



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Hearing Date: November 16, 2017

To: Humboldt County Planning Commission

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

Subject: **Zoning Ordinance Amendments**  
Commercial Cannabis Land Use Ordinance  
Case Number OR 17-02

The attached staff report has been prepared for your consideration of the Commercial Cannabis Land Use Ordinance at the public hearing on November 16, 2017. The staff report includes the following:

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Please contact Steven Lazar, Senior Planner, at 268-3741, or by email at [slazar@co.humboldt.ca.us](mailto:slazar@co.humboldt.ca.us), if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
November 16, 2017	Zoning Ordinance Amendments – Commercial Cannabis Land Ordinance (CCLUO)	Steven Lazar

**Project:** Humboldt County has existing ordinances regulating commercial medical cannabis activities, including the Commercial Medical Marijuana Land Use Ordinance (Ordinance No. 2544, adopted February 26, 2016 and modified on September 13, 2016 (Ordinance 2559). This project would repeal the County's existing Commercial Medical Marijuana Land Use Ordinance (Section 313-55.4 and 314-55.4 of Chapter 3 of Division 1 of Title III of the County Code) as well as repeal of the Medical Cannabis Testing and Research Laboratories provisions and on-site consumption prohibition found in Sections 313-55.3.15, 314- 55.3.15, 313-55.3.11.7 and 314-55.3.11.7 of Division 1 of Title III of the County Code, respectively. These regulations would be replaced by the provisions of the proposed ordinance, which would establish new and amended land use regulations for the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis within the County, in support of both the Medicinal and Adult Use state marketplace. The proposed ordinance would apply throughout the unincorporated areas of Humboldt County, including the Coastal Zone.

**Project Location:** The implementing Ordinance and LCP Amendments apply to all the unincorporated areas of the County.

**Present Plan Designations:** N/A.

**Present Zoning:** N/A.

**Assessor Parcel Number(s):** 000-000-000.

**Environmental Review:** A Draft Environmental Impact Report (DEIR) has been prepared for this Project (SCH #2017042022). The DEIR concludes the project will have significant environmental impacts that cannot be mitigated to less than significant levels in the following three impact areas:

- Impact 3.3-2: Air Quality --Long-term operational emissions of criteria pollutants and precursors,
- Impact 3.3-4: Air Quality -- Exposure of people to objectionable odors, and
- Impact 3.13-2: Provision of sufficient water supplies and infrastructure needs.

**State Appeal Status:** Not applicable, however, changes proposed to the Local Coastal Program (zoning ordinance provisions in 313-55.3 and 313-55.4) must receive certification from the California Coastal Commission, before they may become effective.

**ORDINANCE AMENDING HUMBOLDT COUNTY CODE  
CONCERNING THE REGULATION OF COMMERCIAL CANNABIS ACTIVITIES**  
Case Number OR-17-02

**Recommended Commission Action**

1. Open the public hearing.
2. Request that staff present the staff report.
3. Receive public testimony.
4. Deliberate on the draft ordinance, public input, and alternatives presented.
5. Take the following action:

*"Move to make all of the required findings, based on evidence in the staff report and public testimony, and recommend the Board of Supervisors approve the CCLUO Ordinance Amendments by adopting the attached Resolution of Approval (roll call vote)."*

**Executive Summary:** Staff believes the necessary findings can be made for the Commission to approve a resolution recommending that the Board of Supervisors adopt the proposed amendments to the zoning regulations and Local Coastal Program (LCP) and certify their compliance with the California Environmental Quality Act (CEQA). The draft resolution is included in the staff report. The proposed amendments to the land use regulations for the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis within the County will achieve the following policy directives approved by the Planning Commission and Board of Supervisors earlier this year:

- expand the scope of the Ordinance 2554 and 2559 to include commercial marijuana operations for adult recreational uses now authorized by the Adult Use of Marijuana Act (AUMA);;
- establish local land use regulations to allow for continued commercial cannabis operations in the unincorporated area of the County that ensure the health and safety of residents, employees, County visitors, neighboring property owners, and end users of cannabis;
- provide consistency with state agency regulations associated with commercial cannabis operations;
- establish requirements that address land use and environmental impacts of cannabis operations, consistent with state agency regulations;
- encourage participation of existing non-permitted cannabis farmers in the County's permitting program;
- improve baseline environmental conditions in the County by removing existing cannabis cultivation operations from environmentally sensitive locations and relocating them to more appropriate areas; and
- relocating existing non-permitted cannabis related support activities into more centralized locations with better infrastructure (e.g. nurseries, community propagation centers, processing centers).

**Public Comment:**

Public comments made on the DEIR are in Attachment 5 of the staff report. These are currently being responded to, and will be incorporated into the Final EIR prior to consideration by the Board of Supervisors.

**Public Workshops**

A draft ordinance was produced on September 10, 2017. It has been reviewed at a workshop with the Planning Commission over four meetings (September 21, October 5, October 19, and November 2, 2017) and two workshops in Garberville (October 2, and October 12) and a workshop in Willow Creek (October 18). In addition it was reviewed by the Forest Review Committee and the Farm Bureau. Consultations were also held with representatives from the Weott, Blue Lake Rancheria, and Karuk tribes. The most significant comments related to:

- Cannabis activity interface with more populated areas
- Concerns with road evaluations and possible cost of road improvements
- Making it possible for small growers to succeed
- Maintaining a separation between permitting cannabis cultivation and existing development.
- Concern with impact of odor on communities
- Generators (both restricting their use and allowing them)
- Whether ordinance should apply to existing permits and whether some provisions should apply retroactively
- Better standards for manufacturing
- How to address the limitation on the number of permits which can be issued
- Method of calculating cultivation area
- Size of cultivation which should require discretionary permit
- Desire to protect tribal ceremonial sites

Based upon these comments alternatives or changes have been incorporated into the ordinance.

**Decision Points in consideration of Ordinance:**

Alternatives are included in the draft ordinance in this staff report (Attachment 2). The alternatives for the Commission to consider involve the following topic areas:

*Summary of Alternatives*

Alternative 1: Applicability of amended regulations to applications filed under prior ordinance

The alternative provided would protect applications submitted under the Commercial Medical Marijuana Land Use Ordinance from compliance with many of the new requirements found within the proposed amendments. The draft regulations include stricter standards in many areas (setbacks, irrigation water source, cultivation-related noise, etc.) and compliance with these requirements could prove challenging to a number of current applicants, permittees, and existing operators. On the other hand,

the changes included in the ordinance provide enhanced protections for residential uses in areas where neighborhood compatibility is a concern. Alternatives 4 and 7 include provisions for phasing in compliance with new requirements for these areas.

#### Alternative 2: Revisions to Cultivation Area Definition

This alternative provides new language within the cultivation area definition which provides an alternative means for calculating cultivation area at sites where pots or bags are used. In these cases, Cultivation Area could be calculated based on the size of the containers and a 4x multiplier.

#### Alternative 3: Removal of 4 permit limit

This alternative is being provided in case the Commission elects to remove the proposed limit on how many permits and individual or organization may hold. These provisions of the draft ordinance were largely carried over from the existing regulations.

#### Alternative 4: Refinements to Prime Soil requirements

This alternative would require operators choosing to conduct cultivation within areas of prime soils, to grown within the native soil. It is being presented in response to Commissioner discussion during recent workshops. The Commission may also wish to consider including additional provisions for cultivation occurring on prime soils when not resulting in excavation, loss, or disturbance of the native soils. In response to a separate ordinance which includes limited provisions for floors within greenhouses on prime soils, the Farm Bureau has recently expressed concern about impervious surfaces being installed over prime soils.

#### Alternative 5a and 5b: Setbacks from undeveloped parcels

These alternatives have been developed to extend the residential setback provisions to neighboring properties which are currently undeveloped. Application of these provisions would dramatically reduce the eligible land base for cultivation in some areas. On the other hand, it would also help mitigate potential for conflict with future residential development.

#### Alternative 6: Special Area Setbacks from residentially zoned areas and residences

These provisions apply retroactive setback requirements to existing permit applications involving open air cultivation. They are designed to help soften impacts in response to neighborhood concerns expressed in certain areas of the County, and provide applicants different options for achieving compliance, including implementation of odor control measures or other mitigation developed through processing of a Conditional Use Permit. The Use Permit would also enable waiver of setbacks in cases where compatibility with neighboring land uses is not a concern. The alternative is designed to provide multiple avenues for applicants to choose from to address potential conflict with neighboring land uses. Re-location of existing or proposed cultivation sites and implementation of odor control could prove costly or infeasible for some projects.

