: Adding Financial Security Cannabis Ordinance Amendments

Hello am I reading this right that the new language would change cultivators to have to pay before the cultivation cycle again instead of in arrears as it is now? I read the part of a bond but that is an added financial burden. I'm guessing some people are trying to avoid payments? I will tell you first hand I didn't pay my first installment as I chose to pay my annual license fee instead, the 10% fee is cheaper than hard money as cultivators can't pull equity out of their farms with a conventional mortgage or line of credit due to the state license. I currently would pay my taxes due now but after the

tax collector discrimination towards me for paying my property taxes in cash and charges me a late fee I will wait until the last day to pay(just giving you some background information there). Also what happens if a project doesn't pay and the bill goes to an individual or corporation, can the landowner then lease that project or space to another entity without the taxes being paid? The reason I ask is there have been a few places "in the process " raided over the years that just changed their corporate structure and they have been granted permits (even though the same people really run the operation) So just want to make sure someone couldn't play a shell game to avoid taxes?

Thank you
Thomas Mulder

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From: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Sent: Friday, August 7, 2020 4:41:32 PM
Cc: Adler, Elanah <EAdler@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>
Subject: Adding Financial Security Cannabis Ordinance Amendments

Hi all,

In addition to the CCLUO ordinance amendments I sent you last week, we are adding another Cannabis Ordinance amendment to the package going to the Planning Commission on Thursday August 20, 2020 beginning at 6 pm. - Financial Security Amendments (attached). The purpose of these additional amendments is to better align the CCLUO with the requirements of the County's cannabis tax ordinance and to ensure timely payment of annual taxes.

Also we were not able to schedule a public workshop in time to review the draft ordinances before the Planning Commission hearing, so please send your comments and suggestions to Lana at the email/address below and we will forward them to the Planning Commission.

Lana Adler

Planner II

Humboldt County Planning and Building Department

3015 H Street, Eureka, CA 95501

eadler@co.humboldt.ca.us

707-268-3736

Thank you for your help with these proposed ordinance amendments.

Michael Richardson
Supervising Planner
Humboldt County Planning and Building Department
mrichardson@co.humboldt.ca.us
(707) 268-3723

PS: We are sending these to you because you expressed an interest in the County's Commercial Cannabis Ordinance back in 2018. If you're not interested in receiving further information about this project, please let me know and I'll take you off the list of recipients.

SUPPLEMENTAL INFORMATION

For Planning Commission Agenda of:
September 3, 2020

<input type="checkbox"/>	Administrative Agenda Item	}
<input checked="" type="checkbox"/>	Continued Hearing Item	}
<input type="checkbox"/>	New Hearing Item	}
<input type="checkbox"/>	Old Business Item	}
<input type="checkbox"/>	New Business Item	}

Subject: Public Hearing on Draft Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO) for:

- Small Cultivators (Case # PLN-2020-16447),
- Financial Security (Case # PLN-2020-16571), and
- Amendment to the Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance (Case # PLN-2020-16479)

Attached for the Planning Commission's record and review are the following supplementary information items:

1. Responses to comments received on the draft cannabis ordinance amendments.
2. Revised Attachment 5 – Small Cultivator Amendments modified to respond to comments received.

Responses to Public Comments on the Small Cultivator, Personal Use and Financial Security Amendments to the Cannabis Ordinances August 31, 2020

Name & Date	Comment	Staff Response
<i>Small Cultivator Amendments</i>		
Department of Environmental Health (DEH) Ben Dolf 7/23/2020	Section 55.4.6.1.2 and 55.4.6.5.1.1 add "Fertilizer/pesticide mixing and application occurs more than 50' from any groundwater well."	No changes are recommended because this requirement should be in the County's Health and Safety Code, not the CCLUO.
Department of Environmental Health (DEH) Ben Dolf 7/23/2020	Section 55.4.6.1.2 and 55.4.6.5.1.1, #6, modify to read: "The residence is served by a properly functioning sewage disposal system, and the cultivation will not permanently impact or eliminate area available for disposal field replacement."	No changes are recommended because the CCLUO makes a distinct separation between Cannabis Cultivation and existing residences. For example, Section 55.6.5.7 Provisional Permitting limits compliance agreements to "not extend to personal residences".
Thomas Mulder 8/2/2020	Add allowance for small operators to process in an ag exempt building.	No changes are recommended because they would require an amendment to the building code which is beyond the scope of this item.
Tribal Historic Preservation Officers from Bear River, Blue Lake, Wiyot and Yurok Tribes 8/7/2020	Concern regarding Section 55.4.5.1.5 of 1 st edition of Amendments, which did not include tribal consultation for applications within the "curtilage/homesite area"	Agreed. Tribal Consultation led to striking the proposed amendments to Section 55.4.5.1.5 so that new applications under the Small Cultivator Amendments have the same requirements as any CCLUO cultivation permit, which requires tribal consultation as part of the permitting process. The Tribes expressed agreement on the Planning Commission Hearing draft of 8/20. Another consultation meeting is scheduled on 9/1 with the

Name & Date	Comment	Staff Response
		Karuk Tribe. The results of that consultation will be presented to the Planning Commission during the public hearing.
Unknown caller 8/20/2020	Ordinance allows lights and fans and other components as long as they are powered by something other than a generator. We should only be allowing full sun outdoor cultivation with these amendments without use of any electricity.	Agreed. Proposed modifications to the ordinance: "4. Cultivation is full sun outdoor or 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 generators for electrical power."
Unknown caller 8/20/2020	Concern about adding a definition for an on-site nursery which normally requires electricity. This is beyond the scope of the proposed amendments.	Agreed. While this is something that we need to address in the CCLUO, it is not necessary for the Small Farmer Amendment and should be removed. Proposed modifications to the ordinance: Delete definition of On-Site Nursery.
Eugene Denson 8/20/2020	Wants to see amendments to the whole of the CCLUO to include; 1. The permit is automatically approved in 30 days unless a letter with specific deficiencies has been sent. 2. The fees are capped at the amount of the deposit so that applicants will not be surprised by later charges.	No changes are recommended because amending the permit requirements for all other commercial cannabis activities is beyond the scope of this item.
Eugene Denson 8/20/2020	Disagrees that the water source requirement of Section 55.4.6.1.2(a) 3) needs to be both permitted	No changes are recommended to address these comments. While staff agrees with the comment

Name & Date	Comment	Staff Response
	<p>and non-diversionary. Recommends using “jurisdictional water use must be permitted.” because water use for the growing season could be supplied either by diversion of a class III stream in the rainy season or by captured rainfall. Thus, that non-diversionary requirement is cosmetic and not essential and does no harm to the environment. Additionally, a well might be permitted, but there is no need for a permit for rainfall capture.</p>	<p>that not all water capture methods require permits, in such cases, an application would be complete without a permit for the water source because the water source is permitted by default. Also, no changes are recommended to the non-diversionary water source requirement because they provide for streamlined permitting from state agencies.</p>
<p>Eugene Denson 8/20/2020</p>	<p>Section 55.4.4 definition of Permaculture is vague; it should reference some standards which can be understood and followed.</p>	<p>Agreed. The Planning Commission Hearing Draft Section 55.4.4 (definition of Permaculture) includes standards that can be understood and followed: “the exclusive use of native soil; organic fertilizers, pesticides, rodenticides and insecticides; and use of water efficient irrigation systems for all commercial cannabis cultivation.” No further changes are recommended.</p>
<p>Eugene Denson 8/20/2020</p>	<p>The cultivation must be “full sun”, reads that to preclude growing in partial shade, that is not the intent & suggests deleting the term. “Outdoor” conveys what is wanted.</p>	<p>Agreed. The definitions in the CCLUO reference “outdoor” and do not reference “full sun”. To clarify, the following proposed modifications have been made: 4. Cultivation is full sun- outdoor or outdoor within permitted or ag exempted hoopouses or greenhouses ...</p>

Name & Date	Comment	Staff Response
Eugene Denson 8/20/2020	Section 55.4.6.1.2(a) 6) is unclear what "above" a leach field means that "on" a leach field doesn't. Suggests striking one or the other, but there's no harm as written if you don't mean to rule out land uphill from the field and that's made clear.	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	The requirements of Section (55.4.6.1.2 (a) 8) for the parcel being legally created is improper. If the parcel has an APN and the county collects taxes on it, then the legality of its creation is a technical issue for the county with no practical effect on cannabis cultivation and it should be dropped. These legal parcel issues seem go reach back for decades. I applaud wanting to straighten them out, but they have nothing to do with commercial cannabis cultivation. The county knows how to cure a parcel that is not "legally created" and should fix it without burdening the owner.	No changes are recommended to address these comments. This section helps ensure internal consistency between the proposed amendments and the other requirements of the Zoning Ordinance, specifically Title III, Section 312-11.2 of the Humboldt County Code which states that "Development permits shall be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations."
Eugene Denson 8/20/2020	Commenter applauds the cost of the permit not exceeding the deposit, but I would feel more comfortable knowing what the deposit will be.	Currently, the deposit for a Zoning Clearance Certificate is approximately \$3,000.
Sarah Bstar 8/20/2020	Definitions, "Home-site": Commenter asks if this means a permitted residence, because a lot of	No changes are recommended to address these comments. The Homesite Area definition

Name & Date	Comment	Staff Response
	<p>rural dwellings are not permitted, despite residents' willingness to do so. The long debate over rural living has not "had its day in court". The community's reactions to code enforcement actions since the 80's have clearly (and loudly) expressed interest in non-standard development.</p>	<p>describes the area around a home without establishing a permit requirement for the home.</p>
<p>Sarah Bstar 8/20/2020</p>	<p>Definition of Permaculture seems at odds to say that water must be stored in plastic lined ponds or tanks but that growing must occur in the ground. And that a key principle in Permaculture is groundwater recharge and value added cultivation is part of a fully functioning homestead. For example, breeding chickens for select traits in a controlled environment, cage culturing fish or utilizing greenhouses for the growing of specialty crops are all components to natural farming. The commenter provides examples of permaculture techniques.</p>	<p>No changes are recommended to address these comments. The proposed amendments do not require water be stored in plastic lined ponds or tanks.</p>

Name & Date	Comment	Staff Response
Sarah Bstar 8/20/2020	CEQA Addendum, The industrial model that has appeared on the landscape since the adoption of Humboldt County's Commercial Cannabis Cultivation Ordinance has encouraged more ground disturbance, more stream and road work, more infrastructure and more vegetation disturbance than the CEQA suggests. The abatement of small scale family farms, that were giving back to the land and living simply so that others may simply live has done irreparable harm to both the human and nonhuman communities.	These comments are directed at the EIR for the CCLUO – they are not directed at the proposed Addendum. The proposed amendments are intended to encourage the entry of the small family farms mentioned by the commenter into the legal cannabis marketplace. No changes are recommended to address these comments.

