



AGENDA ITEM NO.

**F-2**

## COUNTY OF HUMBOLDT

For the meeting of: June 13, 2017

Date: June 7, 2017

To: Board of Supervisors

From: John Ford, Director of Planning and Building Department

Subject: Commercial Cannabis Land Use Ordinance – Options Review

### RECOMMENDATION(S):

That the Board of Supervisors:

1. Request that staff present the project.
2. Invite public comment on the approach to the Commercial Cannabis Land Use Ordinance (CCLUO); and.
3. Provide comments on the update of the CCLUO options presented in the staff report [Attachment 1].

### SOURCE OF FUNDING:

Budget: Planning & Building Department – Cannabis Services Division (1100-268). Funding for this work (\$239,937) is included in the FY 2016-17 and proposed FY 2017-2018 budgets for the Planning & Building Department – Cannabis Services Division.

Prepared by

*Michael Richardson*  
Michael Richardson, Supervising Planner

CAO Approval

*E. Shuckles*

### REVIEW:

Auditor \_\_\_\_\_ County Counsel NAP for JWE Human Resources \_\_\_\_\_ Other \_\_\_\_\_

### TYPE OF ITEM:

☐ Consent  
☒ Departmental  
☐ Public Hearing  
☐ Other \_\_\_\_\_

### PREVIOUS ACTION/REFERRAL:

Board Order No. I-1

Meeting of: April 11, 2017

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT  
Upon motion of Supervisor \_\_\_\_\_ Seconded by Supervisor \_\_\_\_\_

Ayes \_\_\_\_\_  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent \_\_\_\_\_

**SEE ACTION SUMMARY**

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Kathy Hayes, Clerk of the Board

### DISCUSSION:

The purpose of this item is to review concepts to be implemented in the proposed Commercial Cannabis Land Use Ordinance (CCLUO). These concepts will be evaluated in an environmental impact report (EIR). The county is now under contract with Ascent Environmental to assist with preparation of the EIR for these zoning ordinance amendments. These concepts are an expansion of the one-page list of ordinance objectives reviewed by the Board on April 11, 2017. They are given more definition and substance in Attachment 1 and in this staff report. The concepts are specific enough to assess environmental impacts in the EIR, but are not in final ordinance form.

The proposed ordinance amendments include the following features:

- Expand the scope of the Ordinance Nos. 2554 and 2559 to include commercial marijuana operations for adult recreational use now authorized by Proposition 64, the Adult Use of Marijuana Act (AUMA),
- Expand the areas where new cultivation or expansion of existing cultivation sites will be permitted to locations with or without prime agricultural soils,
- Restrict or prohibit generator use,
- Apply special requirements/limitations for projects located within spheres of influence or community areas

The Planning Commission reviewed these concepts on June 1, 2017. Staff will present their comments to the Board at the meeting on June 13, 2017. The ordinance options and comments from the Planning Commission and Board of Supervisors will then be used in preparation of the new ordinance.

The Notice of Preparation for the EIR was recently released, and the Department held a scoping meeting on May 12, 2017 to receive public agency and public comments on the scope and content of the EIR. The comments from the scoping meeting and the written comments received in response to the Notice of Preparation have informed the direction of the ordinance options presented in this staff report. The Department expects to present the full draft ordinance amendments to the Planning Commission and Board of Supervisors in October / November of this year.

### FINANCIAL IMPACT:

The contractual and salary funding for this work is included in budget unit 1100-268 in fiscal year 2016-17, in the amount of \$292,000. The proposed 2017-18 budget includes \$324,000, in budget unit 1100-282.

This item supports the Board's 2017 Strategic Framework by pro-actively evaluating the environmental effects of amendments to the County Code designed to refine and implement ongoing efforts to daylight the local cannabis industry. Success in this endeavor will include support for business, workforce development and creation of private-sector jobs, streamlining of the permit processes, and advancing local interests concerning natural resources while engaging in ongoing discussions of our regional economic future, as well as statewide concern.