#### Alternative 7: Application Deadline for Pre-Existing Cultivation Sites

This alternative provides for inclusion of an application deadline for pre-existing cultivation sites. Inclusion of a deadline may help motivate existing operators to take action to achieve compliance with state and local law, as well as help accelerate the permitting of these sites and expedite environmental mitigations derived during the permit review process and applied under provisional permitting and compliance agreements. A deadline could also result in a large wave of applications being submitted in the weeks leading up to it and result dramatic shifts in workload for the department and local consulting community. Recent and ongoing advances in state and local enforcement efforts should help to relieve some of the need for a deadline.

#### Alternative 8: Deadline for participation in Retirement, Remediation, and Relocation program / Prohibition of relocation sites within Special Areas

This alternative includes restrictions on siting of off-site relocation of pre-existing cultivation sites pursuant to the RRR program and incentives. The alternative also includes a deadline for application to help accelerate remediation of problematic sites and advance the timing of relocation activities. The commission may also wish to consider taking these two matters up separately.

#### Alternative 9: Measures for Neighborhood Compatibility at permitted sites within Special Areas

This alternative has been prepared in response to neighborhood concerns expressed in certain community areas where permits have been granted, and includes similar provisions to those included under Alternative 4, with the addition of extending the RRR provisions to operators who choose to cease operations or relocate.

#### Alternative 10: Added commercial zoning districts where commercial cultivation may occur

Alternative 8 includes provisions for allowing commercial cultivation within the Community Commercial Zoning District. The ordinance seeks to facilitate commercial indoor cultivation within industrial and heavy commercial settings but specifically excluded the C-2 zone to help relieve pressure on these areas and reserve them for other commercial uses. It has been pointed out that this would prevent those seeking Microbusinesses licenses from being able to perform cultivation within this district.

#### Alternative 11: Provisions for transportation of Commercial Cannabis by permit holders

This alternative has been prepared in response to concerns and discussion during recent workshops and would provide explicit local authorization of transportation with a business license. The alternative would not authorize other activities tied to the Distribution license type including warehousing and storage of cannabis.

#### Alternative 12: Provisions for Cannabis Research Gardens

This clarifies that research gardens may be permitted wherever commercial cultivation activities are allowed.

#### Alternative 13: Requirement for payment of Road Association Dues

This alternative has been prepared in response to public input received and discussion during recent workshops.

#### Alternative 14: Alternative Renewable Energy Performance Standard

This alternative would provide for limited use of non-renewable energy (20%) which could include generators or other sources used in conjunction with on-site renewable energy or renewable grid power. This would enable greater use of generators which have been identified as a source of concern during scoping and public discussions. On the other hand, use of generators is prolific and conversion to 100% renewable will be difficult for many operators.

#### Alternative 15: Alternative Soil Management Performance Standard

This alternative was prepared in response to Commission discussion during the most recent workshop and provides an amended performance standard which deals exclusively with soils management and would not limit annual soil import/export.

#### *Use of Q Zones:*

In order to protect areas of higher population in the County and the borders of Cities the use of a Q Overlay Zone has been discussed. These would be placed over the Spheres of influence and 1,000 foot buffers of Cities and in Rural Residential Neighborhood Areas, select Community Areas, and RA zones. The Q Zone is not included in the action to be taken by the Planning Commission, because the areas to receive protection have not yet been formally identified. One of the decision points in consideration of the ordinance is to define these areas where discretionary permitting would be required. Once this has been identified and adopted by the Board of Supervisors, Rezoning to put the Q Zones in place will be processed.

#### **Environmental Impact Report:**

A Draft Environmental Impact Report (DEIR) was prepared for the project (Attachment 4) and circulated for public comment. The comments received are in Attachment 5 of this staff report. Staff and the consultant that prepared the DEIR are developing responses to those public comments which will not be available at the Planning Commission meeting. The DEIR describes the proposed ordinance, presents alternatives, and describes the environmental impacts and mitigation, areas of known controversy, and issues to be resolved during environmental review.

While most of the impacts are considered less than significant, the DEIR concludes there are three areas where the proposed ordinance will have significant adverse environmental impacts that are unavoidable:

- ***Impact 3.3-2: Long-term operational emissions of criteria pollutants and precursors:***  
Because the North Coast Air Basin exceeds the maximum thresholds for particulate

matter (PM10), operation of new cannabis cultivation would incrementally contribute to an existing or projected air quality violation.

- **Impact 3.3-4: Exposure of people to objectionable odors:** The cultivation and processing of cannabis generates odors associated with the plant itself, which during maturation can produce substantial odors. Alternative measures are presented in the ordinance to address the odor issue including setbacks and use of greenhouses with filtered emissions equipment; however, these measures will not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people.
- **Impact 3.13-2: Provision of sufficient water supplies and infrastructure needs:** New commercial cannabis facilities that would be allowed under the proposed ordinance would result in increased water demand from public water systems that could exceed supply and related infrastructure capacity.

The DEIR includes 24 mitigation measures that propose changes to the ordinance to reduce the ordinance's adverse environmental impacts to less than significant levels. Most of the mitigation involves adding performance standards to the ordinance. For example, Mitigation Measure 3.10-1 "Implement construction-noise reduction measures" requires the County include in the ordinance the following construction noise standard for new commercial cannabis operations and modifications to existing commercial cannabis operations :

"All outdoor construction activity and use of heavy equipment outdoors shall take place between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 9:00 a.m. and 6:00 p.m. on Saturday and Sunday."

These performance standards are added to Section 55.4.12 of the ordinance, "Performance Standards". The mitigation that involves application submittal requirements would be added to Section 55.4.11 of the ordinance, "Application Requirements". All the mitigation measures in the DEIR that involve changes to the ordinance are listed in Attachment 3 of this staff report. Changes made to the mitigation measures in the DEIR must be equally effective at reducing the adverse environmental impacts as the original mitigation.



## ATTACHMENT 1

### Draft Resolution

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 17-**

**Case Number OR-17-02**

**RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 3 AND CHAPTER 4 OF THE HUMBOLDT COUNTY CODE - REGULATIONS INSIDE THE COASTAL ZONE AND REGULATIONS OUTSIDE THE COASTAL ZONE, GOVERNING COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, AND DISTRIBUTION OF CANNABIS.**

**WHEREAS**, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

**WHEREAS**, on April 6, 2017 the Planning Commission reviewed and expressed satisfaction with a set of regulatory objectives for the proposed Commercial Cannabis Land Use Ordinance (CCLUO); and

**WHEREAS**, on April 7, 2017 the Planning and Building Department circulated for public comment a Notice of Preparation to inform agencies and the public that an EIR was being prepared and to invite comments on the scope and content of the document; and

**WHEREAS**, on April 11, 2017 the Board of Supervisors reviewed and expressed satisfaction with the same set of regulatory objectives for the ordinance amendments; and

**WHEREAS**, on June 1, 2017 the Planning Commission reviewed and expressed satisfaction with policy areas for the proposed ordinance amendments which specified the zoning districts where cannabis activities would be allowed and the general standards that would be applied; and

**WHEREAS**, on June 7, 2017 the Board of Supervisors reviewed and expressed satisfaction with the same set of policy areas for the ordinance amendments; and

**WHEREAS**, on September 1, 2017 the Planning and Building Department circulated for public comment a Draft Environmental Impact Report (DEIR) for the ordinance amendments; and

**WHEREAS**, on September 1, 2017, the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, a Notice of Availability of the DEIR; and

**WHEREAS**, on September 7, September 21, October 5, October 19 and November 2, 2017 the Planning Commission held public workshops on the proposed ordinance

amendments which gave the Planning Commission opportunities to review the proposed ordinance, ask questions from staff and the public and to accept public comments; and

**WHEREAS**, on October 2 and October 12, 2017 the Planning and Building Department held a public workshop in Garberville to review the proposed amendments; and

**WHEREAS**, on October 18, 2017 the Planning and Building Department held a public workshop in Willow Creek to review the proposed amendments; and

**WHEREAS**, on October 1, 2017, the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, a Notice of Public Hearing on the proposed ordinance; and

**WHEREAS**, the Humboldt County Planning Commission continued the public hearing on the proposed ordinance amendments from the October 19, and November 2, 2017 meetings to the November 16, 2017 meeting; and

**WHEREAS**, the Humboldt County Planning Commission held a public hearing on the proposed ordinance amendments on November 16, 2017 to receive a report on the draft ordinance amendments, as well as evidence and testimony; and

**WHEREAS**, the Planning Commission reviewed and considered the report, the Draft Environmental Impact Report prepared for the project, evidence, and other testimony presented to the Commission; and

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

1. Makes the findings in Exhibit A of this resolution based on the information contained in the public record; and
2. Recommends that the Board of Supervisors of the County of Humboldt:
  - Hold a public hearing in the manner prescribed by law.
  - Adopt the findings that the proposed ordinance is consistent with the applicable provisions of the Humboldt County Code and General Plan.
  - Adopt a resolution certifying the Final Environmental Impact Report prepared for the ordinance amendments.
  - By ordinance, approve the zoning ordinance amendments.
  - Direct the Planning and Building Department to prepare and file a Notice of Determination pursuant to CEQA for the project.
  - Direct the Clerk of the Board to publish a post approval summary in a newspaper of general circulation, and give notice of the decision to interested parties.; and
  - Adopt a Resolution transmitting the Amendment package, including all necessary supporting documentation, to the California Coastal Commission

as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 30514.