<i>Personal Use Amendments</i>		
Thomas Mulder 8/2/20	Allow up to 400sf if a parcel over 5 acres.	Agreed. Proposed Planning Commission Hearing Draft allows up to 400sf of outdoor cultivation if a parcel is over 5 acres in size
Thomas Christie 08/14/2020	Commenter asked if the proposed Amendments to the Ordinance would mean if there is a current 215 registered to the property, I can still do 99 or less?	No changes are recommended to address these comments. Staff notes that State law limits personal use cannabis cultivation to a maximum of six plants per household - the County's cannabis ordinances do not modify those limits.
Laura Cooskey 8/15/2020	Commenter had several questions about how the Amendments to the Ordinance are proposed and how that works with State Law and the Sheriff's Department. She has gotten conflicting information and wants to understand what is allowed on her parcel that has two (2) residences on it.	No changes are recommended to address these comments.
Michael M Gordon 08/19/2020	Commenter is concerned that the Proposed New Amendments to Establish Personal Use Allowances for Large Parcels is NOT adequate to address the needs of Qualified Patients and Primary Caregivers. And provides the following proposed revision (in bold): 55.2.7.1 It shall not be deemed a nuisance per se for a "Qualified Patient" or "Primary Caregiver" to cultivate medicinal Cannabis outdoors for therapeutic use as an alternative to indoor cultivation, as defined herein, if	No changes are recommended to address these comments. While the Personal Use Ordinance could benefit by adding standards for Primary Caregivers, this is outside the scope of the proposed amendments - to establish standards for Personal Use cultivation on parcels larger than five acres in size because there are currently no provisions for Personal Use on parcels larger than five acres in size. Staff is concerned that adding fixes outside of those necessary to

	the following restrictions are adhered to:	fulfill the purpose of the amendments can distract from and unnecessarily complicate the review of the proposed amendments.
Michael M Gordon 08/19/2020	Commenter suggests the following changes in bold: 55.2.7.2.2 On parcels greater than one (1) acre and up to five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoors may not exceed two hundred (200) square feet in size for each “Qualified Patient” who resides at the property not to exceed four hundred (400) square feet , nor may cultivation occur within forty (40) feet of a property boundary line, where the neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size; and	No changes are recommended to address these comments. The intent of this Amendment is a clean-up item of the County's personal cannabis cultivation ordinances, because there are currently no provisions for Personal Use on parcels larger than five acres in size. The change suggested in this comment would allow parcels between one to five acres in size to have up to 400 square feet of canopy which is beyond the scope of these amendments.
Michael M Gordon 08/19/2020	55.2.7.2.3 On parcels greater than five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoor may not exceed two hundred (200) square feet in size for each “Qualified Patient” who resides at the property or “Qualified Patient” designated to a “Primary Caregiver” who resides at the property, not to exceed a total of twelve hundred (1200) square feet, nor may cultivation occur within forty (40) feet of a property boundary line, where the	No changes are recommended to address these comments. State law limits Personal Use cultivation to six plants per household. The proposed 400 square foot canopy limit is sufficient to accommodate the state's maximum allowances for Personal Use cultivation.

	neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size	
Eugene Denson 8/20/2020	Proposition 64 does not pertain to medical cannabis. See Health and Safety Code section 11018 where it cites the Proposition to state it applies to "nonmedical cannabis."	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	Health and Safety Code section 11362.1 was contained in Prop. 64 and it allows 6 plants. As the Prop did not apply to medical cannabis, neither does this section of the Health and Safety Code	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	HCC Section 314.5.2. does not apply to the 6 plants under HSC 11362.1	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	Proposition 215 (Health and Safety Code 11362.5) remains the law in California. Much of the interpretation of this brief law has been in court decisions handed down since 1996 when it became law. The commenter provides these sections and interprets the court cases. The commenter makes points that medical cannabis amounts are set between doctor and patient, not by the state, county or city.	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	There is nothing inherent in the cultivation of cannabis that requires non-commercial medical cultivation to be limited to 400 square feet on parcels larger than 5 acres. Indeed, the county encourages commercial cultivation and has permitted	No changes are recommended to address these comments. State law limits Personal Use cultivation to six plants per household. The proposed 400 square foot canopy limit is sufficient to accommodate the state's

	<p>many operations 25, 50, even 500 times larger than the medical limit sought. In fact, the county is presently contemplating an ordinance with concessions for "small farmers" who will restrict themselves to operations 5 times larger than the proposed limit on non-commercial medical gardens. If 401ft² of cannabis threatens the health and safety of the county's residents, those dangers must be nothing compared with the dangers 10,000 ft² or 100,000 ft² create, right? The health and safety rationale for this regulation won't work,</p>	<p>maximum allowances for Personal Use cultivation.</p>
<p>Eugene Denson 8/20/2020</p>	<p>There being no legal or medical purpose in restricting the size of medical gardens, it seems apparent that the ordinance's purpose is to bolster the county's failing commercial licensing system by driving more people to have to buy their medicine rather than grow it. Or, to put it more kindly, the Board believes that the doctors, despite their years of demanding education and their years of experience in practice, are mistaken about their patients' needs; and the amendment's purpose is to correct these medical professionals mistakes by replacing their medical opinions with the medical opinions of a majority of the Board of Supervisors.</p>	<p>See above response.</p>

<p>Eugene Denson 8/20/2020</p>	<p>If the Board believes that driven by need or greed medical patients might sell their medicine, society has a way to handle that: criminal laws enforced by the Sheriff. Rather than reduce legal medicine to sick people, increase the Sheriff's budget and leave the crime-stopping to people trained to do it. Using civil law to preemptively prevent crime is a perversion of good government. In the justice system "It is better than 10 guilty people go free than that 1 innocent person be convicted." I believe that is the proper standard for the Board to use. Why should the people trust a government that doesn't trust them?</p>	<p>No changes are recommended to address these comments.</p>
<p>Eugene Denson 8/20/2020</p>	<p>The US and State Constitutions guarantee the people equal treatment under the law. This goes for medical patients growing their cannabis as well as large scale commercial enterprises. You might be able to justify being stricter with commercial growers than with sick individuals, but I don't think you can justify the opposite.</p>	<p>No changes are recommended to address these comments.</p>

<i>Financial Security Amendments</i>		
Thomas Mulder 8/7/20	Seeking clarification – if an owner is an applicant and agrees to pay the taxes, no performance bond is required.	Agreed. Also, if the property owner is leasing their property to an applicant and the owner agrees to pay the taxes no performance bond is needed. No ordinance changes are necessary.
Ross Huber, C&D Huber 8/20/20	Opposed to Amendments – believes it's unfair to penalize legal cannabis farms by requiring bonds vs. other businesses	No changes are recommended to address these comments. Although some changes are being made to the Commercial Marijuana Cultivation Tax Code, these amendments are intended to better align the CCLUO. Additionally, with a property owner's agreement and/or approval, no additional costs will be incurred by cultivators who are either property owners or have permission from the property owner to make an agreement to pay taxes.
Eugene Denson 8/20/2020	I am not a tax attorney, so there's lots I don't know about taxation, but I can't think of any other special tax that has to be paid in advance. Doesn't the County trust the growers? They are very people who are the financial backbone of the County economy, after all. The advance payment sections of this ordinance make me feel a bit more like living in a County occupied by a foreign power than like we have a government that is part of our community. We seem to have a government of the government, by the government and for the government.	No changes are recommended to address these comments. Advance payment is one option, bond is another, written consent of the owner is another which doesn't require advance payment of taxes.

<p>Eugene Denson 8/20/2020</p>	<p>I am not a specialist in governmental law, but don't you think it's strange that the security for taxes is being given to the Planning Department and not the Tax Collector?</p>	<p>No changes are recommended to address these comments. The Planning Department oversees compliance with the CCLUO which is proposed to now have a requirement for security for upcoming taxes due in the upcoming growing year. Administration of this requirement is functionally related to ensuring compliance with the other annual permit requirements, so it is logical for the Planning Department to take on these additional duties.</p>
<p>Eugene Denson 8/20/2020</p>	<p>These prepayments of the taxes place yet another burden on the cultivators. It wasn't long ago that the county was postponing tax payments so that struggling growers could harvest before paying.</p>	<p>No changes are recommended to address these comments. As stated previously, the proposed ordinance includes an option that does not require any prepayment.</p>
<p>Eugene Denson 8/20/2020</p>	<p>These impositions of advance taxes show the complete lack of faith the County has in the people it governs. This is not a healthy relationship between the government and the governed.</p>	<p>No changes are recommended to address these comments.</p>
<p>Holly Carter 8/20/2020</p>	<p>While the overdue bills are certainly a concern, the burden to be placed on the permit holders and the planning department to acquire and accurately track additional paperwork or payments. As we are all aware, there have been concerns in this regard, and I have concerns with adding layers of compliance and paperwork for all involved. The cost burden is another concern, a concern shared by our Board</p>	<p>No changes are recommended to address these comments. Staff acknowledges these new requirements will increase the paperwork required for commercial cannabis applicants. This is balanced with fairer treatment for all applicants by ensuring up-front payments or owner consent to pay upcoming tax bills.</p>

	when the timing of payment was shifted.	
Holly Carter 8/20/2020	As a condition to compliance, non-payment of the cultivation tax already is a trigger for permit to be deactivated. Please encourage departments to utilize the tools already available, rather than add hurdles.	No changes are recommended to address these comments. Ensuring up-front payments or owner consent to pay upcoming tax bills is a less disruptive option than permit deactivation for the County and applicants.
Margro Advisors 8/20/2020	Commenter is writing in firm opposition to the proposed Financial Security amendments ordinance. These changes assume that all legal tax paying Cannabis farmers are expected to be delinquent in paying their excise tax. Additionally, this proposed requirement which does not exist for other types of farmers, once again shows the county's ongoing discrimination against those who have the courage to willingly travers the many challenges which exist on the path to legal Cannabis permitting, licensure, and ongoing compliance.	No changes are recommended to address these comments. With a property owner's consent to pay upcoming tax bills, no additional costs will be incurred by applicants.
Margro Advisors 8/20/2020	Commenter states that if late fees are still insufficient penalties, then a bond should only be required for repeat offenders who have failed to pay. To that we say punish the bad actors if you must, but stop punishing those who deserve our support for the courage to weather these ongoing challenges in a highly-regulated market. To do otherwise, is not in the best interest of our community.	While this alternative mechanism for ensuring financial security for upcoming tax bills should be considered, staff believes the proposed mechanism is more likely to result in fairer treatment of all commercial cannabis applicants.

