



## Holder Law Group

317 Washington St., #177  
Oakland, CA 94607-3810

holderecolaw.com

(510) 338-3759  
jason@holderecolaw.com

January 20, 2021

VIA EMAIL AND HAND DELIVERY

County of Humboldt  
Humboldt County Planning Commission  
825 5th Street, Room 111  
Eureka, CA 95501  
Email: [Planningclerk@co.humboldt.ca.us](mailto:Planningclerk@co.humboldt.ca.us)

Humboldt County Planning Department  
Attn: Meghan Ryan, Senior Planner  
3015 H St.  
Eureka, CA 95501  
Email: [mryan2@co.humboldt.ca.us](mailto:mryan2@co.humboldt.ca.us)

Re: **Comments Concerning Rolling Meadow Ranch, LLC – Revised IS/MND for Commercial Cannabis Facilities** (PLN-12529-CUP; SCH# 2020070339)

Dear Honorable Members of the Humboldt County Planning Commission and Ms. Ryan:

On behalf of Fran Greenleaf, John Richards, and Patty Richards (collectively “Petitioners”), we submit these additional comments and objections, which supplement those expressed in Petitioners’ previous comments concerning the proposed Rolling Meadow Ranch, LLC Commercial Cannabis Project (“Project”).<sup>1</sup> Petitioners stand by their prior comments, and the comments from trustee agency officials, environmental organizations, the local volunteer fire protection district, and concerned neighbors and residents of the County of Humboldt (“County”). In addition, several local environmental organizations have reviewed these additional comments and concur.<sup>2</sup>

In contrast to the most recent staff report and conclusory response letter from the applicant’s attorney, the public comments are grounded in fact and law. The attached table identifies several major continuing issues of concern – the summary presents what we intend to be a helpful, but not exhaustive, roadmap to salient comments and evidence.<sup>3</sup>

The staff report improperly attempts to bolster the analysis of the Revised IS/MND with new information. Specifically, this new information includes cursory memoranda from a consultant and the County Public Works department concerning: (1) the Project’s water use

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<sup>1</sup> See Petitioners’ letters dated August 17, 2020, September 10, 2020, November 18, 2020, December 30, 2020, and January 7, 2021. Because Petitioners have already repeatedly expressed their serious concerns about the myriad potentially significant impacts of this proposed Project and the deficient analysis of those impacts in the original and revised versions of the IS/MND, Petitioners incorporate these prior comments by reference and focus herein on new information presented in the staff report and on the responses to comments.

<sup>2</sup> See Exh. A – List of Env. Orgs. and Stakeholders that Sign on to Final Comments, dated January 20, 2021.

<sup>3</sup> See Exh. B – Summary of Major Unresolved Issues.

and the potential for rainwater catchment to offset groundwater demand; and (2) the Project access roads and whether they satisfy applicable fire safe standards.<sup>4</sup> The supplemental materials, which seek to cure major deficiencies in the environmental impact analysis, were not timely made available during the two comment periods on the IS/MND. Consequently, the public and responsible agencies were not afforded an adequate opportunity to review and comment on information that is intended to cure deficiencies in the revised IS/MND. The County has not engaged in a “good faith effort at full disclosure”; this approach to fulfilling CEQA’s requirements is improper.<sup>5</sup>

After reviewing the staff report for this meeting and the public comments attachment, Petitioners maintain that the Planning Commission should not approve the Project based on the inadequate IS/MND. Instead, because there is substantial evidence supporting a fair argument that the Project may have one or more significant effects on the environment and negative neighborhood impacts, the Planning Commission is required to order the preparation of an EIR or may exercise its discretion to deny the Project application.<sup>6</sup>

As the administrative record demonstrates, the confusing and disjointed environmental review process for this Project (where the IS/MND was revised and recirculated, the Planning Commission’s consideration of the project was repeatedly noticed and then continued, and new information has been introduced to supplement the analysis), has placed a tremendous toll on concerned neighbors, sister agencies, and County residents. These stakeholders do not stand to benefit monetarily from the Project, unlike the applicant and the County. Instead, their stake is in the integrity of local government decisionmaking, responsible economic development, and long-term stewardship of natural resources.

Very Truly Yours,



Jason Holder

cc: (Via e-mail only)  
Client contacts  
Environmental organizations listed in Exhibit A

Attachments:

- Exh. A. List of Environmental Organizations that Join in Petitioners’ Final Comments, dated January 20, 2021
- Exh. B. Summary of Major Unresolved Issues
- Exh. C. Stipulation and Order re Settlement of CEQA Lawsuit re IS/MND for CMMLUO

<sup>4</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, pp. 79-81 [memo from Northpoint Consulting, dated Jan. 15, 2021]; see also *id.* at pp. 87-88 [memo from Dept. of Public Works, dated Jan. 14, 2021].

<sup>5</sup> See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390; see also *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442.

<sup>6</sup> The County prepared an IS/MND for the CMMLUO only to agree later to prepare an EIR. See Exh. C – Stipulation and Order re Settlement of CEQA Lawsuit re IS/MND for CMMLUO.

**Exhibit A**

**Environmental Organizations and Stakeholders  
Joining in Petitioners' Final Comments, dated January 20, 2021**

The following environmental organizations have reviewed the final draft of comments from Petitioners set forth in the letter to the Planning Commission dated January 20, 2021, and concur with these comments.

**Friends of the Eel River (FOER)**

Alicia Hammond, Executive Director

**California Native Plant Society (CNPS), North Coast Chapter**

Carol Ralph, President

**Environmental Protection Information Center (EPIC)**

Tom Wheeler, Executive Director and Staff Attorney

**Northcoast Environmental Center (NEC)**

Larry Glass, Executive Director

**Exhibit B**

**Rolling Meadow Ranch Commercial Cannabis Project**

**Summary of Major Unresolved Issues Raised by County Staff, CDFW, Environmental Organizations, and the Concerned Public**

The staff report states on page 12 that staff’s previously expressed concerns are “outdated” and “do not apply to the project as currently proposed or the current information and technical studies.” These assertions are not accurate. Due to the exhaustive comments already presented, and the limited amount of time afforded to refute these assertions in the staff report, we address several examples of prior legitimate comments that have never been adequately addressed and satisfactorily resolved. The following summary is not an exhaustive list of issues.

Issue Identified by County Planning Staff, the Peer Review Consultant, CDFW and / or the public	Resolution in Revised IS/MND and / or Staff Report
Inconsistency with CMMLUO <sup>1</sup>	The staff report states that the Project is consistent with the CMMLUO, downplaying issues such as the inadequacy of access roads and embracing “the prime agricultural soils loophole.” <sup>2</sup>
Undefined, inaccurate, and unstable project description. <sup>3</sup>	Additional road and culvert improvements are described in the Revised IS/MND. <sup>4</sup> The Revised ISMND also describes the exclusive use of groundwater for cultivation. The staff reports for this Project inconsistently describes required improvements to roads and drainage features. <sup>5</sup> The staff report now includes a newly proposed cultivation use for captured rainwater. <sup>6</sup>

<sup>1</sup> See Exh. D to Petitioners’ comments on Revised IS/MND: Letter from County Supervising Planner to Project applicant, dated January 15, 2018, p. 1; *see also* Exh. F to Petitioners’ comments on Revised IS/MND: Transcon Peer Review Memorandum (Memo #1), dated July 23, 2018, p. 9; *see also* Petitioners’ comments on original IS/MND, dated Aug. 17, 2020, p. 18; *see also* Petitioners’ comments on revised and recirculated IS/MND, dated Dec. 30, 2020, p. 34-35; *see also* CNPS comment letter on Revised IS/MND, dated Dec. 30, 2020, p. 2; *see also* Friends of the Marbled Murrelet comment letter on Revised IS/MND, dated Dec. 30, 2020, p. 2.

<sup>2</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, pp. 12, 47-49.

<sup>3</sup> See Letter from County Supervising Planner to Project applicant, dated January 15, 2018, p. 2-3; CDFW Referral Checklist, dated Jan. 24, 2018, p. 2; *see also* Exh. G to Petitioners’ comments on Revised IS/MND Transcon Peer Review Memorandum (Memo #2), dated July 23, 2018, p. 1-3; Petitioners’ supplemental comments on original IS/MND, dated Sept. 10, 2020, pp. 6-8; *see also* Petitioners’ comments on revised IS/MND, dated Dec. 30, 2020, pp. 7-15.

<sup>4</sup> See Revised IS/MND, pp. 10-11.

<sup>5</sup> Compare staff report for Aug. 20, 2020 Planning Commission meeting, pp. 5-6 with staff report for Jan. 7, 2021, Planning Commission meeting, pp. 6-7 and staff report for Jan. 21, 2020 Planning Commission meeting, pp. 8.

<sup>6</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, pp. 3-4, 79-81.

Issue Identified by County Planning Staff, the Peer Review Consultant, CDFW and / or the public	Resolution in Revised IS/MND and / or Staff Report
Access roads must satisfy the County’s fire safe and emergency access standards. <sup>7</sup>	The revised IS/MND identifies a number of necessary improvements to bring the Project access roads up to the (improper) Category 2 standard. <sup>8</sup> The staff report for the January 7 Planning Commission meeting states that “road maintenance” occurred at the Project site in 2019, and that “[w]ith the roadwork now complete, all roads (using the existing prism) have been brought up to the Fire Safe standards.” <sup>9</sup> The staff report for the January 21 Planning Commission meeting no longer makes this claim, but now describes the internal ranch roads as “driveways” under the Humboldt County Code. <sup>10</sup>
Unsubstantiated conclusion regarding wells hydrologic connectivity to surface water <sup>11</sup>	The Revised IS/MND relies upon two Fisch Drilling letters. The staff report adds an explanation concerning an “examination” of well logs. <sup>12</sup> Neither provide the requested qualified substantiation. <sup>13</sup>

<sup>7</sup> See Letter from County Supervising Planner to Project applicant, dated January 15, 2018, pp. 2-3; see also Transcon Peer Review Memo #1, p. 11; see also Petitioners’ comments on revised and recirculated IS/MND, dated Dec. 30, 2020, pp. 8-13; see also Petitioners’ supplemental comments on original IS/MND, dated Sept. 10, 2020, pp. 6-8; see also Petitioners’ initial comments on original IS/MND, dated Aug. 17, 2020, pp. 5-8.