Adopted after review and consideration of all the evidence on \_\_\_\_\_, 2017.

The motion was made by Commissioner . and seconded by Commissioner .

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

ABSENT: Commissioners:

DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

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John Ford  
Director, Planning and Building Department

## **Exhibit A - Findings**

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

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

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

### ***B. Required Finding for Consistency With Housing Element Densities***

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

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

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

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

#### ***D. Required Finding for Consistency With the California Coastal Act***

Consistency: Administrative Regulations – Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act). The proposed amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Chapter 3 sets forth policies regarding the following issues:

**Access** (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)

**Recreation** (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)

**Marine Resources** (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)

**Land Resources** (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)

**Development** (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)

**Industrial Development** (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.

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

Section(s)	Applicable Requirements
§312-50 of the Zoning Ordinance	<b>Finding A1.</b> That the proposed zoning change is consistent with the General Plan.
<b>Evidence Supporting Finding A1</b> The purpose of the ordinance amendments is to establish land use regulations concerning the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt.  Policy UL-P21 of the 2017 Humboldt County General Plan states: Cultivation of medical cannabis shall be regulated by ordinance to provide for the health, safety, and welfare of the community, but shall not interfere with the patient’s right to medical cannabis. It should be understood that the General Plan policy was finalized prior to California State approval of recreational cannabis, and thus this policy should be understood to apply to both medical and recreational cannabis regulations. This policy states the clear intent of the county that cannabis activities shall be regulated in order to protect the public, health safety and welfare. This ordinance accomplishes that objective.	

§312-50 of the Zoning Ordinance	<b>Finding A2.</b> That the proposed zoning change is in the public interest
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#### **Evidence Supporting Finding A2**

These regulations are in the public interest because they are intended to ensure the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, and end users of medicinal or adult use cannabis; to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law.

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

<b>Section(s)</b>	<b>Applicable Requirements</b>
Government Code Section 65302.81	<b>Finding B.</b> That the proposed zoning change will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation)

#### **Evidence Supporting Finding B**

The proposed ordinance amendments do not allow any cannabis activities on parcels zoned Residential Single Family or Residential Multifamily, so the properties affected by the ordinance are not included in the residential land inventory used by the by the Department of Housing and Community Development in determining compliance with housing element law.

**Finding C: Required Finding for Consistency With CEQA**

<b>Section(s)</b>	<b>Applicable Requirements</b>
Section 15091 of the CEQA Guidelines	<b>Finding C.</b> That the proposed zoning ordinance amendments comply with the requirements of CEQA

### Evidence Supporting Finding C

A DEIR has been prepared for the project, which is included in Attachment 4 of the staff report. The Planning Commission has considered the DEIR and the comments made on the DEIR. The Planning Commission finds that the DEIR provides sufficient information and analysis to identify the potential environmental consequences of adopting the ordinance. The DEIR has been prepared in accordance with CEQA and represents the independent decision making of the County. The draft Resolution in this staff report makes the required findings for consistency with CEQA.

### *D. Required Finding for Consistency with the California Coastal Act*

The following table identifies the evidence which supports finding that the proposed Coastal Zoning Ordinance Amendments are consistent with the Coastal Act.

Section(s)	Applicable Requirements
Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act)	<p><b>Finding D.</b> That the proposed zoning ordinance amendments comply with the requirements of the Coastal Act.</p> <p><b>Access</b> (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)</p> <p><b>Recreation</b> (including protection of water-oriented activities, ocean-front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)</p> <p><b>Marine Resources</b> (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)</p> <p><b>Land Resources</b> (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p> <p><b>Development</b> (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p> <p><b>Industrial Development</b> (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.</p>



**Evidence Supporting Finding D**

The proposed zoning ordinance amendments will help protect coastal resources from harm resulting from cannabis activities, including streams, fish, and wildlife and wildlife habitat, and Tribal Cultural Resources. Cultivation activities share many similar features with more conventional agricultural uses and are therefore potentially compatible in a variety of zoning districts where agriculture is allowed. Commercial cannabis sales, manufacturing, distribution and testing are activities which share many similar features with more conventional retail sales, light manufacturing, distribution and scientific research uses and are therefore potentially compatible in a variety of zoning districts where those uses are allowed.

The new policies and performance standards provide guidance and new tools to address land use issues surrounding the siting and operational standards for commercial activities involving the cultivation, manufacturing, processing, and distribution of cannabis for medical use. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial resources are likely to occur.

**ATTACHMENT 2**  
**DRAFT ORDINANCE**

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR MEDICINAL OR ADULT USE

ORDINANCE NO. \_\_\_\_\_

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 and Section 314-55.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code, known as the Commercial Medical Marijuana Land Use Ordinance, ~~with the exception of Section 314-55.8.11,~~ are hereby repealed. ~~Section 314-55.4.8.11 is recodified as Section 314-55.4.10.10.~~

**SECTION 2.** Section 313-55.3.11.7 of Chapter 3 of Division 1 of Title III and Section 314-55.3.11.7 of Chapter 4 of Division 1 of Title III of the Humboldt County Code, with respect to on-site consumption of medical cannabis in Medical Cannabis Dispensaries, are hereby repealed.

**SECTION 3.** Sections 313-55.3.7 and 313-55.3.15 of Chapter 3 of Division 1 of Title III, and Sections 314-55.3.7 and 314-55.3.15 of Chapter 4 of Division 1 of Title III of the Humboldt County Code, with respect to Medical Cannabis Testing and Research Laboratories, are hereby repealed.

**SECTION 4.** Section 313-55.4 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby adopted as follows:

~~[Insert Coastal Provisions]~~ Section 5 and Sections 1 - 4 for the Inland Zoning Ordinance which are exact replicas of the text herein that is renumbered for consistency and the analogous zoning and land use categories are used]

**SECTION 5.** Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby adopted as follows:

**314-55.4 COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS LAND USE REGULATION FOR THE INLAND AREA OF THE COUNTY OF HUMBOLDT.**

**55.4.1 AUTHORITY AND TITLE**

This Section shall be known as the Commercial Cannabis Land Use Ordinance (“CCLUO”), regulating the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the Inland Area 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, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt in order to limit and control such activity.

These regulations are intended to ensure the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, and end users of medicinal or adult use cannabis; to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law. To this end, these regulations identify where in the County the various types of commercial cannabis activities can occur, and specify what type of permit is required, the application process and the approval criteria that will apply.

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, or contravene the provisions of Health and Safety Code section 11357, 11358, 11362.1, 11362.2, or 11362.5 with respect to the possession or cultivation of limited amounts of cannabis for personal use by qualified patients or persons 21 years of age or older.

#### 55.4.3 **APPLICABILITY AND INTERPRETATION**

55.4.3.1 All facilities and activities involved in the commercial cultivation, processing, manufacturing, and distribution, testing, and sale of cannabis within the jurisdiction of the County of Humboldt outside of the Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section, ~~except that a~~ Applications for Commercial Cannabis Activity land use permits filed on or before December 31, 2016 shall ~~continue to be governed by the provisions of the~~ regulations in effect at the time of their approval, except as otherwise prescribed herein.

##### **Alternative 1**

55.4.3.1 All facilities and activities involved in the commercial cultivation, processing, manufacturing, and distribution, testing, and sale of cannabis within the jurisdiction of the County of Humboldt outside of the Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section, Applications for Commercial Cannabis Activity land use permits filed on or before December 31, 2016 shall be governed by the regulations in effect at the time of their **approval submittal**, except as otherwise prescribed herein.