ATTACHMENT 5

**DRAFT SMALL CULTIVATOR AMENDMENTS TO THE
COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO)**

Modified to Respond to Comments Received

ORDINANCE AMENDING SECTIONS 314-55.4.6.1, 314-55.4.6.5 AND 314-55.4.12.1.10 OF THE COMMERCIAL CANNABIS LAND USE ORDINANCE IN CHAPTER 4 - ZONING REGULATIONS (TITLE III OF HUMBOLDT COUNTY CODE) TO FACILITATE PERMITTING OF SMALL FARMS ADJACENT TO HOMES

ORDINANCE NO. _____

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

SECTION 1. PURPOSE. The ordinance facilitates permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway. The eligible farms minimize the impacts on the environment and archaeological resources because they are owner-occupied, the cultivation area is no more than 2,000 square feet in size and within the already disturbed homesite area of the existing home. Also, water for irrigation is provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation is done outdoors or in permitted or ag exempted hoopouses/greenhouses and does not use generators for electrical power.

SECTION 2. TEXT AMENDMENTS.

Section 314-55.4.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

55.4.4 **DEFINITIONS**

“Homesite Area” means the land up to 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.

“On-site Nursery” means a facility that produces only clones, immature plants, and seeds for licensed cultivators to be used specifically for on-site planting, propagation, and cultivation of cannabis, of which does not exceed 20% of the area of the Cultivation Area.

“Permaculture” means is 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.

Section 314-55.4.6.1 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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 5 acres.

55.4.6.1.2 Minimum Parcel Size and allowed Cultivation Area

- a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:
1. Cultivation is located within the Homesite Area of the home, and the home existed prior to December 31, 2016; and
 2. The property is owner-occupied; and
 3. Water source for Irrigation is permitted and non-diversionary; and
 4. Cultivation is **full sun** outdoor or 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 **generators for** electrical power; and
 5. Permaculture is practiced; and
 6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
 7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
 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 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.

- ~~a~~ b) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size:
- 1) up to 5,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 10,000 sq. ft. of Cultivation Area with a Special Permit.
- ~~b~~ c) On parcels 10 acres or larger in size:
- 1) up to 10,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 43,560 sq. ft. of Cultivation Area with a Special Permit.

e d) On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted. All cultivation 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.

Section 314-55.4.6.5 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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 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 Non-Forested areas with Slopes of 15 percent or less.

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

Except as stated below, applications for Pre-Existing Cultivation Sites submitted before December 31, 2018 may be permitted at one hundred percent of the documented pre-existing cultivation area and applications for pre-existing cultivation submitted between January 1, 2019 and December 31, 2019 shall not be approved for more than fifty percent of the documented existing cultivation area. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019, except applications for cultivation sites of 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 of the documented pre-existing Cultivation Area up to 2,000 square feet.

55.4.6.5.1 Small Cultivation Sites

55.4.6.5.1.1 On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

1. Cultivation is located within the 2-acre Homesite Area of the home, and the home existed prior to December 31, 2016; and
2. The property is owner-occupied; and
3. Water source for Irrigation is permitted and non-diversionary; and
4. Cultivation is **full-sun** outdoor or 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 generators for** electrical power; and
5. Permaculture is practiced; and
6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
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 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 5 acres or larger in size, up to 3,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Zoning Clearance Certificate, subject to the following additional requirements and allowances:

- a) The operator’s principal residence is located on the same parcel and the residence was in existence before January 1, 2016
- b) Not more than one cultivation permit may be issued for the same Parcel.
- c) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply
- d) The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:
 - i. Within one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant 55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.
 - ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.
- e) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

55.4.6.5.2 On an AE zoned parcel less than one acre in size, up to 2,500 square feet of Cultivation Area may be permitted with a Special Permit.

55.4.6.5.3 On parcels between one acre and five acres in size, up to 3,000 square feet of Cultivation Area may be permitted with a Special Permit.

SECTION 3. SEVERABILITY. The individual parts of this ordinance are severable, such that if one or more parts are determined to be invalid, all the other parts will remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED, AND ADOPTED the ____ day of _____, 2020, on the following vote, to wit:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

ESTELLE FENNELL, Chair
Board of Supervisors, County of Humboldt
State of California

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

PLN-2020-16479

To: County of Humboldt Planning Commission
Humboldt County Courthouse Aug 20, 2020
825 5th Street, Eureka, Ca 95551

From: Huber C&D
Po Box 882, Garberville, Ca, 95542

Dear Planning Commission,

We are writing in firm opposition to the proposed Financial Security amendments ordinance which would require paid security bonds from all legal Cannabis farmers in the County to ensure payment of the county's excise tax.

Please stop treating legal cannabis farmers differently than you do other businesses. It is time to move on from this discriminatory attitude toward cannabis farmers that assumes they are criminals first, and law abiding tax payers second. These brave folks are the only lifeline for our struggling economy. Don't bite the hand that feeds us. For the county to add another expense to the ongoing compliance burden of these farmers is incredibly unfair and short sighted. There are criminals and bad actors in every industry, but the attitude of the planning department seems to be that the entire cannabis industry is composed of criminals and bad actors which I think warrants some self reflection.

Your efforts to continually move the ball on regulations has cost these business owners over and over. Every change leads to increased costs in professional consultation fees, having to re-design previously approved project documents, not to mention lost revenue due to planning department delays on infrastructure changes that would have improved their efficiency, but are now on hold due to regulatory changes that did not exist at the time the infrastructure was proposed.

The first year that you implement this scheme will require people to effectively pay the tax twice in the same year. It removes months of available timeline to decide how much the farmer is going to be able to cultivate the following year. If we have a drought, and people have to reduce their square footage due to lack of rainwater captured, they will not have the opportunity to make the adjustment because they will have already paid the fees for more square footage. Many people do not sell their crop until after the first of the year, so may not have the funds to pre-pay the fee.

For all taxpayers, late penalties already exist for those who fail to pay ontime. For cannabis farmers unpaid taxes already put their permit at risk. A bond should only be required for those who have failed to pay their fees.

Respectfully,

Ross Huber
Huber C&D

From: [Eugene Denson](#)
To: [Planning Clerk](#); [Eugene Denson](#); [S.Nv](#); [KMUD News](#); [Shomik Mukherjee](#)
Subject: Comments on 3 proposed Ordinances for 20 Aug 20 Planning Commission meeting
Date: Thursday, August 20, 2020 5:23:03 PM

EUGENE C DENSON, ATTORNEY AT LAW
POB 158, Alderpoint, Ca 95511 USA
707-923-4764, Fax 707-926-5250
edenson95511@gmail.com. www.marijuanadefenselawyer.com

20 Aug 2020

The Planning Commission
Planningclerk@co.humboldt.ca.us

Hello,

Public Comment Re Agenda item H2: Cannabis Ordinance for Small Farmers
Analysis:

This small farmer amendments represent a major and important shift in County permitting policy for commercial cannabis cultivation. I have a number of issues with specific sections, but on the whole it is so much better that the ordinances that preceded it that I have to congratulate the drafters. I hope they will amend the main permitting ordinance to include two very important advances:

1. The permit is automatically approved in 30 days unless a letter with specific deficiencies has been sent. There is an enormous backlog of permit applications now which endangers the financial viability of the applicants through no fault of their own.
2. The fees are capped at the amount of the deposit, so applicants will not be surprised by later charges. They are presently sometimes unable to meet the additional costs.

Here is a discussion of the drafting issues I found with the proposed ordinance:

1. Water source: 55,4,6,1,2 (a) 3. This must be non-diversionary and permitted. I take issue with both requirements. **Water diversions** for cannabis must be completed by the end of the rainy season. Rainfall on any parcel in Humboldt county can be measured in acre-feet. Each acre receives about 3-5 feet of rainfall during the season. An acre-foot is 325,828.8 gallons if my calculations are correct (acre-foot = 43560 ft³. 1 ft³ = 7.48 gallons). Thus, a rainfall season of 40" results in almost a million gallons per acre reaching the ground. The internet tells me that a 30ft² plant uses 900 gallons a year according to Fish and Game. If we assume a sea of green with no gaps in canopy a 2000 ft² garden will need 60, 000 gallons of water a year. Rainfall capture could easily supply this, so could any class III stream, so the non-diversionary requirement is cosmetic not essential. I prefer rainfall capture in ponds, but permitted diversion does no harm to the

environment and I would remove the requirement from the ordinance.

Permitted: A well might well be permitted, but there is no need for a permit for rainfall capture. My roof is say 1600 ft² (40x40 house approximately). Capturing the rain from my roof during a 40" year, which is low, would give me an estimated 70 gallons per ft², or 112,000 gallons, and except for this ordinance, no permit required. I would say "jurisdictional water use must be permitted." (i.e. water for which a permit is required to capture or store). I recommend anyone relying on my math double check it.

2. Permaculture is defined in section 55.4.4 (which is not cited in the Ordinance title and probably should be.) But the definition is hopelessly vague, and so, Constitutionally invalid. I think permaculture is a great idea, but I don't see it as a requirement for a 40x50 garden. If it is going to be required then the definition must reference some standards which can be understood and followed. It seems aspirational rather than defined here.

3. The cultivation must be "full sun." I read that to preclude growing in partial shade. Surely that is not the intent. I would delete the term. "Outdoor" conveys what is wanted, I believe.