<sup>8</sup> See Revised IS/MND, pp. 12-13 [describing Project-related improvements to internal ranch roads (to the improper Category 2 standards)].

<sup>9</sup> See staff report to Planning Commission for Jan. 7, 2021 meeting, p. 6.

<sup>10</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, p. 8. In contrast to the staff report, the revised IS/MND does not describe the internal ranch roads as driveways (see, e.g., Revised IS/MND, pp. 190-192, 220-225). Under the Humboldt County Code, a “driveway” is defined as “A vehicular access that serves no more than two buildings ...” (See HCC, § 3111-111 [definitions].) Because the Project, as proposed, would include more than 2 buildings, the internal ranch roads used to access these remote locations do not qualify as “driveways.” Even if the internal access roads could qualify as “driveways” (which they cannot), they do not have the requisite number and spacing for required turnouts. (See HCC, § 3112-12.)

<sup>11</sup> The County specifically stated that the determination concerning hydrologic connectivity must be made by a qualified expert and the basis for that determination must be documented. See Petitioners’ comments on Revised IS/MND, dated December 30, 2020, p. 23 [“Consultation with an engineering geologist is needed to fully document the groundwater supply and impact from the proposed cultivation. It needs to be demonstrated that the wells are not hydrologically connected to the water flow of the river“], quoting Exh. D to Petitioners’ comment letter, letter from County supervising planner to applicant dated January 15, 2018, emphasis added; see also CDFW email to planner dated Sept. 10, 2020; see also CDFW comments on revised IS/MND, dated Dec. 30, 2020, pp. 8-9.

<sup>12</sup> See Staff Report to Planning Commission for Jan. 21, 2021 meeting, pp. 4, 12. The staff report for the August 20 Planning Commission cites solely the Fisch Drilling letter dated February 15, 2018 (see p. 4).

<sup>13</sup> The staff report attempts to downplay the relevance of the 1959 USGS report (see p. 13). This report indeed describes the geology in the Project area and shows that groundwater availability is limited. Petitioners are not responsible for proving that there will be a hydrologic connection. Rather, the applicant (and the County upon approval) is required to “demonstrate” and “document”, with substantial evidence, that there is no connection.

Issue Identified by County Planning Staff, the Peer Review Consultant, CDFW and / or the public	Resolution in Revised IS/MND and / or Staff Report
Inadequate surveys for biological resources and wetlands <sup>14</sup>	The IS/MND includes mitigation measures calling for additional surveys. The staff report also adds an explanation concerning additional survey efforts concerning the golden eagle. <sup>15</sup>
Potentially significant impacts to public services <sup>16</sup>	The IS/MND relies upon an assertion of compliance with fire safe regulations to support the conclusion that the Project will not cause significant impacts to public services, such as wildfire, police, and emergency response. <sup>17</sup> The staff report inserts new and contradictory information in an attempt to support the conclusion that the Project access roads satisfy County fire safe standards as required under the Humble County Code. <sup>18</sup>
The Biological Reports referenced in the IS/MND were not made available to the public during the two public comment periods. <sup>19</sup>	The staff report inaccurately states that all versions of the Biological Report were made available to the public. <sup>20</sup> The staff report also adds other new information and analysis that was not made available to the public during the comment period for the Revised IS/MND. <sup>21</sup>

<sup>14</sup> See CDFW comments on original IS/MND, dated August 17, 2020, p. 2; *see also* CDFW comments on revised IS/MND, dated Dec. 30, 2020, pp. 2-7; *see also* Redwood Regional Audubon Society comments on revised IS/MND, dated Dec. 30, 2020, pp. 1-2; *see also* Petitioners' comments on Revised IS/MND, dated Dec. 30, 2020, pp. 28-31.

<sup>15</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, p. 9.

<sup>16</sup> See, *e.g.*, Petitioners' comments on Revised IS/MND, dated Dec. 30, 2020, pp. 18-22, citing Transcon Memo #1, p. 13; *see also* Fruitland Ridge Volunteer Fire Protection District comments on revised IS/MND, dated Dec. 30, 2020, pp. 1-2.

<sup>17</sup> Revised IS/MND, pp. 214-216.

<sup>18</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, pp. 87-88.

<sup>19</sup> See Petitioners' comments on Revised IS/MND, dated Dec. 30, 2020, pp. 28-29.

<sup>20</sup> See staff report to Planning Commission for Jan. 21, 2021 meeting, p. 12.

<sup>21</sup> See, *e.g.*, *id.* at pp. 4-7 [discussion re golden eagles], 9 [substitution of mitigation measure], 16-17 [discussion of aesthetic impacts] 79-81 [memo re rainwater use from Northpoint Consulting], 87-88 [new memorandum re access roads].

Exhibit C

**FILED**

**JRB**

**JUL 06 2016**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT**

1 JEFFREY S. BLANCK, STATE BAR NUMBER 115447  
HUMBOLDT COUNTY COUNSEL  
2 825 Fifth Street, Room 110  
Eureka, CA 95501  
3 Telephone: (707) 445-7236  
CountyCounsel@co.humboldt.ca.us

4 *Attorneys for Respondents*  
5 COUNTY OF HUMBOLDT  
THE BOARD OF SUPERVISORS OF THE  
6 COUNTY OF HUMBOLDT

7 RACHEL S. DOUGHTY, STATE BAR NUMBER 255904  
8 GREENFIRE LAW  
1202 Oregon Street  
9 Berkeley, CA 94702  
10 Telephone: (828) 424-2005  
Email: rdoughty@greenfirelaw.com

11 *Attorneys for Petitioner*  
12 HUMBOLDT-MENDOCINO MARIJUANA ADVOCACY PROJECT

13  
14 SUPERIOR COURT OF CALIFORNIA  
15 COUNTY OF HUMBOLDT

16 HUMBOLDT MENDOCINO MARIJUANA  
ADVOCACY PROJECT, an unincorporated  
17 association,

18 Petitioner,

19 v.

20 COUNTY OF HUMBOLDT, THE BOARD  
OF SUPERVISORS OF THE COUNTY OF  
HUMBOLDT, AND DOES 1 THROUGH 10,  
21 inclusive,

22 Respondents.  
23

CASE NO.: CV 160171\_

STIPULATION FOR SETTLEMENT AND  
RELEASE; [PROPOSED] ORDER

Judge: Hon. Dale A. Reinholtsen  
Date Action Filed: February 26, 2016

24 IT IS HEREBY STIPULATED by and between petitioner HUMBOLDT-MENDOCINO  
25 MARIJUANA ADVOCACY PROJECT ("Petitioner" or "HUMMAP") and respondents the  
26 COUNTY OF HUMBOLDT and the BOARD OF SUPERVISORS OF THE COUNTY OF  
27 HUMBOLDT ("Respondents" or "County") through their respective counsel, that the case has  
28 been settled pursuant to the following terms. Petitioner and Respondent are collectively referred to

1 as "Parties" and individually as "Party." The Effective Date of this Stipulation for Settlement  
2 Agreement and Release ("Settlement Agreement") is the day it is signed by the last signatory.

3 RECITALS

4 1. WHEREAS, on January 26, 2016, the Respondents adopted Humboldt County  
5 Ordinance Number 2544, entitled the "Commercial Medical Marijuana Land Use Ordinance"  
6 ("Ordinance")

7 2. WHEREAS, prior to taking this action, on October 3, 2015, the County published  
8 notice of its intent to adopt a Mitigated Negative Declaration for the Ordinance, and circulated a  
9 draft for public comment in conjunction with a draft of the Ordinance, the purpose of which was to  
10 regulate the commercial cultivation of medical marijuana in the County.

11 3. WHEREAS, following revisions of the draft land use ordinance, and public  
12 hearings and comments on the same, on January 26, 2016, the Respondents held a public hearing  
13 to consider substituting mitigation measures incorporated in the draft land use ordinance regulating  
14 the commercial cultivation of cannabis for medical use into a final draft ordinance and received  
15 evidence and public testimony on the same. On the same date, the Respondent Board of  
16 Supervisors, by Resolution 16-14, adopted the Ordinance, a Mitigation Monitoring Plan, and also  
17 certified the "Mitigated Negative Declaration with Substitute Mitigation Measures and a  
18 Mitigation Monitoring Program" ("Substitute MND") for the Ordinance;

19 4. WHEREAS, on February 26, 2016, Petitioner HUMMAP timely filed a Verified  
20 First Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in  
21 Humboldt County Superior Court (Case CV160171) ("Lawsuit") alleging violations of the  
22 California Environmental Quality Act ("CEQA") in that: (1) the County should have prepared an  
23 Environmental Impact Report ("EIR"), and in particular the County failed to establish appropriate  
24 baseline conditions against which it could have measured the impacts of the Ordinance, and (2) the  
25 County failed to support its findings in the Substitute MND with substantial evidence.

26 ///

27 ///



1           **b.** No later than thirty days after the Effective Date of this Settlement Agreement,  
2           County will adopt and implement a policy statement interpreting that section  
3           55.4.11(o) of the Ordinance requires, at a minimum, that the decibel level for  
4           generators cannot exceed 50 Decibels, including background noise, measured at  
5           a distance of 100 feet from the generator in habitat or potential habitat for the  
6           Marbled Murrelet or the Spotted Owl, and that forestland sites requiring a 3-  
7           acre conversion exemption shall be presumed to constitute habitat or potential  
8           habitat for these species. In order to implement this policy, staff will require  
9           description of where generators are used on applicant site and how the generator  
10          will meet this policy requirement. This policy shall apply to all permits  
11          processed from this point forward.