55.4.3.2 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacture, or distribution of cannabis from compliance with all other applicable Humboldt County zoning, land use, grading, and streamside management area regulations as well as other applicable provisions of the County Code.

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, from any and all applicable local and state construction, electrical, plumbing, water rights, waste water discharge, water quality, streambed alteration, endangered species, or any other environmental, building or land use standards or permitting requirements.

55.4.3.4 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.

55.4.3.5 A Zoning Clearance Certificate or Permit issued by the County of Humboldt pursuant to the CCLUO for any Commercial Cannabis Activity regulated by this Section, or Section 314-55.3, shall be valid for either adult use or medicinal use state licensed commercial cannabis activities, or both, if so allowed pursuant to state statute or regulation.

55.4.3.6 Wherever the word “marijuana” appears in any provision of the Humboldt County Code, it shall also be deemed to apply or refer to “cannabis.”

55.4.3.7 Wherever the terms “medical marijuana,” “medical cannabis,” “marijuana for medical use,” or “cannabis for medical use,” may appear in regulations in the Humboldt County Code, the regulations shall also apply equally to the adult use of cannabis by persons 21 years of age or older.

55.4.3.8 Permits issued for commercial cannabis activities pursuant to the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as set forth in Ordinance No. 2559 shall remain valid, and shall be governed by the terms and conditions of that ordinance as if it remained in effect. Holders of such permits may apply for state licenses for either medicinal or adult use license categories, or any combination thereof as may be permitted under state statute and regulations.

55.4.3.9 Notwithstanding the provisions of the Right to Farm Ordinance, Section 314-43.2.6 of the Humboldt County Code, the commercial cultivation of cannabis 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. Commercial Cannabis Cultivation requires County issuance of a Zoning Clearance Certificate, Special Permit, or Use Permit, and the person engaged in such activity must obtain all required state licenses and permits.

55.4.3.10 Other than as enumerated in this Section, Commercial Cannabis Activities in the County of Humboldt are prohibited in any other zoning district other than those zoning districts where it is expressly permitted.

55.4.3.11 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 Commercial Cannabis Activities within the jurisdiction of the County.

55.4.3.12 No ministerial permit for shall be granted for site development activities, including but not limited to grading or building permits, related to any Commercial Cannabis Activity in advance of issuance of the Zoning Clearance Certificate, Special Permit, or Use Permit required under this section.

55.4.3.13 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.

#### 55.4.4 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.

“Cannabis Cooperative Association” means an association formed or reorganized in accordance with Chapter 22, Division 10 of the Business and Professions Code commencing with Section 26220.

“Cannabis Research Garden” means a cannabis cultivation facility engaged in the research or development of cannabis, cannabis strains, or cultivars for the medicinal or adult use of cannabis but which does not produce product for commercial distribution, manufacture, dispensing, or sale.

“Cannabis Testing and Research Laboratories” means a facility, entity, or site that offers or performs tests of cannabis or cannabis products licensed by the State of California pursuant to Business and Professions Code section 26000, et. seq., and businesses and research institutions engaged in the research of cannabis, cannabis products, or devices used for the medicinal or adult use of cannabis products at which no commercial cannabis cultivation or distribution, manufacture, dispensing, or sale of medical cannabis occurs.

“Captured Rainfall” means rainwater catchment of rainfall runoff primarily collected during the wet season from roof tops, impervious surfaces, driveways ~~and shared use roads,~~ and similar features to the extent consistent with state law for rainwater capture, and concentrated and stored in tanks, ~~bladders,~~ or off-stream reservoirs, retention ponds, or basins located on the parcel(s) or premises. Also includes rainfall captured and collected directly within a reservoir, open tank, or similar vessel.

“Category 4 Roads” means roads meeting the standards specified in Section 4-1 (Design Standards for Roadway Categories) and Figure 4 of the Appendix to the Subdivision Regulations, found in Appendix to Title III, Division 2, of Humboldt County Code.

“Commercial Cannabis Activity” means any activity involving the cultivation, processing, distribution, manufacturing, testing, sale, or related activities, of cannabis for commercial purposes.

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis, including nurseries, that is intended to be processed, manufactured, distributed, dispensed, delivered, and sold.

“Community Propagation Center” means a facility providing for propagation activities as well as caretaking of mature non-flowering plants by one or more licensees, using grid power, at a premises which is separate from the cultivation site.

“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 to maturity 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.~~ and shall be calculated in square feet and measured using clearly identifiable boundaries of all area (s) that will contain mature plants at any point in time, including all the space within the boundary. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown to maturity on the premises. Cultivation area does not include areas devoted to Propagation ancillary to a permitted Cultivation Area on the same Parcel or Premises, provided these areas are incidental, accessory, and subordinate to the size of the area(s) used for flowering and number of annual cultivation cycles. The Department reserves the right to limit the size of the propagation area(s).

## Alternative 2

“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. Area of cannabis cultivation is the physical space where cannabis is grown to maturity and includes, but is not limited to, garden beds or plots, the exterior dimensions of hoop houses or green houses. In situations where pots, bags, raised beds, or similar containers are used for cultivation, the cultivation area shall be calculated based on the container size by multiplying the area of the container by 4. The total cultivation area is the sum of the calculations for these discrete areas. Cultivation area does not include areas devoted to Propagation ancillary to a permitted Cultivation Area on the same Parcel or Premises, provided these areas are incidental, accessory, and subordinate to the size of the area(s) used for flowering and number of annual cultivation cycles. The Department reserves the right to limit the size of the propagation area(s).

“Cultivation site” means the location or a facility where 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” as used in this section related to cannabis means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retailers, and performs or coordinates the inspection, quality assurance, batch testing, storage, labeling, packaging and other related processes, as well as transportation to or from other licensees.~~

~~“Driveway” means a route providing private vehicular access, serving one (1) or two (2) parcels or premises.~~

~~“Dry farming” means cultivation within floodplains and alluvial terraces adjacent to major watercourses, where Irrigation activities are confined to ancillary propagation areas and transplant, and plants spend the majority of the cultivation season being grown within native soil where they primarily receive water via subsurface hydrological connectivity, and not from above ground Irrigation.~~

~~“Enclosed” means Commercial Cannabis Cultivation Activities conducted within an enclosed structure employing mechanical ventilation controls in concert with carbon filtration or other equivalent or superior method(s) preventing the odor of cannabis from being detectable outside of the structure. The use and intensity of artificial light, not the fact of enclosure will determine whether the Cultivation Site is characterized as Outdoor, Mixed-light, or Indoor.~~

~~“Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.~~

~~“Extraction, non-flammable” means the manufacture of cannabis products using cold water, heat press, lipid (butter, milk, oil) or other non-chemical extraction method to~~



make bubble hash, kief, rosin, cannabis-infused lipid, etc. Also included in this definition is supercritical fluid CO2 extraction to make cannabis concentrates/oils (closed loop only).

“Extraction, flammable” means using compressed and uncompressed liquid solvents such as pentane, hexane, butane, propane, ethanol, isopropyl alcohol, and the like to make cannabis concentrates/oil (closed loop only). Also included in this definition is post-extraction refinement, which is taking previously extracted cannabis concentrates and further refining through processes such as chromatography, to make distillates.

“Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.

“Forbearance Period” means the calendar days during which water may not be diverted from a Waterbody. The default forbearance period shall occur each year between May 15<sup>th</sup> and October 31<sup>st</sup>, unless a greater or lesser period is established or negotiated by local and/or state agencies.

“Grid Power” means electricity generated, transmitted and distributed via the electrical grid by a public utility or similar entity.

“Indoor” means cultivation within a structure primarily or exclusively using artificial lighting.

“Infusion” means a process by which cannabis, cannabinoids, cannabis concentrates, or manufactured cannabis are directly incorporated into a product formulation (e.g. oil, milk, butter, other lipids) to produce a cannabis product including: edibles such as baked goods, tinctures, lotions and salves, soaps, vape pens, and the like.

“Irrigation” means use of water by any Commercial Cannabis Cultivation activity.

“Licensee” means a person issued a state license to engage in Commercial Cannabis Activity.

“Local Water Source” means water withdrawal from a Waterbody occurring on the same parcel(s) or premises, or in their vicinity.

“Manufacturing” 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 cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Metering device” means a device capable of measuring the rate of: direct diversion, collection to storage, and withdrawal or release of water from storage.

“Microbusiness” means a facility host to several Commercial Cannabis Activities under a single license including cultivation on an area less than 10,000 square feet, distribution, manufacturing without use of volatile solvents, and retail sales.

“Mixed-Light” means cultivation using a combination of natural and supplemental artificial lighting not to exceed 25 watts per square foot.