#### OTHER AGENCY INVOLVEMENT:

The EIR and associated amendments to County Code are a continuation of the county's prior efforts to regulate land use activities involving cannabis. During development of the most recent phase of regulations addressing commercial activities, other agency consultation included: North Coast Regional Water Quality Control Board, California Department of Fish & Wildlife, Local Humboldt County Native American Tribes, California Department of Forestry and Fire Protection, Humboldt County Health & Human Services - Environmental Health Division, and Humboldt County Public Works – Land Use Division. Additionally, it is expected that the following agencies will be consulted during the environmental review and legislative process: Bureau of Medical Cannabis Regulation, Department of Consumer Affairs, Department of Food and Agriculture, Department of Pesticide Regulation, State Water Resource Control Board – Division of Water Rights, North Coast Unified Air Quality Management District, Board of Equalization, Franchise Tax Board, Department of Justice, Department of Public Health, Industrial Welfare Commission, California Coastal Commission, State Board of Forestry, Division of Occupational Safety and Health, California Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service, and the California Agricultural Labor Relations Board.

Additionally, the Department has been in communication with County Counsel and the County Administrative Office on the transmittal of this draft document.

#### ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may choose to direct additions, modifications, or deletions to the concepts being presented for preparation of the draft ordinance.

#### ATTACHMENTS:

Attachment 1: Proposed Ordinance Policy Areas and Discussion Items

## ATTACHMENT 1

### PROPOSED ORDINANCE POLICY AREAS AND DISCUSSION ITEMS

#### 1) OUTDOOR/MIXED LIGHT CULTIVATION

##### DEFINITIONS

**“New” Cultivation:** Permits proposing commercial cultivation of cannabis on a parcel where no cultivation was ever conducted prior to January 1, 2016.

**new cultivation sites no longer must be located on or within parcels with prime soils**

**“Existing” Cultivation:** Permits for commercial cultivation of cannabis on a parcel where cultivation was conducted prior to January 1, 2016.

Changes from existing ordinance and rationale for proposed changes: Continuing to differentiate between new cultivation proposals and existing cultivation sites allows the County to set a new sunset date for permit applications associated with existing sites, which will not apply to new cultivation applications. Eliminating the prime agricultural soils requirement will reduce the demand for sites with prime agricultural soils.

***ELIGIBILITY CRITERIA*** *(all applications must meet or exceed criteria in each below category as applicable)*

##### ZONING/LAND USE

##### RESOURCE PRODUCTION AND RURAL RESIDENTIAL AREAS

###### **new & existing sites**

- Cultiv. Area must be located within portion of project parcel planned and zoned for Agricultural Uses
  - Zonings – Resource: AE, AG, FR – principally permitted
    - U (accompanied by agricultural land use designation) – principally permitted (unless AR)
    - TPZ (existing sites only / discretionary permit req’d)
    - RA (with discretionary permit)
  - Land Use - Resource Production: AE, AG, AL
    - AR (discretionary permit req’d)
    - T (existing sites only / discretionary permit req’d)

Changes from existing ordinance and rationale for proposed changes: Requiring a discretionary permit in areas planned AR will help address concerns with cultivation near residential areas.

##### INDUSTRIAL AREAS

###### **new sites**

- parcels planned or zoned for industrial uses or;

- parcels zoned unclassified and developed with an existing industrial use
- Zonings – C-3, ML, MH, U (where developed with an existing industrial use)
- Land Use – IG, CG
  - Up to 1 acre of cultivation may be principally permitted (Outdoor, Indoor, Mixed Light, or a combination of any or each not exceeding a total of 1 acre)
  - Must comply with Specialized Performance Standards for adaptive reuse and management where new cultivation activities proposed on parcels currently host to buildings and other infrastructure developed in association with past or ongoing Industrial Use(s).
  - Additional permits for cultivation in excess of 1-acre may be allowed with a Conditional Use Permit.
  - Properties may also host new Outdoor and Mixed Light Cultivation relocation by sites participating in the RRR program, as a principally permitted use.

Changes from existing ordinance and rationale for proposed changes: Adaptive reuse standards would protect existing industrial infrastructure for future industrial uses.