12          **c.** No later than thirty days after the Effective Date of this Settlement Agreement  
13          the County will adopt and implement a policy statement interpreting that section  
14          55.4.8.3 of the Ordinance requires that carbon credits be obtained from a  
15          legitimate source, and so must be purchased from a vendor approved by the  
16          California Air Resources Board or sanctioned by a State Regulatory Agency,  
17          such as the California Public Utility Commission (e.g., PG&E Solar Choice  
18          Program).

19          **d.** The County shall pay, via check, a total sum of THIRTY-FIVE THOUSAND  
20          DOLLARS (\$35,000) to HUMMAP's attorney, payable to Greenfire Law, P.C.  
21          IOLTA Client Trust Account within thirty (30) days of the Effective Date of  
22          this Settlement Agreement, for attorney's fees and costs related to this action.  
23          All checks shall be mailed to: Rachel S. Doughty, Greenfire Law, P.C., 1202  
24          Oregon Street, Berkeley, CA 94702.

25          ///

26          **e.** The County shall within a seven (7) days of the Effective Date of this  
27          Settlement Agreement file and serve this *Stipulation for Settlement Agreement*  
28          *and Release* with its *[Proposed] Judgment of Dismissal Subject to Continuing*

1                    *Jurisdiction to Enforce Settlement Agreement* and submit it to the Court for  
2 approval.

3                    f. The Respondents agree to bear their own fees and costs, including attorneys'  
4 fees, in relation to this Lawsuit.

5                    4. **Reservation of Right to Challenge.** Neither this Settlement Agreement nor  
6 Petitioner's participation in the preparation of any EIR by the County circumscribes or  
7 otherwise affects Petitioner's rights to ultimately challenge any final EIR (or any of the  
8 contents thereof) and/or any subsequent authorization by the County regarding the  
9 regulation of cannabis cultivation in Humboldt County, including Petitioner's right to  
10 seek a temporary restraining order or other injunctive relief.

11                    5. **Release Parties Only.** This release and covenant not to sue shall not act as a release  
12 from liability of any person or entity other than those referred to herein.

13                    6. **Specific Release.** The parties agree that Petitioner specifically releases its claims set  
14 forth in the Verified Petition for Writ of Mandate and Complaint for Declaratory and  
15 Injunctive Relief, associated costs, attorneys' fees, and costs of prosecuting this  
16 Lawsuit, whether such costs are known or unknown, suspected or unsuspected,  
17 foreseen or unforeseen. Because the release is a specific release, Civil Code section  
18 1542 which pertains to general releases does not apply to this Settlement Agreement.  
19 Petitioners do not waive any rights that may exist should enforcement of this Settlement  
20 Agreement be necessary.

21                    7. **Notices.** All notices, requests, consents, approvals and other communications required  
22 or permitted under this Settlement Agreement shall be in writing. Notices shall be  
23 personally delivered or sent by electronic mail as well as United State mail, postage  
24 prepaid, return receipt requested. Notices shall be addressed as follows:

For Petitioner:	Rachel Doughty, rdoughty@greenfirelaw.com Greenfire Law, PC 1202 Oregon St. Berkeley, CA 94702
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For Respondents:	Jeffrey Blanck, CountyCounsel@co.humboldt.ca.us HUMBOLDT COUNTY COUNSEL 825 Fifth Street, Room 110 Eureka, CA 95501
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- 8. **Interpretation.** This Settlement Agreement shall be deemed to have been drafted equally by the parties, and shall not be interpreted for or against either party on the ground that any such party drafted it. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 9. **Integration.** This Settlement Agreement contains all of the terms and conditions agreed upon by Humboldt-Mendocino Marijuana Advocacy Project, the County of Humboldt and the Board of Supervisors of the County of Humboldt, relating to the matters covered by this Settlement Agreement, and supersedes any and all prior and contemporaneous agreements, negotiations, correspondence, understandings, and communications of the parties, whether oral or written, respecting the matters covered by this Settlement Agreement. This Settlement Agreement may be amended or modified only by a writing signed by the parties to this Settlement Agreement or their authorized representatives, and then by order of the court.
- 10. **Knowing, Voluntary Agreement.** Each party to this Settlement Agreement acknowledges that it has been represented by legal counsel, and that each party has reviewed and has had the benefit of legal counsel's advice, concerning all of the terms and conditions of this Settlement Agreement.
- 11. **Warranty of Capacity to Execute Agreement.** Each party to this Settlement Agreement represents and warrants that the person who has signed this Settlement Agreement on its behalf is duly authorized to enter into this Settlement Agreement, and to bind that party to the terms and conditions of this Settlement Agreement.
- 12. **No Third Party Benefits.** This Settlement Agreement is made for the sole benefit of Humboldt-Mendocino Marijuana Advocacy Project, the County of Humboldt and the Board of Supervisors of the County of Humboldt, and no other person or entity shall

1 have any rights or remedies under or by reason of this Settlement Agreement, unless  
2 otherwise expressly provided for herein.

3 **13. Submission of Stipulated Settlement Agreement and Release and Proposed**

4 **Judgment to Court.** Pursuant to Code of Civil Procedure section 664.6, the parties  
5 hereby jointly request the court to retain jurisdiction of this case and over the parties  
6 personally until final performance of the Settlement Agreement stated herein. This  
7 includes tolling of any applicable statute, rule or court order affecting timely  
8 prosecution of this action, including the 5-year dismissal statute.

9 **14. Signature.** This Settlement Agreement can be signed in counterparts and pdf/email  
10 signatures are deemed originals.

11 IT IS SO STIPULATED.

12 Dated: 6/26/16

13 By:   
14 Robert Sutherland  
15 Petitioner Humboldt-Mendocino Marijuana  
16 Advocacy Project

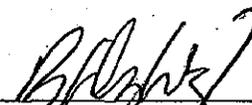
17 Dated: 7/5/16

18 By:   
19 Mark Lovelace, Chair Humboldt County Board  
20 of Supervisors  
21 Respondents County of Humboldt and Board of  
22 Supervisors for County of Humboldt

23 APPROVED AS TO FORM:

24 Dated: 6/29/16

25 GREENFIRE LAW, PC

26 By:   
27 Rachel S. Doughty  
28 Attorney for Petitioner HUMMAP

Dated: 6/30/16

HUMBOLDT COUNTY COUNSEL

By:   
Jeffrey S. Blanck  
Attorneys for Respondent County of Humboldt  
and Board of Supervisors for County of  
Humboldt

STIPULATION FOR SETTLEMENT AND RELEASE

7

ATTACHMENT A

The following actions by the County will not activate the obligation pursuant to this Settlement Agreement to prepare an Environmental Impact Report:

1. Repeal of Humboldt County Code sections 313-56.1 and 314-56.1 (current ban on medical marijuana dispensaries);
2. Amendments of Humboldt County Code sections 313-55.3 and 314-55.3 governing medical marijuana dispensaries as stated in Attachment B; and.
3. Amendment of Ordinance 2544 as stated in Attachment C.

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ATTACHMENT C

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

Certified copy of portion of proceedings, Meeting of January 26, 2016

**ORDINANCE AMENDING MAKING CLARIFYING AND CORRECTIVE AMENDMENTS TO TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING AND DISTRIBUTION OF CANNABIS FOR MEDICAL USE**

**ORDINANCE NO. 2544 \_\_\_\_\_**

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

**SECTION 1. Section 313-55.4 of Chapter 3 of Division 1 of Title III is hereby added/amended to read as follows:**

313-55.4 Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Coastal Zone Land Use Regulation

55.4.1 Authority and Title

This Section shall be known as the Commercial Medical Marijuana Land Use Ordinance (“CMMLUO”), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing and Distribution of cannabis for medical use, as defined in this Code, located in the coastal zone of the County of Humboldt.

55.4.2 Purpose and Intent

The purpose of this Section is to establish land use regulations concerning the commercial cultivation processing, manufacturing, and distribution of cannabis for medical use within the County of Humboldt in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medical Marijuana Regulation and Safety Act (“MMRSA”) (SB 643, AB 266, and AB 243 as adopted September 11, 2015, and approved by the Governor on October 9, 2015), so as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical marijuana; to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the medical marijuana; and to safeguard against the diversion of medical marijuana for non-medical purposes. It is intended to address the County of Humboldt’s prerogative to license, permit, and control commercial cultivation of cannabis for medical use as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the County of Humboldt, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the County of Humboldt, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law. This Section is not intended to supersede the provisions of Sections 313-55.1, 314-55.1, 313.55.2, or 314.55.2 of this Code concerning cultivation of medical marijuana for personal use by patients or caregivers.

### 55.4.3 Applicability and Interpretation

55.4.3.1 These regulations shall apply to the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this section.

55.4.3.2 The commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use within the jurisdiction of the County of Humboldt inside the Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.

55.4.3.3 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use, from compliance with all other applicable Humboldt County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

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

55.4.3.5 Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, manufacture, or distribution of cannabis for medical use on private property.

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

55.4.3.7 Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MMRSA, Business and Professions Code Section 19300, et. seq., and the provisions of the Right to Farm Ordinance, Section 313-43.2.6 of the Humboldt County Code, the commercial cultivation of cannabis for medical use is a highly regulated specialty crop and the cultivation and processing of that specialty crop shall not be allowed as a principal permitted use under the General Agriculture use type classification applicable within the County of Humboldt, unless a Zoning Clearance Certificate, Special Permit, or Use Permit, and Coastal Development Permit is first obtained from the County of Humboldt, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

### 55.4.4 Severability

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

#### 55.4.5 Release of Liability and Hold Harmless

As a condition of approval for any Zoning Clearance Certificate, Special Permit, or Use Permit and Coastal Development Permit approved for the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use, as defined herein, the owner or permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

#### 55.4.6 Penalties and Enforcement

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

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

#### 55.4.7 Definitions

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

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

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

“Cultivation Area” means the sum of the area(s) of cannabis cultivation as measured around the perimeter of each discrete area of cannabis cultivation on a single premises, as defined herein. Area of

cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, the exterior dimensions of hoop houses or green houses, and the total area of each of the pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises.