4. The restrictions on greenhouse electrical appliances seem to be aimed at generators. It would be cleaner to say, "No power from a generator may be used at any time in or for the greenhouse or its appliances." I imagine the County does not object to solar power, or PG&E power. (55.4.6.1.2 (a) 4)

5. I do not understand what "above" a leach field means that "on" a leach field doesn't. I would strike one or the other, but I suppose there is no harm as written if you don't mean to rule out land uphill from the field and that's made clear. (55.4.6.1.2 (a) 6)

6. The requirement for the parcel being legally created is improper. If the parcel has an APN and the county collects taxes on it, then the legality of its creation is a technical issue for the county with no practical effect on cannabis cultivation and it should be dropped. These legal parcel issues seem go reach back for decades. I applaud wanting to straighten them out, but they have nothing to do with commercial cannabis cultivation. The county knows how to cure a parcel that is not "legally created" and should fix it without burdening the owner. (55.4.6.1.2 (a) 8)

7. I applaud the cost of the permit not exceeding the deposit, but I would feel more comfortable knowing what the deposit will be.

With these problems cured a very good ordinance will be an excellent one, judging from my initial survey of it.

ED Denson for The Rights Organization.

Hello, these are my comments on the proposed amendment to Section 314-55.2 of the County ordinances as revised. Please consider them and place them in the public record. The present code places no size limit for medical cannabis cultivation on parcels larger than 5 acres. The present code places no size limit on the cultivation of personal recreational cannabis on parcels larger than 5 acres. The amendment title purports to lump personal recreational cannabis in with medical cannabis but the HCC section being modified expressly applies only to personal medical marijuana. I oppose the amendment for the reasons below.

Here are my points in summary:

- A. Personal medical cannabis is not also personal recreational cannabis. They have separate purposes and are governed by separate laws. The proposed Amendment does not apply to personal non-medical cannabis but the title suggests it does.
- B. The amount of medical cannabis a patient needs is properly determined by the patient and their doctor without input from the county or state.
- C. A medical cannabis plant presents no more danger to public health and safety than does a commercially permitted plant. We have hundreds of thousands of commercial cannabis plants on parcels greater than 5 acres in size, so referring to these dangers is just a pretext for restricting personal medical cannabis. It is groundless.
- D. Restricting the amount of cannabis that can be grown by the small number of patients who need more than 400 ft² is medically indefensible, commercially purposeless, and fails to provide patients equal protection under the law.
- E. The ordinance makes no provision for caretaker gardens. A caretaker may service up to 5 patients.

Here are more developed arguments making those points.

1. Proposition 64 does not pertain to medical cannabis. See Health and Safety Code section 11018 where it cites the Proposition to state it applies to “nonmedical cannabis.”
2. Health and Safety Code section 11362.1 was contained in Prop. 64 and it allows 6 plants. As the Prop did not apply to medical cannabis, neither does this section of the Health and Safety Code
3. HCC Section 314.5.2. does not apply to the 6 plants under HSC 11362.1
4. Proposition 215 (Health and Safety Code 11362.5) remains the law in California. Much of the interpretation of this brief law has been in court decisions handed down since 1996 when it became law. It is a bit complicated, but it comes to this:
 - a. A “qualified patient” becomes qualified by having the recommendation

or approval of a California doctor for the use of medical cannabis.

b. The amount of cannabis a qualified patient may grow and/or possess is “an amount reasonably related to their then current medical needs”

(*People v Trippet*, 56 Cal. App. 4th 1532).

c. The standard time period for the amount is a one-year supply (which assumes outdoor cultivation).

d. This amount the patient needs varies from individual to individual depending upon a variety of factors, most of which are not well understood scientifically. The person most likely to know the amount they need is the patient.

e. To prevent endless numbers of jury trials to see if the patient is believed, some basic rules of thumb regarding limits were enacted into state and local law. Patients whose cultivation and/or possession does not exceed these rules were presumed to be within the legal amounts.

i. State: 12 immature or 6 mature plants. One-half pound of bud, unless county limits are higher.

ii. Humboldt County: 100 ft² of canopy and three pounds of bud.

f. Both county and state limits are subject to higher limits set by the doctor qualifying them as medical patients. The law establishes no upper limit on doctor-set amounts, and the patient is legally entitled to rely upon them. The doctor’s word is beyond the reach of the law. Disputes are settled by the medical board, not local authorities or courts.

g. A small number of patients have, after consultation with a doctor, been given documented limits (215’s) which are higher than the local or state limits. These limits are sometimes expressed in terms of plant numbers rather than canopy size and are usually coupled with amounts of processed cannabis (“bud”) expressed in pounds. At least one doctor recommends in terms of weight of CBD in the bud per pound of body weight.

h. These 215s in some cases cannot be satisfied by the amount a patient can grow in a limited space such as the proposed, 400 ft² of canopy. Therefore, placing a canopy limit per patient without providing for exceptions is not sound regulation. I would not base the exceptions on medical conditions for the reasons in d. above.

i. Multiple patient gardens are still legal, also, although restricted by relationship to the cultivator, and number of patients. I believe the upper limit is 5. These too cannot always provide the needed medicine in 400 ft² of space.

j. Setting an arbitrary canopy or garden size limit will result in denying some patients sufficient medicine. Cannabis is expensive on the market and the very patients who have the greatest need are likely to have the least ability to buy it. The result would be needless suffering, and in a few

cases possibly death by suicide.

5. There is nothing inherent in the cultivation of cannabis that requires non-commercial medical cultivation to be limited to 400 square feet on parcels larger than 5 acres. Indeed, the county encourages commercial cultivation and has permitted many operations 25, 50, even 500 times larger than the medical limit sought. In fact, the county is presently contemplating an ordinance with concessions for “small farmers” who will restrict themselves to operations 5 times larger than the proposed limit on non-commercial medical gardens. If 401 ft² of cannabis threatens the health and safety of the county’s residents, those dangers must be nothing compared with the dangers 10,000 ft² or 100,000 ft² create, right? The health and safety rationale for this regulation won’t work,

6. There being no legal or medical purpose in restricting the size of medical gardens, it seems apparent that the ordinance’s purpose is to bolster the county’s failing commercial licensing system by driving more people to have to buy their medicine rather than grow it. Or, to put it more kindly, the Board believes that the doctors, despite their years of demanding education and their years of experience in practice, are mistaken about their patients’ needs; and the amendment’s purpose is to correct these medical professionals mistakes by replacing their medical opinions with the medical opinions of a majority of the Board of Supervisors.

7. If the Board believes that driven by need or greed medical patients might sell their medicine, society has a way to handle that: criminal laws enforced by the Sheriff. Rather than reduce legal medicine to sick people, increase the Sheriff’s budget and leave the crime-stopping to people trained to do it. Using civil law to preemptively prevent crime is a perversion of good government. In the justice system “It is better than 10 guilty people go free than that 1 innocent person be convicted.” I believe that is the proper standard for the Board to use. Why should the people trust a government that doesn’t trust them?

8. The US and State Constitutions guarantee the people equal treatment under the law. This goes for medical patients growing their cannabis as well as large scale commercial enterprises. You might be able to justify being stricter with commercial growers than with sick individuals, but I don’t think you can justify the opposite.

Eugene Denson for The Rights Organization.

Analysis of the Proposed Amendments to County Code Concerning Measure S taxes

The proposed ordinance consists of 10 Sections, which do two things to the Commercial Cannabis Cultivation Tax codes.

1. Changes the person owing the tax back to the permit holder, instead of the landowner. (Sections 4-8, and 10)
2. Requires the permit holders to secure in advance each year's tax payment by posting cash, a surety bond, or their land as security. (Sections 2 and 3)
3. Sections 1, and 9 have to do with technical aspects of the Ordinance (severability, intent)

Changes in who is liable for the tax:

1. It changes HCC 719-4, 719-6, 719-7, and 719-12, all of which are from the Measure S implementation ordinance, from taxing the landowner back to taxing the permit holder. This is the way the ballot initiative read.
2. The County changed the wording of Measure S extensively with Ordinance 2575 about 6 months after it Measure S passed. No voter approval was sought.
3. Section 10 of the proposed ordinance says that the proposed ordinance is "intended to restore the provisions of Chapter 9 of Division 1 of Title VII of the Humboldt County Code as they read before the adoption of Ordinance 2575... It shall be interpreted in light of that intent."
4. The proposed ordinance falls far short of that intent, although it does fix one of the several glaringly illegal changes Ordinance 2575 made in Measure S.
5. These illegal changes were litigated in HUMMAP v. County of Humboldt, and the County lost on most points. It has since appealed, and the case is now in the First District Court of Appeals in San Francisco. This ordinance makes one major issue in the appeal moot, which is a welcome development.

Illegal provisions not restored to the original legal wording:

6. The Measure S that the voters approved provided that the tax would apply to the actual space used for cultivation, not the permitted area as Ord. 2575 altered it.
7. The Measure S that the voters approved said the tax was not due until cultivation began, not the 1st of January of each year as Ord. 2575 altered it. This

means that no cultivation = no tax. Ordinance 2575 altered it so that if you have a permit you owe the tax even if you never grow one plant.

8. Section 2 & 3 of the proposed ordinance restore a bit of the wording of the original by saying that the surety is not due in the year the permit is issued until “the commencement of cultivation.”

9. In other words, if you get a permit and never grow, you never have to post surety for the tax. Because it says, “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.” but if there never is commencement of cultivation then the permit is cancelled at the stroke of midnight December 31. Happy New Year.

The permit holder must post security “in an amount the Department determines to be sufficient of secure timely payment of the annual taxes imposed by [Measure S]” by January, or the permit to grow will be cancelled.

1. I am not a tax attorney, so there’s lots I don’t know about taxation, but I can’t think of any other special tax that has to be paid in advance. Doesn’t the County trust the growers? They are very people who are the financial backbone of the County economy, after all. The advance payment sections of this ordinance make me feel a bit more like living in a County occupied by a foreign power than like we have a government that is part of our community. We seem to have a government of the government, by the government and for the government.

2. I am not a specialist in governmental law, but don’t you think it’s strange that the security for taxes is being given to the Planning Department and not the Tax Collector?

3. These prepayments of the taxes place yet another burden on the cultivators. It wasn’t long ago that the county was postponing tax payments so that struggling growers could harvest before paying.

4. These impositions of advance taxes show the complete lack of faith the County has in the people it governs. This is not a healthy relationship between the government and the governed.

Eugene Denson

August 20, 2020

To: County of Humboldt Planning Commission
Humboldt County Courthouse
825 5th Street
Eureka, CA 95501

From: Holly Carter
PO Box 2414
Redway, CA 95560

Dear Planning Commission,

I am writing today in opposition to the proposed "Financial Security" amendments to the cannabis tax collection method.