#### SLOPE

##### **new sites only**

- slope within proposed cultivation area must not exceed 15%
- Slope means “natural grade” (the surface of the ground prior to grading for development)

##### **existing sites**

- discretionary permit required if one or more existing cultivation sites are located within areas exceeding 15% slopes. On-site remediation and reconfiguration to areas of 15% or less slopes subject to Performance Standards for Site Reconfiguration.

Changes from existing ordinance and rationale for proposed changes: On-site remediation and reconfiguration reduces environmental impacts of existing cultivation sites.

#### TIMBERLAND CONVERSION

##### **new sites**

- no new conversions of timberland authorized.
- “new” conversion means a conversion performed with or without the approval of Cal-FIRE, which occurred after 12/31/15

##### **existing sites**

- timberland conversion may only occur in association with on-site remediation and reconfiguration activities, subject to Performance Standards for Site Reconfiguration.
  - must comply with reconfiguration performance standards
- No expansion of the total area of conversion for cannabis cultivation (existing on or before 12/31/15) may result. A discretionary permit is required.

Changes from existing ordinance and rationale for proposed changes: No significant changes proposed.

## PARCEL SIZE / CULTIVATION AREA LIMITS

### **existing sites**

- 2,500 ft.<sup>2</sup> of Cultivation permitted on AE zoned parcels less than 1-acre in size with a CUP (per CMMLUO)
- All other eligible zones require 1 acre or larger parcel (discretionary permit required if less than 5 acres in size)
- 5,000 ft.<sup>2</sup> of cultivation principally permitted on parcels between 5 acres and 10 acres in size

### **new & existing sites**

- 5-acre minimum (discretionary permit required if less than 10 acres in size)

### *Parcels 10 acres or larger*

- 10,000 ft.<sup>2</sup> of cultivation (outdoor, mixed light, or combination of both not exceeding 10,000 ft.<sup>2</sup>) principally permitted on parcels 10-acres or larger in size
- CUP required for greater than 10,000 ft.<sup>2</sup> of cultivation. Must meet or exceed all other eligibility criteria categories (Zoning/Land Use, Slope, Timberland, Setbacks, Road Standard, Energy) Maximum of 1-acre and or 4 permits, whichever is less. Cultivation Area identified in permits for "Mixed Light" must not exceed state licensing restrictions.
- Parcels over 320 acres qualify for 1-acre per 100-acre with CUP (must also meet slope criteria) as outlined in CMMLUO.

Changes from existing ordinance and rationale for proposed changes: Increasing the minimum parcel size from 5 to 10 acres (for principally permitted cultivation sites) will help reduce potential conflicts between cultivation sites and neighboring residential areas.

## SETBACKS (for Cultivation Areas & On-site Processing)

### **new and existing sites**

- 30 foot setback from all property lines
- 300 foot setback from residences on neighboring properties (300 setback does not apply to properties where a permit has been issued or is being sought for commercial cultivation)
- A discretionary permit is required if cultivation is located or proposed within the Sphere of Influence of an incorporated City or within 1000 feet of City Limits.
- eliminate current setback from School Bus Stops
- 600 foot setback from any School, Church or other Place of Religious Worship, Public Park, or Tribal Cultural Resources
- A setback of less than 300 or 600 feet (but greater than or equal to 30 feet) may occur, with the express consent of all affected land owners, representatives, or occupants. A discretionary permit is required.

Changes from existing ordinance and rationale for proposed changes: Establishing a 300 foot setback from residences reduces noise and light impacts from new cultivation. Discretionary permit requirements in areas adjacent to cities will help reduce conflicts between new cultivation and neighboring residential areas and/or cities that may not allow cultivation.