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

“Distribution Facility” means the location or a facility where a person licensed with a Type 11 license pursuant to the MMRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

“Indoor” means indoor cultivation using exclusively artificial lighting.

“Licensee” means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

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

“Mixed-Light” means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in performance standards in Section 55.4.11 (v), et seq. of this ordinance, or as to be determined by the Department of Food and Agriculture, whichever is less.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

“Outdoor” means outdoor cultivation using no artificial lighting.

“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.

“Premises” means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor, mixed-light, or indoor cultivation or processing of medical cannabis, or a leased or owned space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

“Prime Agricultural Soils” means all lands which qualify for rating as Class I or Class II in the Soil Conservation Service land use capability classifications or qualify for rating 80 through 100 in the Storie Index Rating. Additionally, where determined through site-specific fieldwork prepared by a qualified professional, soils meeting these characteristics may be recognized as prime.

“Processing Facility” means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical cannabis is grown and harvested.

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

“Slope” means Natural Grade as defined in Title III, Section 313-142 of the Humboldt County Code, which has not been filled or graded after January 1, 2016.

“State license,” “license,” or “registration” means a state license issued pursuant to the MMRSA.

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

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

#### 55.4.8 General Provisions

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacture, or Distribution of cannabis for medical use, as defined in this Section, within the Coastal Zone.

55.4.8.1 All commercial cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws.

55.4.8.2 Outdoor and Mixed Light commercial cultivation of cannabis for medical use shall be allowed in specifically enumerated zones in which general agriculture is a principally permitted use, or a conditional use, only with a Zoning Clearance Certificate, Special Permit, or Use Permit issued pursuant to Sections 312-2.1 or 312-3.1 of the Humboldt County Code. Inside the Coastal Zone, zoning districts where the Outdoor and Mixed-Light commercial cultivation of cannabis for medical use may be located are RA, AE, AE (no parcel size limitation), RA (on parcels of 5 acres or larger), TC, and TPZ (on parcels one (1) acre or larger). In all zones where cultivation is allowed consisting of timberland, the commercial cultivation of cannabis for medical use shall only be permitted within a 3-acre conversion exemption area or non-timberland open areas; area, subject to the conditions and limitations set forth in this section. Additionally, with a Conditional Use Permit, Outdoor and Mixed-Light commercial cultivation of cannabis for medical use may be conducted in ~~EGC-2, C-3, MB, ML,~~ and MG zones, subject to the conditions and limitations set forth in this section.

55.4.8.2.1 Approvals for New Outdoor and Mixed-Light Cultivation Areas On parcels 5 acres or larger in size, a Zoning Clearance Certificate may be issued for new outdoor or mixed-light commercial cannabis cultivation for an area up to 10,000 square feet that was not previously in

existence as of January 1, 2016, on parcels with Prime Agricultural Soils, in zoning districts RA or AE, on slopes of 15% or less, and with documented current water right or other non-diversionary source of irrigation water (e.g., municipal, public utility, or permitted well), subject to the conditions and limitations set forth in this section. No~~The~~ cultivation area shall be located on the Prime Agricultural Soils on the parcel and no more than 20% of the area of Prime Agricultural Soils on the parcel may be permitted for commercial medical marijuana cultivation. Where the parcel meets the characteristics which support new cultivation but the parcel contains a cultivation site that existed on January 1, 2016, the area allowance for new cultivation shall be adjusted such that the maximum aggregate 10,000 sq. ft. area (as may modified by the 20% prime soil cap) is not exceeded over the parcel (e.g., a site with a 6,000 sq. ft. existing cultivation area and meeting the criteria for new cultivation could obtain a permit for new cultivation of up to 4,000 sq. ft.). Only one Zoning Clearance Certificate may be issued for each parcel, except as provided in Sections 55.4.8.2.1.1 and 55.4.14.

55.4.8.2.1.1 On parcels 320 acres or larger in size, in the eligible zoning districts described in 55.4.8.2.1, one additional cultivation area permit of up to one acre each for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit, subject to the limitations contained in section 55.4.8.10. No more than 20% of the area of Prime Agricultural soils on the parcel may be utilized for commercial medical marijuana cultivation activities.

55.4.8.2.1.2 In zoning districts CG, MB, ML, and MG, outdoor and mixed light cultivation may be permitted with a Use Permit.

55.4.8.2.1.3 On AE parcels between 1 acre and 5 acres in size, outdoor and mixed light cultivation of up to 5,000 square feet may be permitted with a Use Permit.

55.4.8.2.1.4 On eligible parcels under 5 acres in size, the cultivation area must be set back at least 300 feet from existing residences on adjoining parcels.

55.4.8.2.2 Approvals for Existing Outdoor and Mixed-Light Cultivation Areas A Zoning Clearance Certificate, Special Permit or Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in zoning districts ~~RA-AE~~ (no parcel size limitation), RA (on parcels five acres or larger), ~~AE~~, and TC, and TPZ, (on parcels one acre or larger), but only when possible to bring the cultivation into compliance with all applicable standards set forth in this section and to eliminate existing violations as specified in this ordinance. No expansion of the existing cultivation area shall be permitted. The total cultivation area allowed on a single parcel shall not exceed one acre for outdoor cultivation or 22,000 square feet for mixed-light cultivation.

55.4.8.2.2.1 On AE-zoned parcels of less than one acre, only one Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, not to exceed 2,500 square feet. The cultivation area must be set back at least 300 feet from existing residences on adjoining parcels. The standards set forth in Section 313-55.2.7.2.8 shall also apply.

55.4.8.3 Approvals for Indoor Cultivation Indoor commercial cultivation of cannabis for medical use shall be a conditionally permitted use inside the Coastal Zone in zoning districts CG, MB, ML, and MG subject to a Zoning Clearance Certificate or Use Permit and the conditions and limitations set forth in this section. Indoor commercial cultivation of cannabis for medical use shall be

permitted with a Special Permit inside the Coastal Zone in zoning districts RA (on parcels of 5 acres or more) and AE, for cultivation facilities of up to 5,000 square feet that will be located in a non-residential structure existing on January 1, 2016, subject to the conditions and limitations set forth in this section. Electrical power for indoor cultivation operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by on-grid power with 100% renewable source, on-site zero net energy renewable source, or with purchase of carbon offsets of any portion of power not from renewable sources.

55.4.8.4 Processing Facilities for commercial cannabis for medical use for other than an appurtenant, on-premises cultivation operation as provided in 55.4.9.1 shall be a conditionally permitted use inside the Coastal Zone in zoning districts CG, MB, ML, MG, RA on parcels of 5 acres or more, and AE, subject to a Special Permit and the conditions and limitations set forth in this Section. Processing facilities shall meet the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11(q) through (u).

55.4.8.5 Manufacturing of commercial cannabis for medical use shall be a conditionally permitted use inside the Coastal Zone in zoning districts CG, MB, ML, and MG, subject to a Special Permit and the conditions and limitations set forth in this Section.

55.4.8.6 Wholesale Distribution Facilities for commercial cannabis for medical use shall be a conditionally permitted use inside the Coastal Zone in zoning districts CG, MB, ML, and MG, subject to a Special Permit and the conditions and limitations set forth in this Section.

55.4.8.7 Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale shall be a conditionally permitted use inside the Coastal Zone in zoning districts CG, ML, MG, and MB, subject to a Use Permit and the conditions and limitations set forth in this Section. Nurseries producing commercial cannabis nursery products for bulk wholesale sale or to supply retail nursery outlets shall be a conditionally permitted use in the AE zoning district, or RA zoning district on parcels of 5 acres or more, subject to a Special Permit and the conditions and limitations set forth in this Section.

55.4.8.8 Other than as enumerated in this Section, the commercial cultivation, processing, manufacture or distribution of cannabis for medical use in any other zoning district inside the Coastal Zone of County of Humboldt is prohibited.

55.4.8.9 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Coastal Development Permit and a Zoning Clearance Certificate, Special Permit, or Use Permit from the County of Humboldt to engage in the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use within the Coastal Zone jurisdiction of the County.

55.4.8.10 No more than four commercial cannabis activity permits of any type enumerated in Sections 55.4.8.2 through 55.4.8.7 of this ordinance may be issued to a single person, as defined herein. 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.

55.4.9 Permit Types

The type of Zoning Clearance Certificate, Special Permit, or Use Permit that shall be required in order to engage in the commercial cultivation of cannabis for medical use shall be determined by the size and zoning classification of the parcel on which the activity is to be conducted and the type of state license required for that operation pursuant to the MMRSA, in accordance with the following chart:

**Table of Humboldt County Commercial Cannabis Cultivation Permit Types – Coastal Zone**

In the Coastal Zone, with the clearance or permit type specified below, Outdoor and Mixed-Light cultivation is permitted on all 'Agricultural Land' or in zones in which 'General Agriculture' is a principal permitted use (RA, AE) subject to performance standards. Special limits apply to TC or TPZ zones. Outdoor and Mixed-Light cultivation may also be permitted in the CG, MB, ML, and MG zones with a Use Permit.

	<u>Parcel Size</u>	<u>Permit Tier</u>	<u>Cultivated Area Size Limit</u>
<b>OUTDOOR</b>	RA less than 5 acres	Not Permitted	0 sq ft
	Existing on AE parcels less than 1 acre in size	III – Use Permit	up to 2,500 sq ft
	Existing on AE, TC or TPZ 1 acre and above and RA parcels 5 acres and above, with no expansion, per 55.4.8.2.2	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 – 43,560 sq ft
	New on AE and RA parcels 5 acres to 320 acres per 55.4.8.2.1	I - Zoning Clearance Certificate	up to 10,000 sq ft
	AE and RA parcels 320 acres and above	III – Use Permit for more than one permit per parcel	See 55.4.8.2.1.1
<b>MIXED - LIGHT</b>	RA less than 5 acres	Not Permitted	0 sq ft
	Existing on AE up to 1 acre	III – Use Permit	2,500 sq ft
	Existing on AE 1 acre and above and RA parcels 5 acres and above per 55.4.8.2.2	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III – Use Permit	>10,000 – 22,000 sq ft
	New on AE and RA parcels 5 acres and above to 320 acres per 55.4.8.2.1	I - Zoning Clearance Certificate	up to 10,000 sq ft
	AE parcels 320 acres and above	III – Use Permit for more than one permit per parcel	See 55.4.8.2.1.1

Indoor Cultivation Permitted in RA, AE, CG, MB, ML and MG Zones with the clearance or permit type specified below.

