



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
LONG RANGE PLANNING

3015 H Street Eureka CA 95501
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SUPPLEMENTAL INFORMATION No. 2

For Planning Commission Agenda of:
July 15, 2021

<input type="checkbox"/>	Administrative Agenda Item	}
<input checked="" type="checkbox"/>	Continued Hearing Item	} [G-3]
<input type="checkbox"/>	New Hearing Item	}
<input type="checkbox"/>	Old Business Item	}
<input type="checkbox"/>	New Business Item	}

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

1. Revisions to the proposed CCLUO amendments to address concerns raised by County Counsel and the Humboldt Cannabis Growers Alliance.



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MEMORANDUM

To: Humboldt County Planning Commission

From: Michael Richardson, Assigned Planner

Subject: Public Hearing on Draft Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO); Case No.: PLN-2020-17147

County Counsel identified a further amendment to the CCLUO related to the proposed changes to the Retirement, Restoration and Remediation Program (RRR) amendments for internal consistency:

55.4.3 Applicability and Interpretation.

55.4.3.1 All facilities and activities involved in the commercial cultivation, processing, manufacturing, and distribution, testing, and sale of cannabis within the jurisdiction of the County of Humboldt outside of the coastal zone shall be controlled by the provisions of this section, regardless of whether those activities existed or occurred prior to the adoption of this section. Applications for commercial cannabis activity land use permits filed on or before December 31, 2016, shall be governed by the regulations in effect at the time of their submittal, except as follows and ~~is as~~ otherwise prescribed herein. Zoning clearance certificate applications for open air cultivation filed on or before December 31, 2016, shall be controlled by the provisions of Section ~~314-55.4.6.7~~ below. Zoning clearance certificate applications for Retirement, Remediation, and Relocation sites filed on or before December 31, 2016, shall be controlled by the provisions of Section 55.4.6.5.9.4 below.

Staff recommends the Planning Commission approve these additional modifications to the CCLUO.

County Counsel also identified concerns with the proposed changes to the definition of Outdoor Cultivation because the County's tax code uses the same definition to assess taxes on cultivation, and any changes made to the CCLUO also need to simultaneously be made to the tax ordinance. Another option discussed internally was instead of modifying the definition of Outdoor Cultivation to allow low wattage supplemental lighting, we could add a definition for Supplemental Lighting to the CCLUO to characterize it in a way that relates to its use to spur the growth of plants rather than maintaining them in a vegetative state. In this way the CCLUO would not limit the use of low watt light bulbs for employee safety or for maintaining plants in a vegetative state.

Planning staff acknowledges the need for consistency between the CCLUO and the tax code, but at the same time there are other changes to the tax code for cannabis cultivation needed to comply with a recent court decision that go beyond the scope of these proposed amendments. Rather than complicating the proposed amendments to the CCLUO before the Planning Commission with the tax code amendments, staff recommends the Planning Commission resolution for approval include the following direction to the Board of Supervisors:

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

1. Hold a public hearing in the manner prescribed by law.
2. Consider changes to the Tax Code needed to achieve consistency with the recommended changes to the CCLUO.
- 2.3. Adopt the ordinance amending the Zoning Regulations of the Inland Zoning Ordinance (Section 314 of Title III, Division 1, Chapter 4 of Humboldt County Code) as shown in Attachment 2 of this staff report modified as necessary to be consistent with the Tax Code, such as by deleting the proposed changes to the definition of Outdoor Cultivation and adding a definition for supplemental lighting to relate to its use to spur the growth of plants rather than to maintain them in a vegetative state.
- 3.4. Direct the Planning Staff to prepare and file a Notice of Determination with the County Clerk.
- 4.5. Direct the Clerk of the Board to publish within 15 days of approval a post approval summary in a newspaper of general circulation and give notice of the decision to interested parties."

The Humboldt Cannabis Growers Alliance also identified concerns with the proposed changes to the definition of Outdoor Cultivation. The way it is currently written, it would allow only low wattage light bulbs to be used in the cultivation and propagation areas. However, it is customary for propagation areas accessory to Outdoor Cultivation operations to use high wattage light bulbs to grow immature plants consistent with state law. Accordingly, staff recommends the definition of Outdoor Cultivation be modified to limit the wattage of light bulbs in the cultivation area only as follows:

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