<b>ENERGY USE – Ancillary Nursery Activities (Propagation) or Mixed Light Cultivation</b>
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**new and existing sites**

- Projects served exclusively by grid power or 100% on-site renewable principally permitted
- existing sites**
- where grid power is not available, projects utilizing a renewable energy system (solar, wind, micro-hydro with battery storage) providing 80% or more of the annual cannabis-related energy demand (nursery and/or mixed light cultivation activities) shall be principally permitted.
    - an energy budget must be included with the permit application detailing all monthly cultivation-related energy use as well as on-site renewable energy generation and storage capacity.
  - Ancillary Nurseries and/or Mixed Light Cultivation served by less than 80% renewable energy (i.e. generators) subject to discretionary permit.
    - Ancillary mother plants must be kept at an off-site approved location (utilizing grid power and/or renewable intertie) during off-season required.
    - Mixed Light and/or Nursery activities restricted to March thru August (deprivation season and end of season restocking post-harvest)

Changes from existing ordinance and rationale for proposed changes: Requiring use of renewable energy sources will reduce potential noise, fire hazard, and greenhouse gas emission impacts from generators.

<b>APPLICATION DEADLINE FOR “EXISTING” SITES</b>
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- Permits for existing sites (which do not meet all eligibility criteria) for new cultivation will not be accepted following the passage of 6 months from the effective date of the regulations.
- Permit resumed or continued operation of eligible “existing” sites, if application is filed within 3 months of the effective date of the regulations. Provide opportunity for “provisional” permitting, subject to a compliance agreement.
- Require that all operations be suspended if 3 month deadline not met.
- Provision for Board modification of deadlines through resolution and accompanying ordinance amendments.
- Applications will continue to be accepted for proposals involving remediation and relocation pursuant to RRR program.

Changes from existing ordinance and rationale for proposed changes: A 3 and 6 month deadline will incentivize submittal of applications from those with existing cultivation sites, while providing for continued operation in limited circumstances.

<b>ROAD STANDARD new &amp; existing sites   three-part test</b>
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*PART 1 – Functional Capacity*

- access to the subject property must be available via publicly maintained roadways or private road systems meeting Category 4 road standard (or same practical effect).
- if access to the project parcel provided exclusively via publicly maintained roadways, no further analysis required / principally permitted.
- “publicly maintained roadways” shall be all road systems that are available for year round travel by the general public, which are maintained by the County of Humboldt, or State or Federal Agencies
- If access to the subject property partly provided via a private road system, an analysis of the functional capacity of all private road systems utilized must be included with any permit application.
- The analysis must be prepared by a licensed engineer or similarly qualified professional.

*PART 2 – Road Design and Maintenance – Water Quality Protections*

- if access to the project parcel provided exclusively via publicly maintained roadways, no further analysis of road design required / principally permitted.
- If access to the subject property partly provided via a private road system, an analysis of the design and maintenance of all private road systems utilized must be included with any permit application.
- The analysis must be prepared by a licensed engineer or similarly qualified professional. Analysis performed in association with preparation of a Water Resource Protection Plan (WRPP) performed in association with enrollment under the Regional Water Quality Control Board’s Waiver of Waste Discharge (Order # 2015-0023) may be provided if covering all relevant private road systems.
- The principal objective of the roadway design and maintenance analysis is to identify road characteristics and maintenance concerns which conflict with common best management practices for prevention of point-source and non-point source discharges of sediment or other pollutants which constitute a potential threat to water quality.
- Best Management practices (BMPs) shall include, but are not limited to:
  - Standard Conditions 1 & 2 (Site maintenance, erosion control, and drainage features and Stream Crossing Maintenance) and associated BMPs described under the Regional Water Quality Control Board’s Waiver of Waste Discharge Requirements (Order # 15-0023)
  - Relevant Road maintenance and Design Best Practices identified in the latest edition of the 5 Counties Roads Salmon Conservation Program Roads Manual.
  - Relevant Road maintenance and Design Best Practices identified in the latest edition of the “Handbook for Forest, Ranch and Rural roads” prepared for the Mendocino County Resource Conservation District.
- Where three or more permit applications have been filed for commercial cultivation (new or existing), on parcels that are served by a shared private road system, the owner of each



property must consent to join or establish a relevant Road Maintenance Association prior to operation (for new permits) or non-provisional approval (existing). This requirement shall also apply to existing permittees seeking to renew their permit.