<b>INDOOR</b>	RA parcels of 5 acres or larger, or AE parcels; within footprint of existing non-residential structure	II – Special Permit	up to 5,000 sq ft
	CG, MB, ML and MG	I – Zoning Clearance Certificate	Up to 5,000 sq ft
		III – Use Permit	5,000 – 10,000 sq ft

Applications for any clearance or permit listed in the above chart shall be processed in accordance with the procedures set forth in Title III, Chapter 2, beginning with Section 312-1 of the Humboldt County Code.

55.4.9.1 Processing of cannabis at the same premises where the cultivation site is located shall be allowed pursuant to the applicable Zoning Clearance, Special Permit, or Use Permit, provided that the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11(eg) through (su) below are met. All processing that will not occur at the same premises where the cultivation site is located is subject to a Special Permit application provided that in accordance with Section 55.4.8.4. Processing facilities shall meet the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11(eg) through (s) below are met.u.

55.4.9.2 Multiple applicants may obtain a single Zoning Clearance Certificate, Special Permit or Use Permit for outdoor cultivation, mixed-light cultivation, or both, on a single Premises by filing a combined application so long as the cumulative cultivation area does not exceed the total cultivation area size limits for that clearance or permit type set forth in section 55.4.9. For purposes of the limitation of the number of permits that may be granted on a single parcel pursuant to section 55.4.8.2.1 or 55.4.8.2.2.1, multiple permits or combinations of permit types combined in a single application shall be considered a single permit, but a separate permit shall be issued for each independent operator that filed a combined application under this section.

55.4.9.3 A combination of the permit types that may be allowed in the same zone (e.g., outdoor and mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit that may be processed as a Zoning Clearance Certificate application may be processed with a single application. Permitting for a combination of permit types that is larger than the area that may be processed with a Zoning Clearance Certificate, may be processed with a single Special Permit or Conditional Use Permit, as applicable. For purposes of the limitation of the number of permits that may be granted on a single parcel pursuant to section 55.4.8.2.1 or 55.4.8.2.2.1, multiple permits or combinations of permit types combined in a single application shall be considered a single permit.

55.4.9.4 Pre-Application Registration of Existing Cultivation Site

All operators of existing cultivation sites seeking recognition of cultivation activities that occurred on or before January 1, 2016, for purposes of obtaining a Zoning Clearance Certificate or discretionary permit for ongoing commercial cannabis cultivation for medical use pursuant to the CMMLUO shall register with the County of Humboldt Department of Planning & Building within 180 days of the

effective date of this ordinance. Registration shall be on a form provided by the Planning Department that shall include the name and contact information of the operator, the address and/or Assessor's Parcel Number of the property where the cultivation site is located, the name and address of the property owner of the parcel, the approximate latitude and longitude coordinates of the cultivation site, and the approximate area (in square feet) under cultivation before January 1, 2016. Registrants shall provide sufficient documentation of prior cultivation activity. Registrants shall receive information about their options for obtaining a Zoning Clearance Certificate, Special Permit, or Use Permit as necessary for the commercial cultivation of cannabis for medical use to comply with the MMRSA. Registrants may also be eligible to receive a certificate of good standing from the County of Humboldt for purposes of obtaining priority processing of state license applications, pursuant to the MMRSA, Business and Professions Code Section 19321 (c).

#### 55.4.9.5 Applications for Commercial Cannabis Activity on Tribal Land

Commercial cannabis activity shall only be allowed on Tribal Lands with the express approval of the Tribe.

#### 55.4.10. Application Requirements for All CMMLUO Clearances or Permits

- a) The name, contact address and phone number(s) of the applicant.
- b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- c) Site plan showing the entire parcel, including easements, streams, springs, ponds, and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet.
- d) A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper use and storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable; and schedule of activities during each month of the growing and harvesting season. The operations plan shall also include a security plan describing measures to be taken to ensure the security of the medical marijuana and to safeguard against the diversion of medical marijuana for non-medical purposes, or access by minors.
- e) Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable.
- f) Description of water source, storage, irrigation plan, and projected water usage.

- g) If applicable, a copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- h) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- i) If the source of water is a well, a copy of the County well permit, if applicable.
- j) If the parcel is zoned TC or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, ~~evidence may be provided showing that if~~ the landowner has not completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE, the applicant shall secure the services of a registered professional forester (RPF) to evaluate site conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendation as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practices Act. The Planning Division shall provide CAL-FIRE written Notice of Availability of the RPF's report. If CAL-FIRE takes no action within ten (10) days of the notice of availability, the report recommendations shall become final.
- k) Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter.
- l) For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in section 55.4.8.2-3, and plan for compliance with applicable Building Codes.
- n) Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located will not support diversions for irrigation.
- o) Acknowledge that the county reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that

operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS).

55.4.11 Performance Standards for all CMMLUO Cultivation and Processing Operations

- a) Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional clearance or permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings and sites that are used for commercial cannabis activity and shall not extend to personal residences or other structures that are not used for commercial cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 55.4.13 below, except the Planning Commission, and not the Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.
- b) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.
- c) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- d) The area of cannabis cultivation, processing, manufacture or distribution shall be located as shown on the application site plan, set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, Public Park, or Tribal Cultural Resources: (as these terms are defined in section 55.2.6 and 55.4.7). The minimum setback required from property lines or adjacent uses may be waived or reduced with the express consent of the adjacent property owner and occupant. 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, and coastal, river and fishing access points, and like facilities under public ownership. 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. Cultivation areas and associated facilities shall observe all required setbacks from

watercourses, wetlands and Environmentally Sensitive Habitat Areas, as described within sections 313-33 and 313-38 of the code, as well as applicable resource protection policies and standards of the Local Coastal Plan.

- e) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- f) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023 is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.
- g) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- h) Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE).
- i) Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
- j) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA). Any uses of pesticide products shall be in compliance with State pesticide laws and regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.
- k) Pay all applicable application and annual inspection fees.
- l) Where surface water diversion provides any part of the water supply for irrigation of cannabis cultivation, the applicant shall either: 1) consent to forebear from any such diversion during the period from May 15<sup>th</sup> to October 31<sup>st</sup> of each year and establish on-site water storage for retention of wet season flows sufficient to provide adequate irrigation water for the size of the area to be cultivated, or 2) submit a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar qualified professional, that establishes minimum water storage and forbearance period, if required, based upon local site conditions, or 3) obtain approval from the RWQCB through enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan.
- m) Water is to be sourced locally (on-site) and trucked water shall not be allowed, except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."

- n) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Coastal Development Permit, Special Permit, or Use Permit.
- o) The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary.
- p) Storage of Fuel. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.

**Performance Standards for Cultivation and Processing Activities:**

- q) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall “provide a statement declaring the applicant is an ‘agricultural employer,’ as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.”
- r) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
- s) Cultivators engaged in processing shall comply with the following Processing Practices:
  - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
- t) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
  - v. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - 1) Emergency action response planning as necessary;
    - 2) Employee accident reporting and investigation policies;
    - 3) Fire prevention;
    - 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
    - 5) Materials handling policies;
    - 6) Job hazard analyses; and
    - 7) Personal protective equipment policies, including respiratory protection.

- vi. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - 1) Operation manager contacts;
    - 2) Emergency responder contacts;
    - 3) Poison control contacts.
  - vii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - viii. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- u) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:
- ix. Summary of Processing Practices.
  - x. Description of location where processing will occur.
  - xi. Estimated number of employees, if any.
  - xii. Summary of Employee Safety Practices.
  - xiii. Description of toilet and handwashing facilities.
  - xiv. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
  - xv. Description of source of drinking water for employees.
  - xvi. Description of increased road use resulting from processing and a plan to minimize that impact.
  - xvii. Description of on-site housing, if any.

**Performance Standards for Mixed-Light Cultivation:**

- v) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- w) The light source should comply with the International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Humboldt County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.

**55.4.12 Term of Commercial Cannabis Cultivation Zoning Clearance Certificate or Permit.**

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

55.4.12.2 If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the clearance certificate or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the Zoning Clearance Certificate, Special Permit, or Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

55.4.12.3 The County shall notify any state license authority, as defined by the MMRSA, whenever the County Zoning Clearance Certificate, Special Permit or Use Permit has been revoked or terminated.

#### 55.4.13 Appeal of Inspection Determination

Within ten (10) days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Zoning Administrator, acting as the Hearing Officer. The appeal shall be made, in writing, on a form provided by the County. The fee for filing the appeal is \$100.00.

- a) The appeal shall be heard by the Hearing Officer within ten (10) business days following the filing of the appeal. The Hearing Officer shall render a written ruling on the appeal within three (3) business days following the hearing.
- b) The decision of the Hearing Officer may be appealed to the Board of Supervisors in accordance with Section 312-13 of the Humboldt County Code. If a timely appeal to the Board of Supervisors is not filed, the ruling by the Hearing Officer shall be final.

#### 55.4.14 Retirement, Remediation, and Relocation (RRR) of Commercial Cannabis Cultivation Sites

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

55.4.14.1 Sites eligible for RRR incentives (RRR Sites) shall be those that were in operation on or before January 1, 2016 and are located in TC, TPZ, RA or AE zones with source of irrigation water from surface water diversion without DWR water right or permit or DFW streambed alteration permit on a parcel with slopes in excess of 15%.