“Non-Diversionary Water Source” means not involving the withdrawal of water from a Waterbody.

“Non-forested areas” means areas not growing any trees, whether due to natural conditions or through a conversion of Timberland, conducted prior to January 1, 2016.

“Nursery” means a facility that produces only clones, immature plants, and seeds for wholesale to licensed cultivators to be used specifically for the planting, propagation, and cultivation of cannabis, or to licensed distributors.

“Off-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged when conducted at premises separate from the cultivation site where the processed cannabis is grown and harvested.

“On-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, when conducted at the same premises or Parcel which is host to the cultivation site(s) where the cannabis is grown and harvested.

“Open Air” means Outdoor or Mixed-Light Cultivation activities, Nurseries, or Processing facilities, where not conducted entirely within an Enclosed structure.

“Outdoor” means outdoor cultivation using no artificial lighting.

“Parcel” means the same as the definition of “Lot” found under 314-147 of the code.

“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.

“Pre-Existing Cultivation Site” means a physical location where Outdoor, Mixed-Light, or Nursery Cannabis Cultivation activities occurred at any time between January 1, 2006 and December 31, 2015, which has been recognized by the Planning and Building Department, following receipt and review of adequate evidence. The maximum Cultivation Area that may be recognized is the largest extent of the area under concurrent cultivation at a single point in time during the ten-year period specified above.

“Premises” means a Parcel, or a portion thereof, such as a leasehold interest in agricultural land for agricultural purposes of outdoor, mixed-light, or indoor cultivation or processing of cannabis, or a leased or owned space in an industrial or commercial building or parcel for purposes of indoor, mixed-light, or outdoor cultivation, processing, manufacture, distribution, testing or retail sale of cannabis.

“Prime Agricultural Soils” means all lands which have been classified or determined to be “prime” as shown on the most current mapping managed and prepared in concert with local soil survey efforts performed by the Natural Resources Conservation Service.

“Private Roads” means all roads ~~systems~~ which are not maintained by the County of Humboldt, or State or Federal Agencies.

“Propagation” means cultivation of immature, non-flowering cannabis plants.

“Public or Private Water Supplier” means a retail water suppliers, as defined in Section 13575 of the Water Code, including community services districts or similar public or private utilities, serving 11 or more customers, whose primary beneficial use of water is municipal or domestic.

“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.

“Publicly Maintained Roads” means all roads ~~systems~~ that are available for year round travel by the general public and maintained by the County of Humboldt, or State or Federal Agencies.

“Renewable Energy Source” means electrical power provided by a renewable energy system and/or Grid Power, supplied from 100% renewable source.

“Renewable Energy System” means equipment for generating and supplying power without use of petroleum or other fossil fuels, and instead using appropriate technology including but not limited to: wind turbines, photovoltaic panels, and hydroelectric systems, in concert with private devices and systems for energy storage and distribution including batteries, grid inter-tie, or other means.

“Retailer” means a facility for the retail sale and delivery of cannabis to the public, whether for medicinal or adult use. Retailer shall include medical cannabis dispensaries, as defined in and regulated by Humboldt County Code section 314-55.3.

“Rural Residential Neighborhood Area” means those areas of the County of Humboldt shown on maps prepared by the Humboldt County Planning and Building Department.

“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.

“Shared-Use-Roads”-means-public-and-private-road-systems-providing-access-to-the-cultivation-site,-including-driveways,-serving-3-or-more-parcels-or-premises.

“Shared-Use-Road-Systems-(roadsheds)”~~means~~” means-networks-of-public-and/or-private Shared-Use-Roads-providing-access-to-two-or-more-parcels,-where-year-round-access-through-neighboring-road-systems-is-typically-limited-to-one-or-two-discrete-intersections. The-County-shall-define-the-location-and-general-extent-of-all-roadsheds,-based-upon-current-conditions-and-use.

“Slope”-means-Natural-Grade-as-defined-in-Title-III,-Section-314-142-of-the-Humboldt-County-Code,-which-has-not-been-filled-or-graded-after-January-1,-2016.

“State-license,”-or-“license,”-means-a-state-license-issued-pursuant-to-MAUCRSA.

“Stored-water”-means-water-from-Captured-Rainfall-or-a-Local-Water-Source,-when-diverted-and-stored-for-non-contemporaneous-Irrigation.

“Timberland”-means-land,-which-is-growing-or-available-for-and-capable-of-growing-a-crop-of-trees-of-any-commercial-species-used-to-produce-lumber-and-other-forest-products,-as-defined-under-section-4526-of-the-Public-Resources-Code.

“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-Ceremonial-~~Areas~~Sites”-means-locations-where-ceremonial-activities-are-conducted-by-a-California-Native-American-Tribe-within-their-Area-of-Traditional-Tribal-Cultural-Affiliation.

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

“Waterbody”-means-any-significant-accumulation-of-water,-such-as-lakes,-ponds,-rivers, streams,-creeks,-springs,-seeps,-artesian-wells,-wetlands,-canals,-groundwater-from-a-subterranean-stream-flowing-through-a-known-and-definite-channel,-or-similar-features.

Waterbody shall not include off-stream constructed reservoirs filled exclusively using Non-Diversionary sources such as Captured Rainfall.

#### 55.4.5 GENERAL PROVISIONS APPLICABLE TO COMMERCIAL CANNABIS ACTIVITY LAND USE PERMITS

##### 55.4.5.1 Special Area Provisions

55.4.5.1.1 No Commercial Cannabis Activity shall be permitted within six hundred feet (600') of a school.

55.4.5.1.2 No Commercial Cannabis Activity shall be permitted within Tribal Lands without the express written consent of the Tribe.

~~55.4.5.1.3 A Special Permit shall be required for any Open Air Cultivation Activities within an RA zoning district, Rural Community Center or Village Center.~~

55.4.5.1.43 A Special Permit shall be required for any Commercial Cannabis Activity in a TPZ zoning district, when authorized pursuant to 55.4.6.5. (Pre-existing cultivation sites)

55.4.5.1.54 ~~City Spheres of Influence, Community Planning Areas, Reservations and Rancherias Tribal Lands, and Rural Residential Neighborhood Areas, and RA zones~~

~~a) a) — A Special Permit shall be required for any Commercial Cannabis Activity permit where located in or within one thousand feet (1000') of any: RA zoning district, mapped Rural Residential Neighborhood Areas (RRNA's), Community Planning Areas identified under 55.4.5.1.5(b), the Sphere of Influence (SOI) of any incorporated city within the County of Humboldt, or Tribal Lands.~~

~~a) for an activity that will be located within the Sphere of Influence (SOI) of any incorporated city within the County of Humboldt, or within one thousand feet (1,000') of the city limit boundary of any city, whichever distance is greater, or within one thousand feet (1,000') of the boundary of a Reservation or Rancheria.~~

~~b) A Special Permit shall be required for any Commercial Cannabis Activity permit for an activity that will be located within mapped Rural Residential Neighborhood Areas (RRNA's)~~  
~~b) A Special Permit shall be required for any Commercial Cannabis Activity located within the following mapped Community Planning Areas: Willow Creek, McKinleyville, Scotia, Glendale, Fieldbrook, Carlotta, Hydesville, Garberville, and Redway.~~

*Early Notification to Surrounding Areas, nearby Cities, and Tribes*

~~ec) Whenever a permit application for a Commercial Cannabis Activity is located within any of the areas specified in Sections 55.4.5.1.5.1 or 55.4.5.1.5.24(a) and (b) and has been determined complete for processing in accordance with Section 312-6.1, notice of the proposed project shall be provided to all property owners and occupants by first class mail to the address(es) shown on the latest Assessment Roll within one thousand feet (1,000') of the perimeter of the parcel on which a permit is being requested. The notice shall include the location of~~

the project and a description of size and type of activity proposed. The appropriate City or Tribe shall also be notified in cases where a project is located within 1,000 feet of the City limit, reservation, or Rancheria boundary or within City's Sphere of Influence or Tribe's Ancestral Area. This notice shall be in addition to the notice that may be required by Section 312-8.1 or 312-8.3. Pursuant to 312-9.2.3, a written request that a public hearing be held may be submitted at any time prior to the Hearing Officer's administrative decision on a project.

**d)** The Hearing Officer shall consider the potential impacts and cumulative impacts of proposed uses to the community area as a whole, including impacts to neighboring uses within Cities or their buffers, and to residents within RRNA's, SOI's, or buffers from City Limits or Tribal land. The Hearing Officer shall have the discretion to deny any discretionary permit application within these areas if it is found, based on substantial evidence in the record, that the impacts of a proposed activity on the existing uses will have a significant adverse effect on the public health, safety, or welfare.

