

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**  
Certified copy of portion of proceedings; meeting on April 10, 2018

**ATTACHMENT 6**

**Ordinance Alternatives**

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

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**ALTERNATIVE 1A: 313-55.4.6.4.4 *Coastal Ordinance***

**Setbacks from School Bus Stops – Open Air Cultivation**

600 foot setback – reduction of setback subject to discretionary permit

**55.4.6.4.4 Setbacks**

*Standard Setbacks*

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

- a) Property Lines - Thirty (30') feet from any property line;
- b) Residences and undeveloped parcels - Three hundred feet (300') from any residence on an adjacent separately owned parcel, and two hundred seventy feet (270') from any adjacent undeveloped separately owned parcel.
- c) Sensitive Receptors - Six hundred feet (600') from a Church or other Place of Religious Worship, Public Park, Coastal Public Access, Commercial Recreational Facility (as defined by Section 313-153 of the Humboldt County Code), ~~or~~ Tribal Cultural Resource, or School Bus Stop currently in use at the time of project application submittal. For purposes of this section, the setback requirement applicable to Public Parks, other than lands managed for open space and/or wildlife habitat, shall only be applied to designated and developed recreational facilities such as picnic areas and campgrounds, trails, river and fishing access points, and like facilities under public ownership.
- d) Tribal Ceremonial Sites - One thousand feet (1,000') from all Tribal Ceremonial Sites;
- e) The setback required from associated property lines or residence(s) on an adjacent privately owned property may be waived or reduced with the express written consent of the owner(s) of the subject property.
- f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit, provided that advanced notice is given to the person or agency responsible for managing or supervising the management of those lands. For School Bus Stops, a setback of less than 600 feet may be allowed with a Special Permit, where it can be demonstrated that the cultivation site would not be detrimental to students at the bus stop, due to specific conditions;

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- f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit, provided that advance notice is given to the person or agency responsible for managing or supervising the management of those lands. For School Bus Stops, a setback of less than 600 feet may be allowed with a Special Permit, where it can be demonstrated that the cultivation site would not be detrimental to students at the bus stop, due to specific conditions;

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**ALTERNATIVE 1B: 313-55.4.6.4.4 Coastal Ordinance**

**Setbacks from School Bus Stops – Open Air Cultivation**

200 foot setback – no reductions permitted

**55.4.6.4.4 Setbacks**

*Standard Setbacks*

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

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- c) Sensitive Receptors - Six hundred feet (600') from a Church or other Place of Religious Worship, Public Park, Coastal Public Access, Commercial Recreational Facility (as defined by Section 313-153 of the Humboldt County Code), or Tribal Cultural Resource. For purposes of this section, the setback requirement applicable to Public Parks, other than lands managed for open space and/or wildlife habitat, shall only be applied to designated and developed recreational facilities such as picnic areas and campgrounds, trails, river and fishing access points, and like facilities under public ownership. A setback of two hundred feet (200') is required from all school bus stops currently in use at the time of project application submittal.
- d) Tribal Ceremonial Sites - One thousand feet (1,000') from all Tribal Ceremonial Sites;
- e) The setback required from associated property lines or residence(s) on an adjacent privately owned property may be waived or reduced with the express written consent of the owner(s) of the subject property.
- f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit, provided that advanced notice is given to the person or agency responsible for managing or supervising the management of those lands;

**ALTERNATIVE 1B: 314-55.4.6.4.4 Inland Ordinance**

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- d) Tribal Ceremonial Sites - One thousand feet (1,000') from all Tribal Ceremonial Sites;
- e) The setback required from associated property lines or residence(s) on an adjacent privately owned property may be waived or reduced with the express written consent of the owner(s) of the subject property.
- f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit, provided that advance notice is given to the person or agency responsible for managing or supervising the management of those lands;

**ALTERNATIVE 1C: 313-55.4.7 & 314-55.4.7 Coastal and Inland Ordinances**

**Setbacks from School Bus Stops – Cannabis Support Facilities**

Exemption for operations conducted within an enclosed setting

**55.4.7 CANNABIS SUPPORT FACILITIES**

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

**ALTERNATIVE 1D: 313-55.4.8.1 & 314-55.4.8.1 Coastal and Inland Ordinances**

**Setbacks from School Bus Stops – Indoor Cultivation**

Exemption for operations conducted within an enclosed setting

**55.4.8.1 INDOOR CULTIVATION**

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

**ALTERNATIVE 1E: 313-55.4.8.2 *Coastal Ordinance***

**Setbacks from School Bus Stops – Manufacturing**

Exemption for operations conducted within an enclosed setting

**55.4.8.2 MANUFACTURING**

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

**55.4.8.2.1 Flammable Extraction**

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

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**ALTERNATIVE 1E: 314-55.4.8.2 *Inland Ordinance***

**Setbacks from School Bus Stops – Manufacturing**

Exemption for operations conducted within an enclosed setting

**55.4.8.2 MANUFACTURING**

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

**55.4.8.2.1 Flammable Extraction**

- a) Manufacturing activities involving Flammable Extraction may be permitted with a Special Permit in the MH zone, as well as the U zoning district, when accompanied by the Industrial General (IG) land use designation.
- b) Manufacturing activities involving Flammable Extraction may also be permitted with a Conditional Use Permit in the C-3 and ML zones, as well as the U zoning district, where previously developed with a lawful heavy industrial use.
- c) All manufacturing activities involving Flammable Extraction must be conducted within a commercial structure. Where located within those zones specified under 55.4.8.2.1(b), the structure must meet or exceed the following special setbacks:
  - i) One thousand feet (1,000') from the boundary of any residentially zoned area or Community Planning Area boundary specified within section 55.4.5.1
  - ii) One thousand feet (1,000') from any residence located on a separately owned parcel.
  - iii) Six hundred feet (600') from any school bus stop currently in use at the time of project review.
  - iv) An applicant may seek an exception from the special setbacks of this section with a Use Permit. Consideration of the Use Permit request shall include an evaluation of the density and location of neighboring residential uses, as well as the composition and location of other nearby development and terrain. Authorization of a reduced setback shall include a determination that the proposed area and method of operation include sufficient measures to ensure the public health, safety and welfare of and that the use will not have a detrimental effect on the surrounding community.