55.4.14.2 Sites eligible for relocation of RRR Sites (Relocation Sites) shall be those specified in Section 55.4.8.2.1.

55.4.14.3 Operators of RRR Sites shall be eligible to receive a Zoning Clearance Certificate for commercial cultivation of medical marijuana on an eligible Relocation Site, for an area up to four times the area of the previously existing RRR Site, but in no event larger 20,000 sq. ft., provided that they comply with all applicable performance standards and the RRR program requirements of Section

55.4.14.4. RRR Sites may be on leased premises for agricultural purposes allowable pursuant to the exclusion from the Subdivision Map Act, Government Code section 66412 (k). More than one RRR Site Zoning Clearance Certificate may be granted on Relocation Site parcels of ten (10) acres or larger, provided that the cumulative total cultivation area for all commercial cannabis cultivation Zoning Clearance Certificates issued for that parcel does not exceed 20% of the area of prime farmland agricultural soils on that parcel. Upon satisfaction of RRR program requirements, the County shall certify that the operator of the Relocation Site is in "good standing" for purpose of priority state licensing eligibility pursuant to Business and Professions Code section 19321 (c).

55.4.14.4 In order to receive the benefits specified in Section 55.4.14.3, the operator of a RRR Site shall prepare a plan for the full environmental remediation of the RRR Site, including removal of all cultivation related materials, equipment and improvements, regrading to preexisting contours, reseeding with native vegetation, reforestation, and habitat restoration, as determined to be appropriate by the Planning Department. The operator shall execute an agreement to complete the work specified in the remediation plan within twelve (12) months, and shall post a bond in a sufficient amount that will allow the County to contract to complete the work specified in the plan in the event that the operator of the RRR Site fails to do so. The operator or the record property owner of the RRR Site shall record a covenant executed by the property owner not to cultivate marijuana or disturb the remediation area on the subject property in perpetuity, with an enforcement clause that in the event that the covenant is violated, the County of Humboldt, shall on motion in Superior Court, be entitled to an immediate lien on the property in the amount necessary to remediate the property, but in no event less than the sum of \$50,000.00. In the event that that the covenant is violated and the operator of the RRR Site retains any interest in the former RRR Site property, all permits for operation of the replacement RRR Site shall be terminated.

#### 55.4.15 Humboldt Artisanal Branding

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

- Cultivation area of 3,000 sq. ft. or less
- Operated by a County permit and state license holder who resides on the same parcel as the cultivation site
- Grown exclusively with natural light
- Meets organic certification standards or the substantial equivalent

#### 55.4.16 Disclosure

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

#### 55.4.17 Sunset for Applications

No application for any Zoning Clearance Certificate, Special Permit, or Use Permit to be issued pursuant to the CMMLUO shall be processed for issuance or approval that is received after December 31, 2016, or until such other time as the Board of Supervisors may specify by amendment of this ordinance.

**SECTION 2. Section 314-55.4 of Chapter 4 of Division 1 of Title III is hereby ~~added~~amended to read as follows:**

**314-55.4 Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulation**

**55.4.1 Authority and Title**

This Section shall be known as the Commercial Medical Marijuana Land Use Ordinance (“CMMLUO”), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing and Distribution of cannabis for medical use, as defined in this Code, located inland of the coastal zone of the County of Humboldt.

**55.4.2 Purpose and Intent**

The purpose of this Section is to establish land use regulations concerning the commercial cultivation, processing, manufacturing and distribution of cannabis for medical use within the County of Humboldt in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medical Marijuana Regulation and Safety Act (“MMRSA”)(SB 643, AB 266, and AB 243 as adopted September 11, 2015, and approved by the Governor on October 9, 2015), so as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical marijuana; to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the medical marijuana; and to safeguard against the diversion of medical marijuana for non-medical purposes. It is intended to address the County of Humboldt’s prerogative to license, permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical marijuana as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the County of Humboldt, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the County of Humboldt, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law. This Section is not intended to supersede the provisions of Sections 313-55.1, 314-55.1, 313.55.2, or 314.55.2 of the Humboldt County Code concerning cultivation of medical marijuana for personal use by patients or caregivers.

**55.4.3 Applicability and Interpretation**

**55.4.3.1** These regulations shall apply to the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this Section.

**55.4.3.2** The commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use within the jurisdiction of the County of Humboldt inland 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.

**55.4.3.3** Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, from compliance

with all other applicable Humboldt County zoning, and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

55.4.3.4 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

55.4.3.5 Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, manufacturing, or distribution of cannabis for medical use on private property.

55.4.3.6 The definitions in this Section are intended to apply solely to the regulations in this section. Applicable definitions in Humboldt County Code section 314-135 et seq. and section 111-1 et seq. may also apply to this section.

55.4.3.7 Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MMRSA, Business and Professions Code Section 19300, et. seq., and notwithstanding the provisions of the Right to Farm Ordinance, Section 314-43.2.6 of the Humboldt County Code, the commercial cultivation of cannabis for medical use is a highly regulated specialty crop and the cultivation and processing of that specialty crop shall not be allowed as a principally permitted use under the General Agriculture use type classification applicable within the County of Humboldt, unless a Zoning Clearance Certificate, Special Permit, or Use Permit is first obtained from the County of Humboldt, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

#### 55.4.4 Severability

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

#### 55.4.5 Release of Liability and Hold Harmless

As a condition of approval for any Zoning Clearance Certificate, Special Permit, or Use Permit approved for the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use, as defined herein, the owner or permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

#### 55.4.6 Penalties and Enforcement

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

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

#### 55.4.7 Definitions

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

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

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

“Cultivation Area” means the sum of the area(s) of cannabis cultivation as measured around the perimeter of each discrete area of cannabis cultivation on a single premises, as defined herein. Area of cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, the exterior dimensions of hoop houses or green houses, and the total area of each of the pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises.

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

“Distribution Facility” means the location or a facility where a person licensed with a Type 11 license pursuant to the MMRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

“Indoor” means indoor cultivation using exclusively artificial lighting.

“Licensee” means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

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

“Mixed-Light” means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in performance standards in Section 55.4.11 (~~tv~~), et seq. of this ordinance, or as to be determined by the Department of Food and Agriculture, whichever is less.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

“Outdoor” means outdoor cultivation using no artificial lighting.

“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.

“Premises” means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor or mixed-light cultivation or processing of medical cannabis, or a leased space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

“Prime Agricultural Soils” means all lands which qualify for rating as Class I or Class II in the Soil Conservation Service land use capability classifications or qualify for rating 80 through 100 in the Storie Index Rating. Additionally, where determined through site-specific fieldwork prepared by a qualified professional, soils meeting these characteristics may be recognized as prime.

“Processing Facility” means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical cannabis is grown and harvested.

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

“Slope” means Natural Grade as defined in Title III, Section 313-142 of the Humboldt County Code, which has not been filled or graded after January 1, 2016.

“State license,” “license,” or “registration” means a state license issued pursuant to the MMRSA.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the

Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

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

#### 55.4.8 General Provisions

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacture, or Distribution of cannabis for medical use, as defined in this Section, inland of the coastal zone. For purposes of this Section, the underlying General Plan land use designation will be controlling for all parcels zoned “Unclassified.”

55.4.8.1 All commercial cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws.

55.4.8.2 Outdoor and Mixed-Light Commercial cultivation of cannabis for medical use shall be allowed in specifically enumerated zones in which general agriculture is a principally permitted use, or conditional use, only with a Zoning Clearance Certificate, Special Permit, or Use Permit issued pursuant to Sections 312-2.1 or 312-3.1 of the Humboldt County Code. Zoning districts where the Outdoor and Mixed Light commercial cultivation of cannabis for medical use may be located are AE (no parcel size limitation), RA (on parcels of 5 acres or larger), FP, DF, AG, AEFR, and U (where the General Plan designates the area for agricultural development) (on parcels one (1) acre or larger), subject to the conditions and limitations set forth in this Section. In FR, TPZ or Uall zones where cultivation is allowed consisting of timberland, the commercial cultivation of cannabis for medical use shall only be permitted within a 3-acre conversion exemption area, or non-timberland open area, subject to the conditions and limitations set forth in this Section. Additionally, with a Conditional Use Permit, Outdoor and Mixed-Light commercial cultivation of cannabis for medical use may be conducted in C-2, C-3, MB, ML, and MGMH zones, subject to the conditions and limitations set forth in this section.

55.4.8.2.1 Approvals for New Outdoor and Mixed-Light Cultivation Areas On parcels 5 acres or larger in size, a Zoning Clearance Certificate may be issued for new outdoor or mixed-light commercial cannabis cultivation for an area up to 10,000 square feet that was not previously in existence as of January 1, 2016, on parcels with Prime Agricultural Soils, in zoning districts RA, U, FP, DF, AG, or AE, on slopes of 15% or less, and with documented current water right or other non-diversionary source of irrigation water (e.g., municipal, public utility, or permitted well), subject to the conditions and limitations set forth in this section. The cultivation area shall be located on the Prime Agricultural Soils on the parcel and no more than 20% of the area of Prime Agricultural soils on the parcel may be permitted for commercial medical marijuana cultivation. Where the parcel meets the characteristics which support new cultivation but the parcel contains a cultivation site that existed on January 1, 2016, the area allowance for new cultivation shall be adjusted such that the maximum aggregate 10,000 sq. ft. area (as may modified by the 20% prime soil cap) is not exceeded over the parcel (e.g., a site with a 6,000 sq. ft. existing cultivation area and meeting the criteria for new cultivation could obtain a permit for new cultivation of up to 4,000 sq. ft.). Only one Zoning Clearance Certificate may be issued for each parcel, except as provided in Sections 55.4.8.2.1.1 and 55.4.14.

55.4.8.2.1.1 On parcels 320 acres or larger in size, in the eligible zoning districts described in 55.4.8.2.1, one additional cultivation area permit of up to one acre each for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit, subject to the limitations contained in section 55.4.8.10. No more than 20% of the area of Prime Agricultural soils on the parcel may be utilized for commercial medical marijuana cultivation activities.