#### 55.4.5.1.6 Areas of Traditional Tribal Cultural Affiliation

The County shall engage with local Tribes before consenting to the issuance of any clearance or permit, if Commercial Cannabis Activities occur or are proposed 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).

#### 55.4.5.2 **Release of Liability, Indemnification, and Hold Harmless**

As part of the application for any Zoning Clearance Certificate, Special Permit, or Use Permit for Commercial Cannabis Activity, as defined herein, the property owner and 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 Cannabis Activity and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of these uses.



#### 55.4.5.3 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, or other law.

Any violation of this Section, including, but not limited to failure to obtain and maintain compliance with 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, specifically including those set forth in Title III, Division 5, Chapter 1 of the Humboldt County Code.

Whenever permit applicants seeking permits for new commercial activities initiate operations ahead of permit issuance or Pre-Existing Cultivation Site operators seeking permits expand cultivation operations ahead of permit issuance the Director shall have discretion to:

55.4.5.3.1 Issue stop work orders and financial penalties to applicants found to have engaged in the above activities, and require restoration of the site to prior condition; or,

55.4.5.3.2 Disqualify the pending applications, with no refund of fees submitted, and initiate enforcement proceedings.

55.4.5.3.3 Resolve the violations and proceed with processing of the application.

#### 55.4.5.4 Permit Limits and Permit Counting

55.4.5.4.1 No more than four acres of Commercial Cannabis Activity cultivation permits 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, ~~except that membership or an ownership interest in a Cannabis Cooperative Association shall not be considered in this limitation.~~

55.4.5.4.2 Where on the same Parcel or Premises multiple different types of Commercial Cannabis Activity permits are held by the same Person, they shall be counted as a single permit for purposes of this section.

55.4.5.4.3 Where on the same Parcel ~~or Premises~~, more than one permit for the same type of Commercial Cannabis Activity is held by the same Person, each permit will be counted towards the total number of permits held for purposes of this section.

55.4.5.4.4 Cannabis Support Facilities described under 55.4.7 shall not be counted as a permit for purposes of this section.

### Alternative 3

#### ~~55.4.5.4 Permit Limits and Permit Counting~~

~~55.4.5.4.1 No more than four acres of Commercial Cannabis cultivation permits 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.~~

~~55.4.5.4.2 Where on the same Parcel or Premises multiple different types of Commercial Cannabis Activity permits are held by the same Person, they shall be counted as a single permit for purposes of this section.~~

~~55.4.5.4.3 Where on the same Parcel, more than one permit for the same type of Commercial Cannabis Activity is held by the same Person, each permit will be counted towards the total number of permits held for purposes of this section.~~

~~55.4.5.4.4 Cannabis Support Facilities described under 55.4.7 shall not be counted as a permit for purposes of this section.~~

#### ~~55.4.5.5 Combination of Open Air Cultivation Activities~~

~~A combination of Outdoor and Mixed Light cultivation activities may be authorized for a total area equal to or less than the cultivated area size limit for the applicable clearance or permit being sought (e.g. a combination of outdoor and mixed light cultivation area of up to 5,000 sq. ft. may be permitted on a parcel of between 5 and 10 acres with a Zoning Clearance Certificate per Section 55.4.6.1.2.1[a]).~~

#### ~~55.4.5.6 Term of Commercial Cannabis Activity Clearance or Permit~~

~~Any Commercial Cannabis Activity 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, applicable eligibility and siting criteria, and performance standards.~~

#### ~~55.4.5.7 Annual Inspections~~

~~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 and the time period within which the non-compliance must be corrected. The statement shall also advise the clearance certificate or permit holder of their right to file an appeal of the non-compliance statement within ten (10) calendar days of the date that the written statement is delivered to the permit holder, or after the date of any re-inspection if there is a dispute about whether or not the corrections have been completed. Email,~~



personal delivery, or mail are appropriate means of delivering the written statement. Where mailed or emailed, the written statement shall be sent to the most current mailing address or email shared with the Department by the operator. The statement shall be considered to be delivered 3 days following the postmarked date of mailing or verification of email transmittal. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request re-inspection and cure any items of non-compliance within the prescribed timeframes, or to timely file an appeal, 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.

#### **55.4.5.8 Appeal of Inspection Determination**

Within ten (10) calendar days after delivery of the statement of non-compliance, or the date of any re-inspection, the determination by the inspector that the site is not in compliance may be appealed by certificate or permit holder to the Zoning Administrator. The appeal shall be made, in writing, on a form provided by the County, and with payment of the fee specified for appeals in the fee schedule adopted by the County of Humboldt.

55.4.5.8.1 The appeal shall be heard by the Zoning Administrator or his or her designee within thirty (30) calendar days following the filing of the appeal. The Zoning Administrator shall render a written ruling on the appeal within three (3) business days following the hearing.

55.4.5.8.2 The decision of the Zoning Administrator may be appealed in accordance with Section 312-13 of the Humboldt County Code. If no appeal is filed, the Zoning Administrator's ruling is final.

#### **55.4.5.9 Notification to State Licensing Authorities**

The County shall notify the appropriate state licensing authority whenever the County Zoning Clearance Certificate, Special Permit or Use Permit has been revoked or terminated following the expiration of any appeal period, or if an appeal has been filed, following the final determination of the appeal.

#### **55.4.5.10 Restriction of water use under special circumstance**

The County reserves the right to reduce the extent of any Commercial Cannabis Activity, including but not limited to the area of cultivation, allowed 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 where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources.

### **55.4.6 COMMERCIAL CANNABIS CULTIVATION, PROPAGATION, AND PROCESSING — OPEN AIR ACTIVITIES**

Outdoor and Mixed-light Cultivation Activities, On-Site Processing, and Nurseries shall be principally permitted with a Zoning Clearance Certificate when meeting the following

Eligibility and Siting Criteria and all applicable Performance Standards, except when otherwise specified.

#### 55.4.6.1 Eligibility Criteria -- Resource Production and Residential Areas

##### 55.4.6.1.1 **Zoning**

AE, AG, FR, and U when accompanied by a Resource Production General Plan land use designation (not including Timberland) or Residential land use designation requiring parcel sizes of more than 5 acres.

##### 55.4.6.1.2 **Minimum Parcel Size and allowed Cultivation Area**

a) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size:

- 1) up to 5,000 sq. ft. of Cultivation Area with Zoning Clearance Certificate;
- 2) up to 10,000 sq. ~~ft.~~ of Cultivation Area with Special Permit.

b) On parcels 10 acres or larger in size:

- 1) up to 10,000 sq. ft. of Cultivation Area with Zoning Clearance Certificate;
- 2) up to 43,560 sq. ~~ft.~~ of Cultivation Area with Special Permit.

c) On parcels 320 acres or larger in size, up to 43,560 sq. ~~ft.~~ of Cultivation Area per 100 acre ~~increments~~ with a Use Permit, ~~up to a maximum of twelve (12) permits.~~

#### 55.4.6.2 Eligibility Criteria -- Commercial and Industrial Areas

##### 55.4.6.2.1 **Zoning**

C-3, ML, MH, and U when accompanied by a Commercial or Industrial General Plan land use designation, or where previously developed for a lawful industrial or commercial use.

##### 55.4.6.2.2 **Minimum Parcel Size and allowed Cultivation Area**

Two (2) acre minimum parcel size

a) Open Air Cultivation Activities of up to one (1) acre of Cultivation Area may be permitted with a Zoning Clearance Certificate

b) Additional Open Air Cultivation Activities in excess of 1 acre may be allowed with a Use Permit.

Cultivation sites proposed on developed commercial or industrial properties must comply with the Performance Standards for Adaptive Reuse.

#### 55.4.6.3 Eligibility Criteria -- All Areas

##### 55.4.6.3.1 **Energy Source**

Electricity must be exclusively provided by a Renewable Energy Source, meeting the Performance Standard for Energy Use.

##### 55.4.6.3.2 **Water Source**

Irrigation shall exclusively utilize Stored Water from Non-Diversiory Sources or water from a Public or Private Water Supplier. Water from on-site greywater systems is also authorized for year-round use. Dry Farmed Outdoor or Mixed Light cultivation sites may utilize Irrigation from Diversiory Sources for propagation areas and transplantation. Irrigation water sourced from Diversiory Sources may be permitted with a Special Permit pursuant to the Streamside Management Area Ordinance, Humboldt County Code Section 314-61.1, and subject to the Performance Standards for Diversiory Water Use.