#### *PART 3 – Dead End Road Length*

- Projects that are located more than 2-miles (measured in driving distance) from the nearest intersection with a publicly maintained road or private road that is part of a system providing viable secondary access by emergency vehicles and personnel, including wildland fire equipment, shall be subject to a discretionary permit
  - with the exception of eligible existing operators seeking a permit pursuant to the Specialty Cottage provisions (2,500 ft.<sup>2</sup> of mixed light cultivation or 25 or less plants grown outdoors)

#### *Private Road System Evaluations*

- All observations and recommendations shall be summarized in a written report describing and documenting existing road conditions and capacity, and road design and maintenance characteristics.
- Same practical effect means an exception or alternative with the capability of providing equivalent access characteristics, including but not limited to: accommodating safe two-way travel and traffic by regular users in passenger vehicles, and access by emergency wildland fire equipment and simultaneous safe civilian evacuation in the event of a wildland fire.
- The principal purpose of the roadway evaluation is to document compliance with functional capacity and relevant water quality protections of the road standard, and identify all road segments that do not comply with the standard or same practical effect. Where the private roads systems contains segments which do not meet these standards for capacity and water quality protections, the report must identify and prescribe specific road system improvements that will promote compliance, to the greatest extent practicable, or as determined sufficient by the Department of Public Works, Land Use Division.
- Projects located on private road systems not meeting the functional capacity and road design standards shall be subject to a discretionary permit, with the requirement that private road segments be brought up to minimum standards.
- with the exception of eligible existing operators seeking a permit pursuant to the Specialty Cottage provisions (2,500 ft.<sup>2</sup> of mixed light cultivation or 25 or less plants grown outdoors)

Changes from existing ordinance and rationale for proposed changes: Establishing road standards will improve traffic safety, reduce sediment delivery into streams and reduce risks associated with wildland fire hazards.

**PERFORMANCE STANDARDS** (all approved permits must meet or exceed standards in each below category as applicable)

#### GENERATORS – Noise Standards

- Generators must be inaudible within 30 feet of generator location.

Changes from existing ordinance and rationale for proposed changes: Limiting generator noise reduces noise impacts on wildlife and surrounding properties.

#### WATER SOURCE

- Forbearance (or modified forbearance with consent of CDFW) still required for all cultivation reliant on in-stream diversions. Forbearance also required for wells.
- Dry farming shall be authorized without requiring forbearance and storage, provided irrigation is limited to ancillary propagation and nursery areas ahead of in-ground planting.
- Dry farming shall include but is not limited to: cultivation within floodplains and alluvial terraces adjacent to major watercourses, where plants are placed in native soil and are able to receive water via subsurface hydrological connectivity.

Changes from existing ordinance and rationale for proposed changes: Establishing water use standards will protect biological resources associated with streams and rivers during the dry periods of the year, while recognizing and rewarding the reduced environmental impacts associated with dry farming techniques.

#### WATER STORAGE

##### All water storage

- Grading permits for construction of ponds, above-ground storage tanks, or bladders intended to be used for future or existing on-site cannabis irrigation shall not be issued ahead of the Cannabis permit review process.

##### Ponds

- Except in limited circumstances, ponds shall be located “off-channel” from nearby watercourses and adequately setback from nearby streams, springs, and other hydrologic features.
- To prevent occupancy by and survival of non-native bullfrog species, ponds shall be designed to allow for them to be drained, which shall occur on an annual basis.
- Where an existing or proposed pond is filled from, or outlets to a nearby stream or wetland, permits and review from the Department of Fish & Wildlife shall be required prior to project approval.
  - Introduction of non-native species is prohibited.
- Ponds shall be adequately fenced to prevent them from attracting and endangering wildlife
- Ponds shall be designed with pathways enabling escape by local wildlife. These may include rock-lined portions of the perimeter or similar features providing equivalent means of egress.

##### Bladders

- Must include secondary containment.

- At minimum, secondary containment shall include a contiguous earthen berm perimeter.
- The berm must be at least one foot taller than the height of the enclosed bladder(s) when full, to provide for sufficient freeboard in the event of a failure.
- A grading permit shall be required
- Bladders proposed to be located within areas subject to localized flooding must include provisions for anchoring.

Changes from existing ordinance and rationale for proposed changes: Establishing standards for water storage will reduce impacts to wildlife and improves safety for humans.