In not to distant past, the Board of Supervisors changed the collection timing to after the cultivation year, with the intent to alleviate the large financial burden on cultivators entering or transitioning into commercial enterprise.

In inquiring to the Tax Collector's office, I learned that there are 130 delinquent payments of cultivation taxes. A total of \$3,891,507.44 is on the overdue currently, with bills ranging from \$1.08 on the low end, but functionally \$150, to nearly \$200,000 on one parcel.

For the 2019 season, \$19,704,891.82 was assessed. The overdue payments are not all from 2019, however.

While the overdue bills are certainly a concern, the burden to be placed on the permit holders and the planning department to acquire and accurately track additional paperwork or payments. As we are all aware, there have been concerns in this regard, and I have concerns with adding layers of compliance and paperwork for all involved. The cost burden is another concern, a concern shared by our Board when the timing of payment was shifted.

As a condition to compliance, non-payment of the cultivation tax already is a trigger for permit to be deactivated. Please encourage departments to utilize the tools already available, rather than add hurdles.

Holly Carter

From: [Sarah Bstar](#)
To: [Planning Clerk](#)
Subject: public Comment on aug 20 planning commission
Date: Thursday, August 20, 2020 5:59:47 PM

Comments August 20, 2020 Planning Commission hearing Case Number PLN-2020-16447

55.4.4 DEFINITIONS

- **Home-site:** Does this mean permitted residence, because as we see a lot of rural dwellings are not permitted, despite residents' willingness to do so for decades. The long debate over rural living has not "had its day in court". The community's reactions to code enforcement actions since the 80's have clearly (and loudly) expressed interest in non-standard development. Those utilizing natural building materials, greywater systems or solar power (with generator backup – of course). Most sites are reoccupying abandoned logging scars and making the best of what's available onsite. The permitting process is daunting. The Planning and Building department deflects any real progress, by leaning on inappropriate technologies for rural livelihoods. The Title 24 is statewide and is often not applicable to housing in Humboldt. The state codes for plumbing and electrical do have the ability to allow for non standard installations, as long as safety is ensured. The Department of Environmental Health could be the experts on water conservation, access to clean water and proper handling of human waste. And have made some progress allowing for dry composting toilets in some very limited conditions.

- **Permaculture:** It seems at odds to say that water must be stored in plastic lined ponds or tanks but that growing must occur in the ground. A key principle in Permaculture is groundwater recharge and value added cultivation is part of a fully functioning homestead. Breeding chickens for select traits in a controlled environment, cage culturing fish or utilizing greenhouses for the growing of specialty crops are all components to natural farming.

Composting soil and crop rotation as well as pest exclusion are some of the benefits that container gardening can produce. The trucking in of baged soil for single use in greenhouses with improved floors is not a sustainable way to manage the land. It may appear from the air that a greenhouse is a greenhouse. But conventional agriculture works against nature by utilizing weed mats, spraying pesticides to kill insects, fungicides and rodenticides, using artificial light create more harvest cycles per year.

Permaculture designs its' systems to work with nature; by enhancing native and companion plants and reducing invasives, allowing for adaptive integrated pest management to encourage beneficial insects, increasing soil mycorrhizol diversity thusly boosting the fertility of the complex web of life found in healthy soil communities. It is not a nature gone wild approach but rather a care by design. By working with the natural systems the human workload can be reduced. Mechanical pulling of weeds and fostering compatible ground cover eliminated the need for weed barriers. Sustaining habitat for bugs, fungus and other animals balances the eternal "eat or be eaten" battle. To prevent a bug infestation a diverse predator critter population must be part of the farm. Importing hundreds of ladybugs from Nevada may not be as sustainable as creating year round habitat for the native population to thrive. Mechanical pest control is less harmful than chemical controls. Using traps and exclusionary measures is better for the environment than rodenticides. As most in Humboldt already know; it can be a futile effort to plant a large garden without gopher wire beneath the raised beds, or deer fence around the orchard.

Greenhouses enhance the favorable growing environments for high value crops. Conventional agriculture clears the land and imposes these structures to keep nature out (and light in). Greenhouses used as a season extender and crop protector are part of an integrated growing system. Specialty crops often require more energy to produce than feral/forage crops. Energy in terms of labor, infrastructure and actual energy use; but the output is also higher. This value added outcome has long supported family farms.

The Humboldt County Ag department maybe best experienced in determining types of agriculture and their impacts to the watersheds. And the DEH could allow for water conservation measures to enhance the lands.

References: Mollison, Bill: Permaculture: A Practical Guide for a Sustainable Future. Island Press 1990

Ludwig, Art: Create an Oasis with Greywater. Oasis Design 1991

Ludwig, Art: Water Storage. Oasis Design 2013

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

The industrial model that has appeared on the landscape since the adoption of Humboldt County's Commercial Cannabis Cultivation Ordinance has encouraged more ground disturbance, more stream and road work, more infrastructure and more vegetation disturbance than the CEQA suggests. The abatement of small scale family farms, that were giving back to the land and living simply so that others may simply live has done irreparable harm to both the human and nonhuman communities.

Sarah Balster

Margro Advisors

To: County of Humboldt Planning Commission
Humboldt County Courthouse
825 5th Street
Eureka, Ca 95551

Aug 20, 2020

From: Margro Advisors
2306 Albee St
Eureka, Ca 95501

Dear Planning Commission,

We are writing in firm opposition to the proposed Financial Security amendments ordinance which would require paid security bonds from all legal Cannabis farmers in the County to ensure payment of the county's excise tax.

This ordinance makes the assumption that all legal tax paying Cannabis farmers are expected to be delinquent in paying their excise tax. This proposed requirement which does not exist for other types of farmers, once again shows the county's ongoing discrimination against those who have the courage to willingly travers the many challenges which exist on the path to legal Cannabis permitting, licensure, and ongoing compliance. Please understand that these trials and tribulations continue to be difficult, from track-and-trace, to multi-agency annual reporting, to increasing Fish & Wildlife required improvements, and more, not to mention the ongoing delays from all agencies in resolving issues, and the multitude of agency related fees these farmers already endure.

For the county to add another expense to the ongoing compliance burden of these farmers is incredibly unfair and short-sighted.

For all taxpayers, late penalties already exist for those who fail to pay ontime. For cannabis farmers unpaid taxes already put their permit at risk, as County permits are not renewed without taxes being paid.

If you believe these are still insufficient penalties, then a bond should only be required for repeat offenders who have failed to pay. To that we say punish the bad actors if you must, but stop punishing those who deserve our support for the courage to weather these ongoing challenges in a highly-regulated market. To do otherwise, is not in the best interest of our community.

Respectfully,

Kelly Flores

Kelly Flores
Margro Advisors

From: emeraldflowerfarmsinc
To: [Planning Clerk](#)
Subject: Agenda item
Date: Thursday, September 3, 2020 1:56:34 PM

Hi my name is Seth Ayers and I oppose the unfair proposed security bond for cannabis farmers

G.1 Cannabis Ordinance Amendments for Small Cultivators, Personal Use and Financial Security Case Numbers *PLN-2020-16447, PLN-2020-16571 and PLN-2020-16479* Countywide

Sent from my U.S.Cellular© Smartphone

Name & Date	Comment	Staff Response
		Karuk Tribe. The results of that consultation will be presented to the Planning Commission during the public hearing.
Unknown caller 8/20/2020	Ordinance allows lights and fans and other components as long as they are powered by something other than a generator. We should only be allowing full sun outdoor cultivation with these amendments without use of any electricity.	Agreed. Proposed modifications to the ordinance: "4. Cultivation is full sun outdoor or 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 generators for electrical power."
Unknown caller 8/20/2020	Concern about adding a definition for an on-site nursery which normally requires electricity. This is beyond the scope of the proposed amendments.	Agreed. While this is something that we need to address in the CCLUO, it is not necessary for the Small Farmer Amendment and should be removed. Proposed modifications to the ordinance: Delete definition of On-Site Nursery.
Eugene Denson 8/20/2020	Wants to see amendments to the whole of the CCLUO to include; 1. The permit is automatically approved in 30 days unless a letter with specific deficiencies has been sent. 2. The fees are capped at the amount of the deposit so that applicants will not be surprised by later charges.	No changes are recommended because amending the permit requirements for all other commercial cannabis activities is beyond the scope of this item.
Eugene Denson 8/20/2020	Disagrees that the water source requirement of Section 55.4.6.1.2(a) 3) needs to be both permitted	No changes are recommended to address these comments. While staff agrees with the comment

Name & Date	Comment	Staff Response
	<p>and non-diversionary. Recommends using “jurisdictional water use must be permitted.” because water use for the growing season could be supplied either by diversion of a class III stream in the rainy season or by captured rainfall. Thus, that non-diversionary requirement is cosmetic and not essential and does no harm to the environment. Additionally, a well might be permitted, but there is no need for a permit for rainfall capture.</p>	<p>that not all water capture methods require permits, in such cases, an application would be complete without a permit for the water source because the water source is permitted by default. Also, no changes are recommended to the non-diversionary water source requirement because they provide for streamlined permitting from state agencies.</p>
<p>Eugene Denson 8/20/2020</p>	<p>Section 55.4.4 definition of Permaculture is vague; it should reference some standards which can be understood and followed.</p>	<p>Agreed. The Planning Commission Hearing Draft Section 55.4.4 (definition of Permaculture) includes standards that can be understood and followed: “the exclusive use of native soil; organic fertilizers, pesticides, rodenticides and insecticides; and use of water efficient irrigation systems for all commercial cannabis cultivation.” No further changes are recommended.</p>
<p>Eugene Denson 8/20/2020</p>	<p>The cultivation must be “full sun”, reads that to preclude growing in partial shade, that is not the intent & suggests deleting the term. “Outdoor” conveys what is wanted.</p>	<p>Agreed. The definitions in the CCLUO reference “outdoor” and do not reference “full sun”. To clarify, the following proposed modifications have been made: 4. Cultivation is full sun-outdoor or outdoor within permitted or ag exempted hoopouses or greenhouses ...</p>