#### 55.4.6.3.3 Access Road(s)

Road systems providing access to the parcel(s) or premises hosting the Cultivation Site(s) must meet or exceed the Road Systems Performance Standard in Section 55.4.12.1.8.

#### 55.4.6.4 Siting Criteria — All Areas

##### 55.4.6.4.1 Slope

Cultivation Site(s) must be confined to areas of the Parcel where the Slope is 15 percent or less.

##### 55.4.6.4.2 Conversion of Timberland Prohibited

Cultivation Site(s) may only be located within a Non-Forested area that was in existence prior to January 1, 2016.

##### 55.4.6.4.3 Limitation on Use of Prime Soils

The cumulative area of any Cannabis Cultivation Site(s) located on Prime Agricultural Soil shall not exceed 20 percent of the area of Prime Agricultural Soil on the Parcel.

#### Alternative 4

##### 55.4.6.4.3 Limitation on Use of Prime Soils

The cumulative area of any Cannabis Cultivation Site(s) located on Prime Agricultural Soil shall not exceed 20 percent of the area of Prime Agricultural Soil on the Parcel. **All cultivation activities in Prime Agricultural Soil shall occur within native soil not cover the soil with an impermeable surface.**

##### 55.4.6.4.4 Setbacks

#### Standard Setbacks

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

- Property Lines -- Thirty (30') feet from any property line;
- Residences -- Three hundred feet (300') from any residence on an adjacent separately owned parcel;

### Alternative 5a

b) Residences and undeveloped parcels – Three hundred feet (300') from any residence on an adjacent separately owned parcel, and two hundred seventy feet (270') from any adjacent undeveloped separately owned parcel.

### Alternative 5b

b) Residences and undeveloped parcels – Three hundred feet (300') from any residence on an adjacent separately owned parcel, and two hundred seventy feet (270') from any adjacent undeveloped separately owned parcel if less than five (5) acres in size.

- c) ~~Sensitive-Receptors--Six-hundred-feet-(600')-from-a-School-Bus-Stop,-Church or-other-Place-of-Religious-Worship,-Public-Park,-or-Tribal-Cultural-Resource. For-purposes-of-this-section,-the-setback-requirement-applicable-to-Public-Parks, other-than-lands-managed-for-open-space-and/or-wildlife-habitat,-shall-only-be applied-to-designated-and-developed-recreational-facilities-such-as-picnic-areas and-campgrounds,-trails,-river-and-fishing-access-points,-and-like-facilities-under public-ownership.~~
- d) ~~Tribal-Ceremonial-AreasSites—One-Thousand-feet-(1,000')-from-all-Tribal Ceremonial-AreasSites;~~
- e) ~~The-setback-required-from-associated-property-lines-or-residence(s)-on-an adjacent-privately-owned-property-may-be-waived-or-reduced-with-the-express written-consent-of-the-owner(s)-of-the-subject-property.~~
- f) ~~Notwithstanding-the-above-described-setbacks-from-Sensitive-Receptors-and Tribal-Ceremonial-AreasSites,-the-setback-required-from-these-areas-may-also-be waived-or-reduced-with-the-express-written-consent-of-qualified-officials-or representatives-representing-these-protected-uses.--For-publicly-owned-lands managed-for-open-space-and/or-wildlife-habitat-purposes,-a-setback-of-less-than 600-feet-may-be-allowed-with-a-Special-Permit,-provided-that-advanced-notice is-given-to-the-person-or-agency-responsible-for-managing-or-supervising-the management-of-those-lands;~~
- g) ~~In-all-cases,-structures-must-comply-with-the-setback-requirements-and-similar provisions-of-the-principal-zoning-district(s)-as-well-as-those-required-by-the Building-Code,-including-lot-coverage.~~
- h) ~~Additionally,-in-cases-where-one-or-more-discrete-premises-span-multiple parcels,-the-30-foot-setback-from-shared-boundary-lines-may-be-waived-for cultivation-activities-which-do-not-occur-within-a-structure.~~
- i) ~~Cultivation-Site(s)-and-Appurtenant-Facilities-including-surface-water-diversions, agricultural-wells,-and-similar-infrastructure-must-observe-all-prescribed-setbacks and-limitations-pertaining-to-the-use-of-land-located-within-or-affecting Streamside-Management-Areas-(SMAs)-or-other-wet-areas,-as-identified-and described-under-Section-314-61.1.--Under-certain-circumstances,-a-Special Permit-may-be-required.~~

## **Alternative 6**

### **Special Area Setbacks for Odor Mitigation**

**In addition to the Standard Setbacks, Open Air Cultivation Sites located within any of the Special Areas described under 55.4.5.1.5 are subject to the following enhanced setbacks:**

**(j) One thousand feet (1,000') from the boundary of any residentially zoned area or applicable Community Planning Area boundary;**

**(k) One thousand feet (1,000') from any residence located on a separately owned parcel.**

**Cultivation activities confined to Enclosed structures are not subject to these setbacks.**

**(l) Where an application for an Open Air Cultivation land use permit was timely filed on or before December 31, 2016 but was not approved prior to the provisions of this section becoming effective, an applicant may seek an exception from the prescribed open air cultivation setbacks of 55.4.5.1.5(j) and (k) with a Use Permit. In considering the Use Permit, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist.**

#### 55.4.6.5 Accommodations for Pre-Existing Cultivation Sites

As set forth in the following subsections, Pre-Existing Cultivation Sites that meet all other Eligibility and Siting Criteria and Performance Standards, may be permitted within AE, AG, FR, FP, TPZ, and U zoning districts, where accompanied by a Resource Production General Plan land use designation or Residential land use designation requiring parcel sizes of more than 5 acres. Expansion of Pre-Existing Cultivation Sites is prohibited where located within TPZ zones or U zones where the General Plan land use designation is "Timberland". For other areas, where the size of a Pre-Existing Cultivation Site is smaller than the allowed cultivation area which can be permitted, the site may be expanded to the maximum allowed for the applicable parcel size and permit type within existing Non-Forested areas with Slopes less than 15 percent.

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

##### Alternative 7

No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019.

#### 55.4.6.5.1 Small Cultivation Sites

On Parcels 5 acres or larger in size, up to 35,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Zoning Clearance Certificate, subject to the following additional requirements and allowances:

- a) The operator's principal residence is located on the same parcel and the residence was in existence on or before January 1, 2016
- ~~b) Only residents of the site shall engage in cultivation, harvesting, drying, curing, or trimming activities on the site;~~
- ~~c) Only residents of the site shall engage in cultivation, harvesting, drying, curing, or trimming activities on the site;~~
- ~~d) If not previously permitted, where eligible the residence must become permitted through the Alternative Owner Builder program, Humboldt County Code section 331.5-1, et. seq., or Safe Homes program, and Section 55.4.6.5.7.~~
- ~~db) No more than one cultivation permit may be issued for the same Parcel.~~
- ~~ec) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply~~
- ~~d) ,but Section 55.4.12.1.8(d) shall apply. The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:~~
  - ~~i. wWithin one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant~~

55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.

ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.

ge) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

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

55.4.6.5.3 On parcels between one acre and five acres in size, up to 5,000 square feet of Cultivation Area may be permitted with a Special Permit.

55.4.6.5.4 A Cultivation Site located on Slopes greater than 15 percent but not exceeding 30 percent may be permitted with a Special Permit.

55.4.6.5.5 In order to comply or best achieve compliance with applicable eligibility or siting criteria, or performance standard(s), reconfiguration of a Pre-Existing Cultivation Site may be authorized with a Special Permit, subject to all applicable Performance Standards.

#### **55.4.6.5.6 Energy Source for Ancillary Propagation Facility or Mixed-Light Cultivation**

In TPZ zones and U zones (with a Land Use Designation of Timberland) the use of generators and Mixed-Light cultivation is prohibited. Where grid power is not available, Pre-Existing cultivation sites located within other eligible zoning districts may utilize on-site generators to supply energy for mixed light and propagation activities. The permit application shall include an energy budget detailing all monthly cultivation-related energy use as well as on-site renewable energy generation and storage capacity. All generator use must comply with the Performance Standards for Generator Noise.