#### PROCESSING FACILITIES (APPURTENANT / ON-SITE)

- Must have grid power or 80% on-site renewables
- Must be served by publicly maintained road or private road system meeting road standards
- Must have an approved on-site sewage disposal system (septic)

Changes from existing ordinance and rationale for proposed changes: Requiring use of renewable energy sources will reduce potential noise, fire hazard and greenhouse gas emission impacts from generators. Establishing road standards will improve traffic safety, reduce sediment delivery into streams and reduce risks associated with wildland fire hazards. Setting septic system requirements will prevent water quality impacts and reduce potential impacts from human and wildlife exposure to sewage.

#### TOILET FACILITIES

- Application must specify means of sewage disposal
  - On-site waste treatment system (septic)
  - Portable toilet(s)
  - Use of seasonal RV with closed system or septic hookup

Changes from existing ordinance and rationale for proposed changes: Sewage disposal system requirements will reduce potential impacts from human and wildlife exposure to sewage.

#### PRIME SOILS (new or existing cultivation)

- If cultivation located on prime soils, total cultivation area restricted to 20% of area of prime soils
  - 20% limitation not applicable to cultivation within non-prime areas meeting slope criteria.

Changes from existing ordinance and rationale for proposed changes: Continuing to limit use of prime soils while allowing new cultivation on non-prime lands will help reduce demand on sites with prime agricultural soils, while providing opportunities for new cultivation activities in appropriate settings.

#### **ADAPTIVE REUSE OF DEVELOPED INDUSTRIAL PROPERTIES**

- Development of additional buildings or infrastructure only allowed once existing infrastructure has been fully occupied, pursuant to the principles of adaptive reuse.
  - Interior changes or additions to facilities must not prevent future re-occupancy by new uses which are compatible with the base zoning district or consistent with historic prior operations.
  - all newly constructed facilities must comply with all development standards of the zone
  - Development of additional buildings or infrastructure only allowed once existing infrastructure has been fully occupied.
  - all newly constructed facilities must comply with all development standards of the zone

Changes from existing ordinance and rationale for proposed changes: Adaptive reuse standards will protect existing industrial infrastructure for future industrial uses.

#### **LIGHTING PERFORMANCE STANDARDS new & existing sites**

- Carry forward existing provisions of the CMMLUO:
  - Lighting used between sunset and sunrise must be shielded so that little to no light escapes
  - Compliance with International Dark Sky Association standards

Changes from existing ordinance and rationale for proposed changes: No significant changes are proposed.

#### **SITE RECONFIGURATION CRITERIA existing sites**

- Where an existing site does not conform to one or more performance standards or certain eligibility criteria, or cannot comply with local, state, or federal regulatory requirements, reconfiguration of the cultivation site and associated infrastructure may be permitted.
  - Where one or more lawfully separate parcels are contiguous or accessed by a shared private road system, and are owned or managed by a single applicant, consolidation and reconfiguration utilizing multiple parcels may be permitted.
    - Reconfiguration between one or more separate applicants under similar conditions may also occur, provided:
      - The application must include a binding agreement signed by all owners, applicants, and relevant parties
      - Permit applications may be filed jointly or separately
      - permits shall be concurrently processed and scheduled for decision
- New areas of a project parcel targeted for development and overall site design must represent the best opportunity for compliance with all relevant regulatory requirements, including those of which the site currently conforms.
- Reconfiguration plans must be prepared by an engineer or similarly qualified professional familiar with local and state water quality protections and requirements.

- A Biological Resource Protection Plan must also be included. The plan shall be prepared by a qualified professional and evaluate whether prior unpermitted development or disturbance has occurred within a Streamside Management Area, Sensitive Plant Community, or area of similar biological sensitivity.
- All new timberland conversion proposed in association with cultivation site reconfiguration must not exceed the areas of existing conversion to be relocated.
  - existing cultivation areas to be relocated must be restored to pre-disturbance conditions and restocked and/or managed to promote recovery by native vegetation and tree species.
- existing interior driveways and road networks may be reconfigured to achieve better design and compliance with road standards and watercourse protections.
  - all relocated road segments must be fully decommissioned and restored to pre-disturbance conditions or mothballed and stabilized to insure that they are no longer a threat to water quality. Relocated road systems occupying the site of converted timberland shall be restocked and/or managed to promote recovery by native vegetation and tree species.