**ALTERNATIVE 2A: 313-55.4.5.4 Coastal Ordinance**

**Limiting Consolidation of Cultivation Entitlements**

Application of 8-acre permit limit

**55.4.5.4 Permit Limits and Permit Counting**

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

**ALTERNATIVE 2A: 314-55.4.5.4 Inland Ordinance**

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Application of 8-acre permit limit

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**ALTERNATIVE 2B: 313-55.4.5.4 Coastal Ordinance**

**Limiting Consolidation of Cultivation Entitlements**

Removal of limits on permit consolidation

~~55.4.5.4 — Permit Limits and Permit Counting~~

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

**ALTERNATIVE 2B: 314-55.4.5.4 Inland Ordinance**

**Limiting Consolidation of Cultivation Entitlements**

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**ALTERNATIVE 2C: 313-55.4.4 & 314-55.4.4 Coastal and Inland Ordinances**

**Limiting Consolidation of Cultivation Entitlements**

Inclusive Definition of Person – including majority shareholders, CEO’s, and Board members, and excluding Investors and Financiers

**55.4.4 DEFINITIONS**

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

**ALTERNATIVE 3: 314-55.4.4 *Inland* Ordinance**

**New structures for Indoor Cultivation within Resource Production Zoning Districts**

**55.4.8.1 INDOOR CULTIVATION**

Indoor Cultivation Sites must comply with all applicable performance standards, meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 and comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c),(d), and (g). All Indoor Cultivation activities shall be conducted within an Enclosed setting. Indoor Cultivation may be permitted as follows:

55.4.8.1.1 Within those zones specified under 55.4.6.1.1 (AE, AG, FR, and U), up to 5,000 square feet of Indoor Cultivation may be permitted with a Zoning Clearance Certificate, but may only be conducted within a non-residential structure which was in existence prior to January 1, 2016. With a Special Permit, up to 10,000 square feet of Indoor Cultivation may be permitted within a new commercial structure, where proposed on a property meeting the locational criteria of 55.4.8.1.3 (no exceptions permitted). The structure must be sited and designed to minimize the fragmentation of useable agricultural land on the parcel.

55.4.8.1.2 Within those zones specified under 55.4.6.2.1 (C-3, ML, MH, and U) and C-2 as part of a microbusiness provided all cannabis activities occur within a building that is two-stories or less in height, cultivation area is limited to 2,500 square feet, and where the cultivation and cannabis activities are in scale with the surrounding community,

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

**55.4.8.1.3 Locational Criteria:**

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

**ALTERNATIVE 4: 314-55.4.4 Inland Ordinance**

**Zoning Clearance Certificates for Cultivation submitted under current ordinance**

**Immediate application to all ZCC applications for Open Air Cultivation**

**55.4.6.7 Open Air Cultivation applications submitted under prior ordinance –Provisions and Incentives for Neighborhood Compatibility**

The following requirements apply to all applications for Zoning Clearance Certificates filed on or before December 31, 2016. All applications must comply with the provisions of this section, even if the permit application was approved ministerially prior to the effective date of these regulations.

Where located in or within one thousand feet (1000') of any incorporated city, Sphere of Influence (SOI) of any incorporated city, Tribal Lands, or within any of the following mapped Community Planning Areas: Blue Lake, Fieldbrook-Glendale, Fortuna, Hydesville- Carlotta, McKinleyville, Rio Dell-Scotia, Shelter Cove, Trinidad-Westhaven, and Willow Creek, Zoning Clearance Certificate applications for Open Air Cultivation Activities approved prior to the effective date of these regulations filed on or before December 31, 2016 shall be subject to compliance with the following provisions, which are designed to insure compatibility with surrounding land uses and control of potential nuisance, and are hereby retroactively applicable.

55.4.6.7.1 To insure compatibility with neighboring land uses, applicants and operators must choose to comply with one of the following options.

- a) Demonstrate all areas of open air cultivation activities maintain setbacks of 600 feet or greater from any residence(s) located on a separately owned parcel, and are located 600 feet or greater from any residentially zoned area or applicable Community Planning Area boundary.
- b) Confine all open-air cultivation activities to Enclosed structures.
- c) Secure a Conditional Use Permit. In considering the Use Permit request, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist.
- d) Request permit cancellation. Permit holders shall be eligible for relocation incentives pursuant to the provisions 55.4.6.5.9 and may be required to perform remediation of the site, where necessary.

55.4.6.7.2 Within six (6) months of these provisions becoming effective, the Department will provide written notice to all applicants and permittees of sites subject to these provisions. The notice will include a six (6) month deadline for the permit holder to provide a written decision to the Planning and Building Department declaring which option has been chosen to achieve compliance with this section. Failure to provide a timely response is a violation of the ordinance and shall be grounds for permit cancellation, penalties and enforcement pursuant to 55.4.5.3.

55.4.6.7.3 Permittees must obtain approval of all plans within eighteen (18) months of receiving written notice pursuant to 55.4.6.7.2, and must complete all work within thirty (30) months of the effective date of these provisions.