Name & Date	Comment	Staff Response
Eugene Denson 8/20/2020	Section 55.4.6.1.2(a) 6) is unclear what “above” a leach field means that “on” a leach field doesn’t. Suggests striking one or the other, but there’s no harm as written if you don’t mean to rule out land uphill from the field and that’s made clear.	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	The requirements of Section (55.4.6.1.2 (a) 8) for the parcel being legally created is improper. If the parcel has an APN and the county collects taxes on it, then the legality of its creation is a technical issue for the county with no practical effect on cannabis cultivation and it should be dropped. These legal parcel issues seem go reach back for decades. I applaud wanting to straighten them out, but they have nothing to do with commercial cannabis cultivation. The county knows how to cure a parcel that is not “legally created” and should fix it without burdening the owner.	No changes are recommended to address these comments. This section helps ensure internal consistency between the proposed amendments and the other requirements of the Zoning Ordinance, specifically Title III, Section 312-11.2 of the Humboldt County Code which states that “Development permits shall be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations.”
Eugene Denson 8/20/2020	Commenter applauds the cost of the permit not exceeding the deposit, but I would feel more comfortable knowing what the deposit will be.	Currently, the deposit for a Zoning Clearance Certificate is approximately \$3,000.
Sarah Bstar 8/20/2020	Definitions, “Home-site”: Commenter asks if this means a permitted residence, because a lot of	No changes are recommended to address these comments. The Homesite Area definition

Name & Date	Comment	Staff Response
	<p>rural dwellings are not permitted, despite residents' willingness to do so. The long debate over rural living has not "had its day in court". The community's reactions to code enforcement actions since the 80's have clearly (and loudly) expressed interest in non-standard development.</p>	<p>describes the area around a home without establishing a permit requirement for the home.</p>
<p>Sarah Bstar 8/20/2020</p>	<p>Definition of Permaculture seems at odds to say that water must be stored in plastic lined ponds or tanks but that growing must occur in the ground. And that a key principle in Permaculture is groundwater recharge and value added cultivation is part of a fully functioning homestead. For example, breeding chickens for select traits in a controlled environment, cage culturing fish or utilizing greenhouses for the growing of specialty crops are all components to natural farming. The commenter provides examples of permaculture techniques.</p>	<p>No changes are recommended to address these comments. The proposed amendments do not require water be stored in plastic lined ponds or tanks.</p>

Name & Date	Comment	Staff Response
Sarah Bstar 8/20/2020	CEQA Addendum, The industrial model that has appeared on the landscape since the adoption of Humboldt County's Commercial Cannabis Cultivation Ordinance has encouraged more ground disturbance, more stream and road work, more infrastructure and more vegetation disturbance than the CEQA suggests. The abatement of small scale family farms, that were giving back to the land and living simply so that others may simply live has done irreparable harm to both the human and nonhuman communities.	These comments are directed at the EIR for the CCLUO – they are not directed at the proposed Addendum. The proposed amendments are intended to encourage the entry of the small family farms mentioned by the commenter into the legal cannabis marketplace. No changes are recommended to address these comments.

<i>Personal Use Amendments</i>		
Thomas Mulder 8/2/20	Allow up to 400sf if a parcel over 5 acres.	Agreed. Proposed Planning Commission Hearing Draft allows up to 400sf of outdoor cultivation if a parcel is over 5 acres in size
Thomas Christie 08/14/2020	Commenter asked if the proposed Amendments to the Ordinance would mean if there is a current 215 registered to the property, I can still do 99 or less?	No changes are recommended to address these comments. Staff notes that State law limits personal use cannabis cultivation to a maximum of six plants per household - the County's cannabis ordinances do not modify those limits.
Laura Cooskey 8/15/2020	Commenter had several questions about how the Amendments to the Ordinance are proposed and how that works with State Law and the Sheriff's Department. She has gotten conflicting information and wants to understand what is allowed on her parcel that has two (2) residences on it.	No changes are recommended to address these comments.
Michael M Gordon 08/19/2020	Commenter is concerned that the Proposed New Amendments to Establish Personal Use Allowances for Large Parcels is NOT adequate to address the needs of Qualified Patients and Primary Caregivers. And provides the following proposed revision (in bold): 55.2.7.1 It shall not be deemed a nuisance per se for a "Qualified Patient" or "Primary Caregiver" to cultivate medicinal Cannabis outdoors for therapeutic use as an alternative to indoor cultivation, as defined herein, if	No changes are recommended to address these comments. While the Personal Use Ordinance could benefit by adding standards for Primary Caregivers, this is outside the scope of the proposed amendments - to establish standards for Personal Use cultivation on parcels larger than five acres in size because there are currently no provisions for Personal Use on parcels larger than five acres in size. Staff is concerned that adding fixes outside of those necessary to

	the following restrictions are adhered to:	fulfill the purpose of the amendments can distract from and unnecessarily complicate the review of the proposed amendments.
Michael M Gordon 08/19/2020	Commenter suggests the following changes in bold: 55.2.7.2.2 On parcels greater than one (1) acre and up to five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoors may not exceed two hundred (200) square feet in size for each “Qualified Patient” who resides at the property not to exceed four hundred (400) square feet , nor may cultivation occur within forty (40) feet of a property boundary line, where the neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size; and	No changes are recommended to address these comments. The intent of this Amendment is a clean-up item of the County's personal cannabis cultivation ordinances, because there are currently no provisions for Personal Use on parcels larger than five acres in size. The change suggested in this comment would allow parcels between one to five acres in size to have up to 400 square feet of canopy which is beyond the scope of these amendments.
Michael M Gordon 08/19/2020	55.2.7.2.3 On parcels greater than five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoor may not exceed two hundred (200) square feet in size for each “Qualified Patient” who resides at the property or “Qualified Patient” designated to a “Primary Caregiver” who resides at the property, not to exceed a total of twelve hundred (1200) square feet, nor may cultivation occur within forty (40) feet of a property boundary line, where the	No changes are recommended to address these comments. State law limits Personal Use cultivation to six plants per household. The proposed 400 square foot canopy limit is sufficient to accommodate the state's maximum allowances for Personal Use cultivation.

	neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size	
Eugene Denson 8/20/2020	Proposition 64 does not pertain to medical cannabis. See Health and Safety Code section 11018 where it cites the Proposition to state it applies to "nonmedical cannabis."	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	Health and Safety Code section 11362.1 was contained in Prop. 64 and it allows 6 plants. As the Prop did not apply to medical cannabis, neither does this section of the Health and Safety Code	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	HCC Section 314.5.2. does not apply to the 6 plants under HSC 11362.1	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	Proposition 215 (Health and Safety Code 11362.5) remains the law in California. Much of the interpretation of this brief law has been in court decisions handed down since 1996 when it became law. The commenter provides these sections and interprets the court cases. The commenter makes points that medical cannabis amounts are set between doctor and patient, not by the state, county or city.	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	There is nothing inherent in the cultivation of cannabis that requires non-commercial medical cultivation to be limited to 400 square feet on parcels larger than 5 acres. Indeed, the county encourages commercial cultivation and has permitted	No changes are recommended to address these comments. State law limits Personal Use cultivation to six plants per household. The proposed 400 square foot canopy limit is sufficient to accommodate the state's

	<p>many operations 25, 50, even 500 times larger than the medical limit sought. In fact, the county is presently contemplating an ordinance with concessions for “small farmers” who will restrict themselves to operations 5 times larger than the proposed limit on non-commercial medical gardens. If 401 ft² of cannabis threatens the health and safety of the county’s residents, those dangers must be nothing compared with the dangers 10,000 ft² or 100,000 ft² create, right? The health and safety rationale for this regulation won’t work,</p>	<p>maximum allowances for Personal Use cultivation.</p>
<p>Eugene Denson 8/20/2020</p>	<p>There being no legal or medical purpose in restricting the size of medical gardens, it seems apparent that the ordinance’s purpose is to bolster the county’s failing commercial licensing system by driving more people to have to buy their medicine rather than grow it. Or, to put it more kindly, the Board believes that the doctors, despite their years of demanding education and their years of experience in practice, are mistaken about their patients’ needs; and the amendment’s purpose is to correct these medical professionals mistakes by replacing their medical opinions with the medical opinions of a majority of the Board of Supervisors.</p>	<p>See above response.</p>

<p>Eugene Denson 8/20/2020</p>	<p>If the Board believes that driven by need or greed medical patients might sell their medicine, society has a way to handle that: criminal laws enforced by the Sheriff. Rather than reduce legal medicine to sick people, increase the Sheriff's budget and leave the crime-stopping to people trained to do it. Using civil law to preemptively prevent crime is a perversion of good government. In the justice system "It is better than 10 guilty people go free than that 1 innocent person be convicted." I believe that is the proper standard for the Board to use. Why should the people trust a government that doesn't trust them?</p>	<p>No changes are recommended to address these comments.</p>
<p>Eugene Denson 8/20/2020</p>	<p>The US and State Constitutions guarantee the people equal treatment under the law. This goes for medical patients growing their cannabis as well as large scale commercial enterprises. You might be able to justify being stricter with commercial growers than with sick individuals, but I don't think you can justify the opposite.</p>	<p>No changes are recommended to address these comments.</p>

<i>Financial Security Amendments</i>		
Thomas Mulder 8/7/20	Seeking clarification – if an owner is an applicant and agrees to pay the taxes, no performance bond is required.	Agreed. Also, if the property owner is leasing their property to an applicant and the owner agrees to pay the taxes no performance bond is needed. No ordinance changes are necessary.
Ross Huber, C&D Huber 8/20/20	Opposed to Amendments – believes it's unfair to penalize legal cannabis farms by requiring bonds vs. other businesses	No changes are recommended to address these comments. Although some changes are being made to the Commercial Marijuana Cultivation Tax Code, these amendments are intended to better align the CCLUO. Additionally, with a property owner's agreement and/or approval, no additional costs will be incurred by cultivators who are either property owners or have permission from the property owner to make an agreement to pay taxes.
Eugene Denson 8/20/2020	I am not a tax attorney, so there's lots I don't know about taxation, but I can't think of any other special tax that has to be paid in advance. Doesn't the County trust the growers? They are very people who are the financial backbone of the County economy, after all. The advance payment sections of this ordinance make me feel a bit more like living in a County occupied by a foreign power than like we have a government that is part of our community. We seem to have a government of the government, by the government and for the government.	No changes are recommended to address these comments. Advance payment is one option, bond is another, written consent of the owner is another which doesn't require advance payment of taxes.