Changes from existing ordinance and rationale for proposed changes: Encouraging on-site remediation and reconfiguration reduces environmental impacts of existing cultivation sites.

#### ***EXCEPTIONS TO PERFORMANCE STANDARDS***

##### **EXISTING OPERATORS - SPECIALTY COTTAGE PROVISION**

- Parcels must be planned/zoned where existing sites are principally or conditionally permitted
- Parcel must be host to an “existing” residential structure (permitted or otherwise)
  - “existing” shall mean an occupied residential structure located on the parcel as of 12/31/2016
  - If not already permitted, residence must become permitted via AOB / Safe Homes program
  - Only one specialty cottage permit per parcel
  - no non-resident staff for cultivation or on-site processing activities
- Limitation of no more than 2,500 ft.<sup>2</sup> mixed light cultivation or 25 plants (outdoor), per upcoming DFA license restrictions
- Must practice soil conservation
  - Pledge to reuse and amend soil already imported to site.
  - Minimize use of imported soil.
  - Bulk soil delivery prohibited.
- Mixed Light Cultivation must be supplied by grid power or 80% renewable.

Changes from existing ordinance and rationale for proposed changes: These standards encourage permitting of existing small cultivation sites associated with existing rural residential uses.

### ***RETIREMENT, REMEDIATION, AND RELOCATION PROGRAM***

- Continue to incentivize retirement and remediation of qualifying existing sites meeting current criteria from CMMLUO
  - site must meet definition for “existing” (pre 1/1/16)
  - must be located on lands zoned TC, FR, TPZ, U, RA, AG, or AE
  - must rely upon surface water diversion without water right or streambed alteration permit.
- Authorize relocation to sites meeting eligibility criteria for principally permitted new outdoor & mixed light cultivation, or parcels currently host to buildings and other infrastructure developed in association with past or ongoing Industrial Use(s). Prime Soils no longer required.
- relocation proposed to occur within prime soils on eligible parcels, subject to 20% limitation.
- No limit to the number of relocation sites on a parcel, if not located within prime soils. Must be sited within areas of 15% or less slopes.
  - Allow cultivation at relocation site to be up to quadruple the cultivation area of the existing site to be retired/remediated or 20,000 ft.<sup>2</sup>, whichever is less.

Changes from existing ordinance and rationale for proposed changes: Continuing to limit use of prime soils while allowing relocation to non-prime lands will help reduce demand on sites with prime agricultural soils, and provide for a greater number of potential sites where relocation can occur.

### **2) INDOOR CULTIVATION**

- Carry forward existing provisions from CMMLUO:
    - no consideration given for “existing” indoor sites
    - must comply with energy performance standards
- Agricultural Zones*
- Zonings - RA (on parcels 5 acres or larger), AG, and AE
    - Maximum of 5,000 square feet within existing non-residential structure
- Commercial, Industrial, and Unclassified Zones*
- Zonings - C-2, C-3, MB, ML, U (where developed with an existing Industrial or Commercial Use)
  - Add CH zone to list of eligible zonings.
    - Cultivation of up to 5,000 ft.<sup>2</sup> allowed with a Zoning Clearance Certificate
  - Cultivation of up to 10,000 ft.<sup>2</sup> allowed with a Conditional Use Permit

Changes from existing ordinance and rationale for proposed changes: Adding the CH zone will expand the potential sites for cannabis activities.