55.4.8.2.1.2 In zoning districts C-2, C-3, MB, ML, and ~~MGMH~~, outdoor and mixed light cultivation may be permitted with a Use Permit.

55.4.8.2.1.3 On U, FP, DF, AG, or AE parcels between 1 acre and 5 acres in size, outdoor and mixed light cultivation of up to 5,000 square feet may be permitted with a Use Permit.

55.4.8.2.1.4 On eligible parcels under 5 acres in size, the cultivation area must be set back at least 300 feet from existing residences on adjoining parcels.

55.4.8.2.2 Approvals for Existing Outdoor and Mixed-Light Cultivation Areas A Zoning Clearance Certificate, Special Permit or Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in zoning districts AE (no parcel size limitation), RA (on parcels of ~~one acre~~ five acres or larger), and AG, ~~AE~~, FP, DF, FR, U, and TPZ districts (on parcels of one acre or larger) only when possible to bring them into compliance with all applicable standards set forth in this section and to eliminate existing violations as specified in this ordinance. No expansion of the existing cultivation area shall be permitted. The total cultivation area allowed on a single parcel shall not exceed one acre for outdoor cultivation or 22,000 square feet for mixed-light cultivation.

55.4.8.2.2.1 On AE-zoned parcels of less than one acre, only one Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, not to exceed 2,500 square feet. The cultivation area must be set back at least 300 feet from existing residences on adjoining parcels. The standards set forth in Section 314-55.2.7.2.8 shall also apply.

55.4.8.3 Approvals for Indoor Cultivation Indoor commercial cultivation of cannabis for medical use shall be a conditionally permitted use in zoning districts C-2, C-3, MB, ML, U (where developed as industrial use) and MH subject to a Zoning Clearance Certificate or Use Permit and the conditions and limitations set forth in this section. Indoor commercial cultivation of cannabis for medical use shall be permitted with a Special Permit inland of the Coastal Zone in zoning districts RA (on parcels of 5 acres or more), AG, and AE, for cultivation facilities of up to 5,000 square feet that will be located in an existing non-residential structure subject to the conditions and limitations set forth in this section. Electrical power for indoor cultivation operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by on-grid power with 100% renewable source, on-site zero net energy renewable source, or with purchase of carbon offsets of any portion of power not from renewable sources.

55.4.8.4 Processing Facilities for commercial cannabis for medical use for other than an appurtenant, on-premises cultivation operation as provided in 55.4.9.1 shall be a conditionally permitted use in zoning districts AG, AE, RA (on parcels 5 acres or larger), C-2, C-3, MB, ML, U (where developed as industrial use) and MH, subject to a Special Permit and the conditions and

limitations set forth in this Section. Processing facilities shall meet the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11 (q) through (u).

55.4.8.5 Manufacturing of commercial cannabis for medical use shall be a conditionally permitted use in zoning districts C-2, C-3, MB, ML, U (where developed as industrial use), and MH, subject to a Special Permit and the conditions and limitations set forth in this Section.

55.4.8.6 Wholesale Distribution Facilities for commercial cannabis for medical use shall be a conditionally permitted use in zoning districts C-2, C-3, MB, ML, U (where developed as industrial use), and MH, subject to a Special Permit and the conditions and limitations set forth in this Section.

55.4.8.7 Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale shall be a conditionally permitted use in zoning districts C-2, C-3, MB, ML, U (where developed as industrial use), and MH, subject to a Use Permit and the conditions and limitations set forth in this Section. Nurseries producing commercial cannabis nursery products for bulk wholesale sale or to supply retail nursery outlets held under the same license shall be a conditionally permitted use in the AG or AE zoning district, subject to a Special Permit and the conditions and limitations set forth in this Section. Only one Zoning Clearance Certificate, Special Permit or Use Permit may be issued for each parcel.

55.4.8.8 Other than as enumerated in this Section, the commercial cultivation, processing, manufacture or distribution of cannabis for medical use in any other zoning district outside the Coastal Zone of County of Humboldt is prohibited.

55.4.8.9 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Zoning Clearance Certificate, Special Permit, or Use Permit from the County of Humboldt to engage in the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use outside the Coastal Zone jurisdiction of the County.

55.4.8.10 No more than four commercial cannabis activity permits of any type enumerated in Sections 55.4.8.2 through 55.4.8.7 of this ordinance may be issued to a single person, as defined herein. 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.

#### 55.4.9 Permit Types

The type of Zoning Clearance Certificate, Special Permit, or Use Permit that shall be required in order to engage in the commercial cultivation of cannabis for medical use shall be determined by the size and zoning classification of the parcel on which the activity is to be conducted and the type of state license required for that operation pursuant to the MMRSA, in accordance with the following chart:

**Table of Humboldt County Commercial Cannabis Cultivation Permit Types – Inland Zone**

Inland of the Coastal Zone, with the clearance or permit type specified below, Outdoor and Mixed-Light cultivation is permitted on all 'Agricultural Land' or in zones in which 'General Agriculture' is a principal permitted use (RA, FP, DF, AG, AE, and U) subject to performance standards. Special limits apply to FR, TPZ or U timberland zones. Outdoor and Mixed Light cultivation may also be permitted in the C-2, C-3, MB, ML, and MG zones with a Use Permit.

	<u>Parcel Size</u>	<u>Permit Tier</u>	<u>Cultivated Area Size Limit</u>
<b>OUTDOOR</b>	RA less than 5 acres	Not Permitted	0 sq ft
	Existing on AE parcels less than 1 acre in size	III – Use Permit	up to 2,500 sq ft
	Existing on AE, AG, FP, DF, FR, TPZ, U over one acre and RA parcels 5 acres and above per 55.4.8.2.2	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 – 43,560 sq ft
	New on AE, AG, FP, DF, U, and RA parcels 5 acres to 320 acres per 55.4.8.2.1	I - Zoning Clearance Certificate	up to 10,000 sq ft
	New on AE, AG, FP, DF, U, and RA parcels 320 acres and above	III – Use Permit for more than one permit per parcel	See 55.4.8.2.1.1
<b>MIXED - LIGHT</b>	RA less than 5 acres	Not Permitted	0 sq ft
	Existing on AE and AG up to 1 acre	III – Use Permit	up to 2,500 sq ft
	Existing on AE and AG over one acre, FP, DF, FR, TPZ, U, and RA parcels 5 acres and above per 55.4.8.2.2	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 – 22,000 sq ft
	New on AE, AG, FP, DF, U and RA parcels 5 acres to 320 acres per 55.4.8.2.1	I - Zoning Clearance Certificate	up to 10,000 sq ft
	New on AE parcels 320 acres and above	III – Use Permit for more than one permit per parcel	See 55.4.8.2.1.1

Indoor Cultivation Permitted in RA, AG, AE, C-2, C-3, MB, ML, U (industrially developed), and MH Zones with zoning clearance or permit type specified below.			
<b>INDOOR</b>	RA parcels of 5 acres or more or AG or AE parcels within footprint of existing non-residential structure	II – Special Permit	up to 5,000 sq ft
	C-2, C-3, MB, ML, U (industrially developed) and MH	I – Zoning Clearance Certificate	up to 5,000 sq ft
		III – Use Permit	5,000 – 10,000 sq ft

Applications for any clearance or permit listed in the above chart shall be processed in accordance with the procedures set forth in Title III, Chapter 2, beginning with Section 312-1 of the Humboldt County Code.

55.4.9.1 Processing of cannabis ~~that at the same Premises where the cultivation site is cultivated~~ located shall be allowed pursuant to ~~the applicable Zoning Clearance Certificate may occur at the cultivation site if, Special Permit or Use Permit~~ provided that the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11(eq) through (su) below are met. Processing for cultivation requiring a Special Permit or Use Permit will be considered in the Use Permit application. ~~All processing that will not occur at the same premises where the cultivation site is located is subject to a Use~~ Special Permit application. Processing may occur in all of those zones where indoor and outdoor cultivation may occur specified in Section 55.4.8.4.

55.4.9.2 Multiple applicants may obtain a Zoning Clearance Certificate, Special Permit or Use Permit for outdoor cultivation, mixed-light cultivation, or both, on ~~one legal parcel a single Premises by filing a combined application~~ so long as the cumulative cultivation area does not exceed the total cultivation area size limits for that clearance or permit type set forth in section 55.4.9. For purposes of the limitation of the number of permits that may be granted on a single parcel pursuant to section 55.4.8.2.1 or 55.4.8.2.2.1, multiple permits or combinations of permit types combined in a single application shall be considered a single permit, but a separate permit shall be issued for each independent operator that filed a combined application under this section.

55.4.9.3 A combination of the permit types that may be allowed in the same zone (e.g. outdoor and, mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel for those permit types, may be processed with a single Zoning Clearance Certificate application. Permitting for a combination of permit types that is larger than the area that may be processed with a Zoning Clearance Certificate, may be processed with a single Special Permit or Use Permit application, as applicable. For purposes of the limitation of the number of permits that may be granted on a single parcel pursuant to section 55.4.8.2.1 or 55.4.8.2.2.1, multiple permits or combinations of permit types combined in a single application shall be considered a single permit.

55.4.9.4 Pre-Application Registration of Existing Cultivation Site

All operators of existing cultivation sites seeking recognition of cultivation activities that occurred on or before January 1, 2016, for purposes of obtaining a Zoning Clearance Certificate or discretionary permit for ongoing commercial cannabis cultivation for medical use pursuant to the CMMLUO shall register with the County of Humboldt Department of Planning & Building within 180 days of the effective date of this ordinance. Registration shall be on a form provided by the Planning Department that shall include the name and contact information of the operator, the address and/or Assessor's Parcel Number of the property where the cultivation site is located, the name and address of the property owner of the parcel, the approximate latitude and longitude coordinates of the cultivation site, and the approximate area (in square feet) under cultivation on or before January 1, 2016. Registrants shall provide sufficient documentation of prior cultivation activity. Registrants shall receive information about their options for obtaining a Zoning Clearance Certificate, Special Permit, or Use Permit as necessary for the commercial cultivation of cannabis for medical use to comply with the MMRSA. Registrants may also be eligible to receive a certificate of good standing from the County of Humboldt for purposes of obtaining priority processing of state license applications, pursuant to the MMRSA, Business and Professions Code Section 19321 (c).