<p>Eugene Denson 8/20/2020</p>	<p>I am not a specialist in governmental law, but don't you think it's strange that the security for taxes is being given to the Planning Department and not the Tax Collector?</p>	<p>No changes are recommended to address these comments. The Planning Department oversees compliance with the CCLUO which is proposed to now have a requirement for security for upcoming taxes due in the upcoming growing year. Administration of this requirement is functionally related to ensuring compliance with the other annual permit requirements, so it is logical for the Planning Department to take on these additional duties.</p>
<p>Eugene Denson 8/20/2020</p>	<p>These prepayments of the taxes place yet another burden on the cultivators. It wasn't long ago that the county was postponing tax payments so that struggling growers could harvest before paying.</p>	<p>No changes are recommended to address these comments. As stated previously, the proposed ordinance includes an option that does not require any prepayment.</p>
<p>Eugene Denson 8/20/2020</p>	<p>These impositions of advance taxes show the complete lack of faith the County has in the people it governs. This is not a healthy relationship between the government and the governed.</p>	<p>No changes are recommended to address these comments.</p>
<p>Holly Carter 8/20/2020</p>	<p>While the overdue bills are certainly a concern, the burden to be placed on the permit holders and the planning department to acquire and accurately track additional paperwork or payments. As we are all aware, there have been concerns in this regard, and I have concerns with adding layers of compliance and paperwork for all involved. The cost burden is another concern, a concern shared by our Board</p>	<p>No changes are recommended to address these comments. Staff acknowledges these new requirements will increase the paperwork required for commercial cannabis applicants. This is balanced with fairer treatment for all applicants by ensuring up-front payments or owner consent to pay upcoming tax bills.</p>

	when the timing of payment was shifted.	
Holly Carter 8/20/2020	As a condition to compliance, non-payment of the cultivation tax already is a trigger for permit to be deactivated. Please encourage departments to utilize the tools already available, rather than add hurdles.	No changes are recommended to address these comments. Ensuring up-front payments or owner consent to pay upcoming tax bills is a less disruptive option than permit deactivation for the County and applicants.
Margro Advisors 8/20/2020	Commenter is writing in firm opposition to the proposed Financial Security amendments ordinance. These changes assume that all legal tax paying Cannabis farmers are expected to be delinquent in paying their excise tax. Additionally, this proposed requirement which does not exist for other types of farmers, once again shows the county's ongoing discrimination against those who have the courage to willingly travers the many challenges which exist on the path to legal Cannabis permitting, licensure, and ongoing compliance.	No changes are recommended to address these comments. With a property owner's consent to pay upcoming tax bills, no additional costs will be incurred by applicants.
Margro Advisors 8/20/2020	Commenter states that if late fees are still insufficient penalties, then a bond should only be required for repeat offenders who have failed to pay. To that we say punish the bad actors if you must, but stop punishing those who deserve our support for the courage to weather these ongoing challenges in a highly-regulated market. To do otherwise, is not in the best interest of our community.	While this alternative mechanism for ensuring financial security for upcoming tax bills should be considered, staff believes the proposed mechanism is more likely to result in fairer treatment of all commercial cannabis applicants.

ATTACHMENT 5

**DRAFT SMALL CULTIVATOR AMENDMENTS TO THE
COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO)**

Modified to Respond to Comments Received

ORDINANCE AMENDING SECTIONS 314-55.4.6.1, 314-55.4.6.5 AND 314-55.4.12.1.10 OF THE COMMERCIAL CANNABIS LAND USE ORDINANCE IN CHAPTER 4 - ZONING REGULATIONS (TITLE III OF HUMBOLDT COUNTY CODE) TO FACILITATE PERMITTING OF SMALL FARMS ADJACENT TO HOMES

ORDINANCE NO. _____

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

SECTION 1. PURPOSE. The ordinance facilitates permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway. The eligible farms minimize the impacts on the environment and archaeological resources because they are owner-occupied, the cultivation area is no more than 2,000 square feet in size and within the already disturbed homesite area of the existing home. Also, water for irrigation is provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation is done outdoors or in permitted or ag exempted hoopouses/greenhouses and does not use generators for electrical power.

SECTION 2. TEXT AMENDMENTS.

Section 314-55.4.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

55.4.4 **DEFINITIONS**

“Homesite Area” means the land up to 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.

“On-site Nursery” means a facility that produces only clones, immature plants, and seeds for licensed cultivators to be used specifically for on-site planting, propagation, and cultivation of cannabis, of which does not exceed 20% of the area of the Cultivation Area.

“Permaculture” means is 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.

Section 314-55.4.6.1 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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 5 acres.

55.4.6.1.2 Minimum Parcel Size and allowed Cultivation Area

- a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:
1. Cultivation is located within the Homesite Area of the home, and the home existed prior to December 31, 2016; and
 2. The property is owner-occupied; and
 3. Water source for Irrigation is permitted and non-diversionary; and
 4. Cultivation is **full sun outdoor or** outdoor within permitted or ag exempted hoophouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of **generators for** electrical power; and
 5. Permaculture is practiced; and
 6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
 7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
 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 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.

- ~~a~~ b) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size:
- 1) up to 5,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 10,000 sq. ft. of Cultivation Area with a Special Permit.
- ~~b~~ c) On parcels 10 acres or larger in size:
- 1) up to 10,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 43,560 sq. ft. of Cultivation Area with a Special Permit.

e d) On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted. All cultivation 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.

Section 314-55.4.6.5 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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 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 Non-Forested areas with Slopes of 15 percent or less.

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

Except as stated below, applications for Pre-Existing Cultivation Sites submitted before December 31, 2018 may be permitted at one hundred percent of the documented pre-existing cultivation area and applications for pre-existing cultivation submitted between January 1, 2019 and December 31, 2019 shall not be approved for more than fifty percent of the documented existing cultivation area. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019, except applications for cultivation sites of 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 of the documented pre-existing Cultivation Area up to 2,000 square feet.

55.4.6.5.1 Small Cultivation Sites

55.4.6.5.1.1 On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

1. Cultivation is located within the 2-acre Homesite Area of the home, and the home existed prior to December 31, 2016; and
2. The property is owner-occupied; and
3. Water source for Irrigation is permitted and non-diversionary; and
4. Cultivation is **full sun outdoor or** outdoor within permitted or ag exempted hoophouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of **generators for** electrical power; and
5. Permaculture is practiced; and
6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
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 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 5 acres or larger in size, up to 3,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Zoning Clearance Certificate, subject to the following additional requirements and allowances:

- a) The operator's principal residence is located on the same parcel and the residence was in existence before January 1, 2016
- b) Not more than one cultivation permit may be issued for the same Parcel.
- c) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply
- d) The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:
 - i. Within one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant 55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.
 - ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.
- e) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

55.4.6.5.2 On an AE zoned parcel less than one acre in size, up to 2,500 square feet of Cultivation Area may be permitted with a Special Permit.

55.4.6.5.3 On parcels between one acre and five acres in size, up to 3,000 square feet of Cultivation Area may be permitted with a Special Permit.

SECTION 3. SEVERABILITY. The individual parts of this ordinance are severable, such that if one or more parts are determined to be invalid, all the other parts will remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED, AND ADOPTED the _____ day of _____, 2020, on the following vote, to wit:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

ESTELLE FENNELL, Chair
Board of Supervisors, County of Humboldt
State of California

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

By: _____
Ryan Sharp, Deputy Clerk

Date:

From: [emeraldflowerfarmsinc](#)
To: [Planning Clerk](#)
Subject: Agenda item
Date: Thursday, September 3, 2020 1:56:34 PM

Hi my name is Seth Ayers and I oppose the unfair proposed security bond for cannabis farmers

G.1 Cannabis Ordinance Amendments for Small Cultivators, Personal Use and Financial Security Case Numbers *PLN-2020-16447, PLN-2020-16571 and PLN-2020-16479* Countywide

Sent from my U.S.Cellular© Smartphone

From: Sawyer West <mrbeansveganix@gmail.com>
Sent: Thursday, September 3, 2020 5:07 PM
To: Planning Clerk
Subject: Agenda item ONE small farms in southern Humboldt.

Hello, My name is Sawyer Bogle. Our farm is in Myers Flat. Which in most cases, my area has parcels under an acre. Ordinance 2.0 allows community members in Myers Flat on any size parcel to cultivate up to 3000 sq with the correct permits. However there are still many challenges for a small farmer in Humboldt County. With this small cultivation amendment put in place it has the opportunity to help a lot of farmers become compliant. However the 2000 sq cap will leave out most of the applicants in Myers Flat that have a 3000 sq small farm. We as a town would greatly benefit if the amendment states that cultivation up to 3000 sq for the cultivation on or on parcel less than an acre. This change will greatly increase the chance of our community to achieve the streamlined permitting pathway the county wishes to see for their applicants. Please don't leave Myers Flat out of this opportunity.

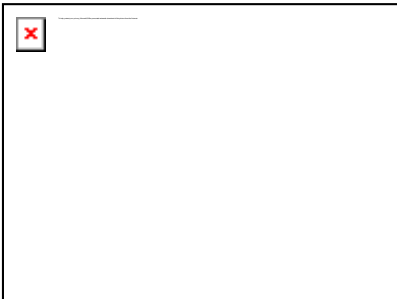
Sections 314-55.4.5.1.5, 314-55.4.6.1,
314-55.4.6.5 and 314-55.4.12.1.10

On the proposal for capping medical cultivation to 200 sq will cause tremendous havoc on the committee member that just frankly need more area to grow their medicine that doctors prescribe them. The last time I checked patients were getting 99 plants on there 215. How are patients suppose to get their sufficient amount of medicine for the year with 200 sq. I propose a 2000 sq foot cap. We are talking about full sun cannabis.

Sections 313-55.4.12.2.9 and 314-55.4.12.9.9

Sawyer Bogle

(707) 572-0596



Date: 8/19/2020

To: Humboldt County Board of Supervisors and Planning Commission

From: Michael M Gordon

Subject: Medical Cannabis Entitlements

Dear Honorable Supervisors and Planning Commission,

I am writing this letter with great consternation about the uncertain future of Humboldt County. The citizens of our Majestic County are slowly suffering as our community rapidly reaches a tipping point that I fear will be impossible to turn around. This is in part due to the political, industrial, and regulatory forces in bringing the Cannabis Industry into the light, but more importantly due to lack of foresight and compassion while implementing a sensible policy transitioning away from the prohibitionist policies of days old. This is a new day, and we have a very small window of time to get it right. As Elected Officials and Public Servants you have the power to help solidify a stable, prosperous and compassionate future for our citizenry, so please be carefully compassionate in creating the regulations of which we must all abide.