### **3) NURSERIES & COMMUNITY PROPAGATION CENTERS**

- Wholesale Nurseries principally permitted use in select Commercial and Industrial Zoning Districts
  - Zonings: C-2, C-3, ML, MH, U (where developed with an existing industrial or commercial use)
  - Wholesale Nurseries allowed with a discretionary permit in CH and MB Zoning Districts
- Wholesale nurseries shall be a principally permitted use in
  - Zoning Districts: AE, AG, FR, and U (accompanied by agricultural land use designation)
    - must be located on a publicly maintained road
    - subject to compliance with standards for commercial parking and accessibility
- must comply with energy performance standards
- Community Propagation Centers may also be permitted wherever Nurseries are authorized
  - Propagation Centers allow cannabis farmers, operating within regional cultivation areas and communities without grid-supplied electricity, to maintain mother plants in a vegetative state at a nearby facility, during periods where these plants need not be located at the cultivation site.

Changes from existing ordinance and rationale for proposed changes: Community propagation centers allow cannabis farmers, operating within regional cultivation areas and communities without grid-supplied electricity, to maintain mother plants in a non-flowering condition during periods where plants need not be located at the cultivation site. In areas with no grid or renewable power source, they may help reduce the amount of generator use, number of generators, and potential noise impacts from generators, while also helping operators achieve compliance with state and local restrictions on cultivation-related generator use.

#### ***Energy Performance Standards for Indoor Cultivation, Nurseries & Community Propagation Centers***

- Power for Cultivation and Propagation activities must be supplied through one of the following:
  - on-grid power from 100% renewable source
    - PG&E Solar Choice, RCEA Community Choice Aggregation, etc.
  - on-grid power with purchase of carbon offset from an accredited source
  - on-site zero net energy provided by a renewable source

Changes from existing ordinance and rationale for proposed changes: Continuing to require that Indoor cultivation utilize energy from renewable sources or purchase carbon offsets for non-renewable energy use is consistent with existing regulations. Applying these performance standards to nursery and community propagation areas is a logical next step, and aligns with restrictions on non-renewable energy use emerging at the state level.

#### **4) CANNATOURISM**

- Allow tours and visits by the general public as a principally permitted use at all locations zoned for Commercial or Industrial uses;
- In agricultural and resource production zoning districts, only permit if access to site is exclusively provided by publicly maintained roads
- Cannabis farmstays shall be permitted within existing residences with a discretionary permit
- All Cannatourism subject to performance standards to insure harmony with neighboring land uses
- Allow tour operators, with a business license, and commitment to only travel to sites permitted to host visits by from the general public.

Changes from existing ordinance and rationale for proposed changes: Adding standards for the cannatourism industry will encourage development of that industry in a way that minimizes adverse impacts on humans and the environment.

#### **5) MICROBUSINESSES**

- Add definition of cannabis “microbusiness”, which includes an allowance for cultivation, manufacturing, wholesale distribution, and sales at the same establishment, consistent with state licensing provisions.
- Allow with a Special permit in CH, C-2, C-3, MB, ML, U (where planned for commercial, industrial or mixed industrial/commercial/residential use), as well as Agricultural and Resource Production Zoning Districts
  - access to site must be provided exclusively by paved, publicly maintained roads.
  - if access to site requires use of private road(s), a Conditional Use Permit is required.
- All Microbusiness sites subject to the following performance standards:
  - Grid power or 100% on-site renewable
  - 600 foot setback required from sensitive receptors: residences, churches, schools
    - Setback of not less than 300 feet with a Conditional Use Permit
  - Sites must have adequate parking, comply with accessibility requirements (ADA)
  - Hours of Operation 8am - 6pm
  - On-site parking requirements for employees and guests:
    - 1 parking space per 200 sq. ft. of public accessible areas; and
    - 1 parking space for every 2 employees
- Allow on-site consumption, subject to conformance with operational measures and performance standards to insure consumers are not a threat to themselves or others, including but not limited operation of a motor vehicle while impaired.

Changes from existing ordinance and rationale for proposed changes: Adding standards for microbusinesses will encourage development of this new type of license offered by the state in a way that minimizes adverse impacts on humans and the environment.



#### **6) PERMITTING PENALTIES FOR VIOLATIONS**

- Initiation or expansion of cannabis activities prior to permit issuance shall be grounds for disqualification of the application with no refund of submitted fees.

Changes from existing ordinance and rationale for proposed changes: Identifying the penalties for non-compliance may help achieve higher rates of compliance with the ordinance.