#### 55.4.9.5 Applications for Commercial Cannabis Activity on Tribal Land

Commercial cannabis activity shall only be allowed on Tribal Lands with the express approval of the Tribe.

#### 55.4.10. Application Requirements for All CMMLUO Clearances or Permits

- a) The name, contact address and phone number(s) of the applicant.
- b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- c) Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet.
- d) A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season.
- e) Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable.

- f) Description of water source, storage, irrigation plan, and projected water usage.
- g) Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- h) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- i) If the source of water is a well, a copy of the County well permit, if available.
- j) If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that if the landowner has not completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE, the applicant shall secure the services of a registered professional forester (RPF) to evaluate site conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendation as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practices Act. The Planning Division shall provide CAL-FIRE written Notice of Availability of the RPF's report. If CAL-FIRE takes no action within ten (10) days of the notice of availability, the report recommendations shall become final.
- k) Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter.
- l) For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in section 55.4.8.2.3, and plan for compliance with applicable Building Codes.
- m) Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed will not support diversions for irrigation.
- n) Acknowledge that the county reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that

operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS).

#### 55.4.11 Performance Standards for all CMMLUO Cultivation and Processing Operations

- a) Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional clearance or permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings and sites that are used for commercial cannabis activity and shall not extend to personal residences or other structures that are not used for commercial cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 55.4.13 below, except the Planning Commission, and not the Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.
- b) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.
- c) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- d) The area of cannabis cultivation, processing, manufacture or distribution shall be located as shown on the application site plan, set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, Public Park, or Tribal Cultural Resource- (as these terms are defined in sections 55.2.6 and 55.4.7). The minimum setback required from property lines or adjacent uses may be waived or reduced with the express consent of the adjacent property owner and occupant. 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. 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. Cultivation areas and associated facilities shall observe all required setbacks from

~~watercourses, wetlands and Environmentally Sensitive Habitat Areas, as described within sections 313-33 and 313-38 of the code, as well as applicable resource protection policies and standards of the Local Coastal Plan. and wetlands.~~ For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to 314-61.1.

- e) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- f) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023 is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.
- g) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- h) Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE).
- i) Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
- j) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA). Any uses of pesticide products shall be in compliance with the State pesticide laws and regulations enforced by the County Agricultural Commissioner's Office and the California Department of Pesticide Regulation.
- k) Pay all applicable application and annual inspection fees.
- l) Where surface water diversion provides any part of the water supply for irrigation of cannabis cultivation, the applicant shall either: 1) consent to forebear from any such diversion during the period from May 15<sup>th</sup> to October 31<sup>st</sup> of each year and establish on-site water storage for retention of wet season flows sufficient to provide adequate irrigation water for the size of the area to be cultivated, or 2) submit a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar qualified professional, that establishes minimum water storage and forbearance period, if required, based upon local site conditions, or 3) obtain approval from the RWQCB through enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan.

- m) Water is to be sourced locally (on-site) and trucked water shall not be allowed, except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."
- n) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Special Permit or Use Permit.
- o) The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary.
- p) Storage of Fuel. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.

**Performance Standards for Cultivation and Processing Activities:**

- q) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
- r) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
- s) Cultivators engaged in processing shall comply with the following Processing Practices:
  - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
- t) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
  - i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - 1) Emergency action response planning as necessary;
    - 2) Employee accident reporting and investigation policies;
    - 3) Fire prevention;

- 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
  - 5) Materials handling policies;
  - 6) Job hazard analyses; and
  - 7) Personal protective equipment policies, including respiratory protection.
- ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - 1) Operation manager contacts;
    - 2) Emergency responder contacts;
    - 3) Poison control contacts.
  - iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- u) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:
    - i. Summary of Processing Practices.
    - ii. Description of location where processing will occur.
    - iii. Estimated number of employees, if any.
    - iv. Summary of Employee Safety Practices.
    - v. Description of toilet and handwashing facilities.
    - vi. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
    - vii. Description of source of drinking water for employees.
    - viii. Description of increased road use resulting from processing and a plan to minimize that impact.
    - ix. Description of on-site housing, if any.

**Performance Standards for Mixed-Light Cultivation:**

- v) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- w) The light source should comply with the International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Humboldt County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.

**55.4.12 Term of Commercial Cannabis Cultivation Zoning Clearance Certificate or Permit.**

55.4.12.1 Any Commercial Cannabis Cultivation Zoning Clearance Certificate, Special Permit or Use Permit issued pursuant to this section shall expire after one (1) year after date of issuance,

and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permitted site has been found to comply with all conditions of approval.

55.4.12.2 If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the clearance certificate or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the Zoning Clearance Certificate, Special Permit, or Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

55.4.12.3 The County shall notify any state license authority, as defined by the MMRSA, whenever the County Zoning Clearance Certificate, Special Permit or Use Permit has been revoked or terminated.

#### 55.4.13 Appeal of Inspection Determination

Within ten (10) days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Zoning Administrator, acting as the Hearing Officer. The appeal shall be made, in writing, on a form provided by the County. The fee for filing the appeal is \$100.00.

- a) The appeal shall be heard by the Hearing Officer within ten (10) business days following the filing of the appeal. The Hearing Officer shall render a written ruling on the appeal within three (3) business days following the hearing.
- b) The decision of the Hearing Officer may be appealed to the Board of Supervisors in accordance with Section 312-13 of the Humboldt County Code. If a timely appeal to the Board of Supervisors is not filed, the ruling by the Hearing Officer shall be final.

55.4.14 Retirement, Remediation, and Relocation (RRR) of Commercial Cannabis Cultivation Sites In order to incentivize, promote, and encourage the retirement, remediation and relocation of existing cannabis cultivation occurring in inappropriate or marginal environmentally sensitive sites to relocate to environmentally superior sites, the following provisions shall apply:

55.4.14.1 Sites eligible for RRR incentives (RRR Sites) shall be those that were in operation on or before January 1, 2016 and are located in TC, FR, TPZ, U, RA, AG or AE zones with source of irrigation water from surface water diversion without DWR water right or permit or DFW streambed alteration permit on a parcel with slopes in excess of 15%.

55.4.14.2 Sites eligible for relocation of RRR Sites (Relocation Sites) shall be those specified in Section 55.4.8.2.1.

55.4.14.3 Operators of RRR Sites shall be eligible to receive a Zoning Clearance Certificate for commercial cultivation of medical marijuana on an eligible Relocation Site, for an area up to four times the area of the previously existing RRR Site, but in no event larger 20,000 sq. ft., provided that they comply with all applicable performance standards and the RRR program requirements of Section 55.4.14.4. RRR Sites may be on leased premises for agricultural purposes allowable pursuant to the exclusion from the Subdivision Map Act, Government Code section 66412 (k). More than one RRR Site Zoning Clearance Certificate may be granted on Relocation Site parcels of ten (10) acres or larger, provided that the cumulative total cultivation area for all commercial cannabis cultivation Zoning Clearance Certificates issued for that parcel does not exceed 20% of the area of prime farmland agricultural soils on that parcel. Upon satisfaction of RRR program requirements, the County shall certify that the operator of the Relocation Site is in "good standing" for purpose of priority state licensing eligibility pursuant to Business and Professions Code section 19321 (c).

55.4.14.4 In order to receive the benefits specified in Section 55.4.14.3, the operator of a RRR Site shall prepare a plan for the full environmental remediation of the RRR Site, including removal of all cultivation related materials, equipment and improvements, regrading to preexisting contours, reseeding with native vegetation, reforestation, and habitat restoration, as determined to be appropriate by the planning department. The operator shall execute an agreement to complete the work specified in the remediation plan within twelve (12) months, and shall post a bond in a sufficient amount that will allow the County to contract to complete the work specified in the plan in the event that the operator of the RRR Site fails to do so. The operator or the record property owner of the RRR Site shall record a covenant executed by the property owner not to cultivate marijuana or disturb the remediation area on the subject property in perpetuity, with an enforcement clause that in the event that the covenant is violated, the County of Humboldt, shall on motion in Superior Court, be entitled to an immediate lien on the property in the amount necessary to remediate the property, but in no event less than the sum of \$50,000.00. In the event that that the covenant is violated and the operator of the RRR Site retains any interest in the former RRR Site property, all permits for operation of the replacement RRR Site shall be terminated.

#### 55.4.15 Humboldt Artisanal Branding

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

- Cultivation area of 3,000 sq. ft. or less
- Operated by a County permit and state license holder who resides on the same parcel as the cultivation site
- Grown exclusively with natural light
- Meets organic certification standards or the substantial equivalent

#### 55.4.16 Disclosure

When required to execute or make available a disclosure statement pursuant to 314-43.2 of the code "Right to Farm Ordinance"; said statement shall include information describing the possibility of commercial cultivation of medical cannabis.

#### 55.4.17 Sunset for Applications

No application for any Zoning Clearance Certificate, Special Permit, or Use Permit to be issued pursuant to the CMMLUO shall be processed for issuance or approval that is received after December 31, 2016, or until such other time as the Board of Supervisors may specify by amendment of this ordinance.

**PASSED, APPROVED AND ADOPTED** this 26<sup>th</sup> day of January, 2016 on the following vote, to wit:

**AYES:** Supervisors ~~Sundberg, Fennell, Lovelace, Bohn, Bass~~  
**NOES:** Supervisors --  
**ABSENT:** Supervisors --

\_\_\_\_\_  
MARK LOVELACE, Chair  
Board of Supervisors of the County of Humboldt,  
State of California

(SEAL)

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

By: \_\_\_\_\_  
Ana Hartwell, Deputy