The Compassionate Use Act of 1996 giving Medicinal Cannabis Entitlements to California residents has not gone away. In fact, Prop 64 and MAUCRSA specifically allow Qualified Patients and Designated Caregivers (which can be “for more than one person”) to cultivate Cannabis **appropriate for their medical needs and the needs of their patients.** With the regulation and licensing of Commercial Cannabis Businesses, Compassion has been mostly forgotten. The Cannabis Plant is a Natural Medicine which is Vital for the health of our Families, Friends, Neighbors and Community, and in many cases a much safer and effective alternative to the Synthetically derived Pharmaceutical Drugs being peddled by Big Pharma’s Corp interests. **We must preserve our Rights to provide care for Patients in need.**

The Proposed New Amendments to Establish Personal Use Allowances for Large Parcels is **NOT** adequate to address this need. Humboldt County has a unique opportunity to lead the way in sensibly regulating **Non-Commercial** Medical Grows for Qualified Patients and Primary Caregivers. Cannabis can be grown by a Primary Caregiver or Qualified Patient for a fraction of the price as Cannabis being offered in Legal Dispensaries, which many Patients simply cannot afford. We must create a compassionate path forward to allow our talented Cultivators the opportunity to fill this void. In these uncertain times of economic and sociological instability, we **MUST** embrace interconnected community relationships and partnerships.

Currently Humboldt County allows for properties:

- under 1 acre to cultivate up to 100 square feet of Outdoor Cannabis.
- between 1 and 5 acres up to cultivate up to 200 square feet of Outdoor Cannabis
- over 5 acres, not currently regulated

MY Proposal in BOLD:

55.2.7.1 It shall not be deemed a nuisance per se for a **“Qualified Patient” or “Primary Caregiver”** to cultivate medicinal Cannabis outdoors for therapeutic use as an alternative to indoor cultivation, as defined herein, if the following restrictions are adhered to:

55.2.7.2.1 On parcels one (1) acre or smaller in size, the total plant canopy of the medical marijuana cultivated outdoors may not exceed one hundred (100) square feet in size, nor may cultivation occur within twenty (20) feet of a property boundary line; and

55.2.7.2.2 On parcels greater than one (1) acre and up to five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoors may not exceed two hundred (200) square feet in size **for each “Qualified Patient” who resides at the property not to exceed four hundred (400) square feet**, nor may cultivation occur within forty (40) feet of

a property boundary line, where the neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size; and

55.2.7.2.3 On parcels greater than five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoor may not exceed two hundred (200) square feet in size for each “Qualified Patient” who resides at the property or “Qualified Patient” designated to a “Primary Caregiver” who resides at the property, not to exceed a total of twelve hundred (1200) square feet, nor may cultivation occur within forty (40) feet of a property boundary line, where the neighboring parcel is less than five (5) acres in size, or twenty (20) feet of a property line, where the neighboring parcel is five (5) acres or above in size

Conclusion:

These are very troubling economic and sociological times. We must pass policies which embrace and empower our communities every way imaginable instead of limiting compassion for our neighbors, family and friends. Creating and enforcing arbitrary rules is in nobodies' best interest. Cannabis can be grown for a fraction of the cost of store-bought medicine and with many patients choosing to medicate with edibles and tinctures (which require substantially more raw material to produce), the proposed “new” limits will not be sustainable. I can only hope that you now realize that the abatement program so cleverly designed to penalize the most egregious violators are being used to torment and displace our cottage community, which is unacceptable and unethical. Please do not place Corporate Interest above Compassion, this is something that Humboldt County cannot afford.

Thank you for all the hard work you do, and are prepared to do, I know it's not easy!

References:

- On November 8, 2016, the voters of California passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), which established a “comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older.” (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 64, pp. 178-210.) The AUMA also provided for the taxation of the commercial growth and retail sale of marijuana. (Ibid.) **The AUMA did not alter the CUA or MCRSA, but rather the AUMA added and amended sections to numerous California statutes**
- c) Compassionate Use: Qualified patients claiming protection under the CUA may possess an amount of cannabis that is “**reasonably related to [their] current medical needs.**” (People v. Trippet (1997) 56 Cal.App.4th 1532, 1549.)
- Physicians may, however, lawfully issue a written or oral recommendation under California law indicating that cannabis would be a beneficial treatment for a serious medical condition. (§ 11362.5, subd. (d); Conant v. Walters (9th Cir. 2002) 309 F.3d 629, 632.)
- **A person may serve as a primary caregiver to “more than one” patient**, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7, subd. (d)(2).)
- The enactment of the MAUCRSA has decriminalized the possession and transportation of limited amounts of cannabis, therefore the presence of a small quantity of cannabis is not considered contraband when possessed in compliance with state laws. Cannabis and cannabis products lawfully possessed are no longer subject to seizure. (§ 11362.1, subd. (c).) Reasonable suspicion is required for detention, while **probable cause is required for search, seizure, and arrest**; and the motor vehicle exception to a probable cause search still applies. (People v. Waxler (2014) 224 Cal.App.4th 712.)

- Under the MAUCRSA (consistent with the CUA), pursuant to section 11362.5, subdivision (d), section 11357 related to possession of marijuana, and section 11358 related to cultivation of marijuana, do not apply to, “a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.”

(i) Laws pertaining to the Compassionate Use Act of 1996.

SEC. 134. Section 11362.7 of the Health and Safety Code is amended to read:

11362.7. For purposes of this article, the following definitions shall apply:

- (a) “Attending physician” means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient’s medical record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.
- (b) “Department” means the State Department of Public Health.
- (c) “Person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.
- (d) **“Primary caregiver”** means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:
- (1) In a case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.
 - (2) **An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.**
 - (3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.
- (e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Section 6922, 7002, 7050, or 7120 of the Family Code.
- (f) “Qualified patient” means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.**
- (g) “Identification card” means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any.
- (h) “Serious medical condition” means all of the following medical conditions:
- (1) Acquired immune deficiency syndrome (AIDS).
 - (2) Anorexia.
 - (3) Arthritis.
 - (4) Cachexia.
 - (5) Cancer.
 - (6) Chronic pain.
 - (7) Glaucoma.
 - (8) Migraine.
 - (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
 - (10) Seizures, including, but not limited to, seizures associated with epilepsy.
 - (11) Severe nausea.
 - (12) Any other chronic or persistent medical symptom that either:
 - (A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the federal Americans with Disabilities Act of 1990 (Public Law 101-336).
 - (B) If not alleviated, may cause serious harm to the patient’s safety or physical or mental health.
- (i) “Written documentation” means accurate reproductions of those portions of a patient’s medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit as part of an application for an identification card.

SEC. 135. Section 11362.71 of the Health and Safety Code is amended to read:

- 11362.71. (a) (1) The department shall establish and maintain a **voluntary program** for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.
- (2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.
- (b) Every county health department, or the county's designee, shall do all of the following:
- (1) Provide applications upon request to individuals seeking to join the identification card program.
 - (2) Receive and process completed applications in accordance with Section 11362.72.
 - (3) Maintain records of identification card programs.
 - (4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).
 - (5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.
- (c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes cannabis.
- (d) The department shall develop all of the following:
- (1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.
 - (2) Application forms that shall be issued to requesting applicants.
 - (3) An identification card that identifies a person authorized to engage in the medical use of cannabis and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.
- (e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medicinal cannabis in an amount established pursuant to this article, unless there is probable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.**
- (f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

SEC. 136. Section 11362.715 of the Health and Safety Code is amended to read:

- 11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:
- (1) The name of the person and proof of his or her residency within the county.
 - (2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate.
 - (3) The name, office address, office telephone number, and California medical license number of the person's attending physician.
 - (4) The name and the duties of the primary caregiver.
 - (5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.
- (b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:
- (1) A conservator with authority to make medical decisions.
 - (2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.
 - (3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.
- (c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.
- (d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

SEC. 137. Section 11362.765 of the Health and Safety Code is amended to read:

- 11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. This section does not authorize the individual to smoke or otherwise consume cannabis unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute cannabis for profit.
- (b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes cannabis for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away cannabis for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) An individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medicinal cannabis to the qualified patient or person or acquiring the skills necessary to cultivate or administer cannabis for medical purposes to the qualified patient or person.

From: wiz 1 <1953tka@gmail.com>
Sent: Thursday, September 3, 2020 5:32 PM
To: Planning Clerk
Subject: G.1 Cannabis Ordinance Amendments for Small Cultivators, Personal use and Financial Security Case numbers PLN-2020-16447, PLN-2020-16571 and PLN-2020-16479

I am writing in firm opposition to the proposed Financial Security amendments ordinance which would require paid security bonds from all legal Cannabis farmers in the County to ensure payment of the county's excise tax. This ordinance makes the assumption that all legal tax paying Cannabis farmers are expected to be delinquent in paying their excise tax. This proposed requirement which does not exist for other types of farmers, once again shows the county's ongoing discrimination against those who have the courage to willingly travers the many challenges which exist on the path to legal Cannabis permitting, licensure, and ongoing compliance. Please understand that these trials and tribulations continue to be difficult, from track-and-trace, to multi-agency annual reporting, to increasing Fish & Wildlife required improvements, and more, not to mention the ongoing delays from all agencies in resolving issues, and the multitude of agency related fees these farmers already endure.

For all taxpayers, late penalties already exist for those who fail to pay ontime. For cannabis farmers unpaid taxes already put their permit at risk, as County permits are not renewed without taxes being paid.

If you believe these are still insufficient penalties, then a bond should only be required for repeat offenders who have failed to pay. To that we say punish the bad actors if you must, but stop punishing those who deserve our support for the courage to weather these ongoing challenges in a highly-regulated market. To do otherwise, is not in the best interest of our community.

Thomas Kissick
415 Cobb Road
Dinsmore, Ca.
License # CCL 18-0002737-RO 1

From: Randy Clark <randyhumboldt@gmail.com>
Sent: Thursday, September 3, 2020 10:30 AM
To: Planning Clerk
Subject: personal grow footage

Follow Up Flag: Follow up
Flag Status: Completed

200 square foot limit per parcel is a good idea . Let's respect the rights of your neighbors around you and be environmentally conscious. Anyone who can smoke that amount of "medicine" in a year should respect their body more

Sincerely, Randy Clark
Miranda CA.