- a) Use of on-site generators to supply up to 20 percent of cannabis cultivation related energy demand may occur as a principally permitted use.
- b) Use of on-site generators to supply greater than 20 percent of cannabis cultivation related energy demand shall be subject to a Special Permit. The application must demonstrate why it is not technically or financially feasible to secure grid power or comply with the renewable energy standard. Approval may be subject to any and all of the following additional measures:
  1. Keeping of ancillary mother plants off-site at an approved location such as a Community Propagation Center, Nursery, or similar facility with access to grid power.
  2. Restricting use of artificial lighting to between March thru August (deprivation season and end of season restocking post-harvest)
  3. Developing a plan to secure grid power or develop on-site renewable energy infrastructure capable of supplying 80 percent or more of cannabis-related



electrical demand. -- Permit approval may be provisional subject to achieving grid power or 80 percent renewable target.

#### 55.4.6.5.7 **Provisional Permitting**

An application for a Pre-Existing Cultivation Site may be provisionally approved, subject to a written approved compliance agreement, signed by the applicant and the relevant enforcement agency or agencies. -- Applications eligible for Provisional Approval shall be processed identically to all other applications, in the order they are received and determined complete for processing. -- The Compliance Agreement shall document all violations and non-compliance with applicable building or other health, safety, or other state or county statute, ordinance, or regulation, including the performance standards and siting criteria of these regulations. -- Violations and areas of non-compliance subject to a compliance agreement 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 the Commercial Cannabis Activity and shall not extend to personal residences or other structures that are not used for Commercial Cannabis Activities. 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. All violations and areas of non-compliance shall be cured or abated 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, unless otherwise stipulated under the terms of the individual agreement. -- The terms of the compliance agreement may be appealed to the Planning Commission, who shall act as Hearing Officer, and make a determination during the hearing, or at the next regularly scheduled meeting held thereafter.

As part of application submittal, Pre-Existing cultivation sites seeking provisional approval shall identify, document, and itemize all current violations related to commercial cannabis activities, as well as areas of non-compliance with applicable performance standards and siting criteria, and include a plan and schedule to abate or cure all violations and achieve compliance targets.

#### 55.4.6.5.8 **Myers Flat Community Area**

In the Myers Flat Community Area, on any sized parcel, the cultivation area of a Pre-Existing Site may be permitted with a Special Permit, up to a maximum of 3,000 square feet. -- Expansion is prohibited on parcels less than 1 acre in size. -- The cultivation area setback requirement specified in Section 55.4.6.4.4(a) shall be reduced to the setbacks applicable to the underlying principal zoning district. -- The cultivation area setback from residence requirement specified in Section 55.4.6.4.4 (b) shall only apply to permanent residences constructed with approved building permits. Temporary use of an RV for up to 6 months may be permitted in conjunction with cannabis cultivation if permitted pursuant to 314-81.1.1.5.1.

#### 55.4.6.5.9 **Retirement, Remediation, and Relocation of Pre-Existing Cultivation Sites**



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

- a) Cultivation Sites eligible for Retirement, Remediation, and Relocation incentives (RRR Sites) shall be those that were in operation at any time between January 1, 2006 and January 1, 2016 and are located in TPZ, RA, U, AG, FR or AE zones with a source of irrigation water from surface water diversion without DWR water right or permit or DFW streambed alteration permit, or served by roads which do not conform with one or more access performance standards specified under Section 55.4.12, or with slopes in excess of 15%, or where the cultivation area location does not comply with the required setbacks.
- b) Sites eligible for relocation of RRR Sites (Relocation Sites) shall be those meeting the eligibility criteria specified in Section 55.4.6.1 or 55.4.6.2 and the siting criteria specified in Section 55.4.6.4 through 55.4.6.8, as well as all applicable performance standards specified in Section 55.4.12.

#### **Alternative 8**

b) Sites eligible for relocation of RRR Sites (Relocation Sites) shall be those meeting the eligibility criteria specified in Section 55.4.6.1 or 55.4.6.2 and the siting criteria specified in Section 55.4.6.4 through 55.4.6.8, as well as all applicable performance standards specified in Section 55.4.12. **In addition, RRR Sites shall not be located within any Special Areas listed within section 55.4.5.1.4. No new applications for RRR Sites shall be accepted after December 31, 2019.**

- c) Operators of RRR Sites shall be eligible to receive a Zoning Clearance Certificate for commercial cultivation of cannabis on an eligible Relocation Site, for an area up to four times the area of the pre-existing RRR Site, but in no event larger 20,000 sq. ft. Operators of RRR Sites with a Cultivation Area exceeding 20,000 sq. ft. may transfer all recognized prior cultivation area to an eligible Relocation Site, on a 1-for-1 basis (no multiplier) subject to approval of a Special Permit.
- d) Relocation 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 twenty percent (20%) of the area of the Relocation Site parcel. If the Relocation Site has Prime Agricultural Soils on that parcel, the area utilized for cannabis cultivation on Prime Agricultural Soils shall not exceed twenty percent (20%) of the area of Prime 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 26054.2.

e) In order to receive the benefits specified in Section 55.4.6.5.9- (c), 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, habitat restoration, and monitoring, as determined to be appropriate by the Planning Department. The plan shall be prepared and executed in accordance with the Performance Standard for Remediation Activities. 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 property owner of record for the RRR Site shall record a covenant executed by the property owner not to commercially cultivate cannabis 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 Relocation Site shall be terminated.

#### **55.4.6.6 Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites**

Upon termination or abandonment of a permitted Commercial Cannabis Cultivation Site, the operator and/or property owner shall remove all materials, equipment and improvements on the site that were devoted to cannabis cultivation, including but not limited to bags, pots, or other containers, tools, fertilizers, pesticides, fuels, hoop house frames and coverings, irrigation pipes, water bladders or tanks, pond liners, electrical lighting fixtures, wiring and related equipment, fencing, cannabis, or cannabis waste products, imported soil or soil amendments not incorporated into native soil, generators, pumps, or structures not adaptable to non-cannabis permitted use of the site. If any of the above described or related material or equipment is to remain, the operator and/or property owner shall prepare a plan and description of the non-cannabis continued use of such material or equipment on the site.

For cultivation sites located in forested resource lands where trees were removed in order to facilitate cannabis cultivation, and no 3-acre conversion exemption or timberland conversion permit was obtained, the property owner shall cause a restoration plan to be prepared by a Registered Professional Forester, or other qualified professional approved by the County, for the reforestation of the site. All restoration planning and implementation shall be conducted in conformance with the Performance Standard for Remediation Activities. The property owner shall be responsible for execution of the restoration plan, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions set forth in Section 314-55.4.5.3- and Title III, Division 5, Chapter 1 of the Humboldt County Code.

## Alternative 9

### **55.4.6.7 Open Air Cultivation Permits granted under prior ordinance –Provisions and Incentives for Neighborhood Compatibility**

Where located in or within one thousand feet (1000') of any RA zoning district, mapped Rural Residential Neighborhood Areas (RRNA's), Community Planning Areas identified under 55.4.5.1.5(b), the Sphere of Influence (SOI) of any incorporated city within the County of Humboldt, or Tribal Lands, permits approved for applications filed on or before December 31, 2016 and granted prior to the effective date of this section shall be subject to compliance with the following provisions, which are designed to insure compatibility with surrounding land uses and control of potential nuisance, and are hereby retroactively applicable.

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

- a) Demonstrate all areas of open air cultivation activities maintain setbacks of 1000 feet or greater from any residence(s) located on a separately owned parcel, and are located 1000 feet or greater from any residentially zoned area or applicable Community Planning Area boundary.
- b) Confine all ~~open air~~ open-air cultivation activities to Enclosed structures.
- c) Secure a Conditional Use Permit. In considering the Use Permit request, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist.
- d) Request permit cancellation. Permit holders shall be eligible for relocation incentives pursuant to the provisions 55.4.6.5.9 and may be required to perform remediation of the site, where necessary.

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

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

#### 55.4.7 CANNABIS SUPPORT FACILITIES

~~Cannabis Support Facilities, including include facilities for Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers and Cannabis Testing and Research Laboratories.~~

~~shall be permitted as follows. Roads providing access to the Parcel(s) or Premises must comply with the Road System Performance Standard for Functional Capacity (all segments must either be paved with centerline stripe, or paved meeting the Category 4 standard). Exceptions are prohibited.~~

##### 55.4.7.1 Distribution, Off-Site Processing, Enclosed Nurseries, and Community Propagation Centers

~~Within all zones specified in Sections 55.4.6.1.1 (AE, AG, FR, and U) and 55.4.6.2.1 (C-3, ML, MH, and U), as well as C-2 and MB zones, Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers shall be principally permitted with a Zoning Clearance Certificate when meeting all applicable Performance Standards, as well as the Eligibility and Siting Criteria specified in Sections 55.4.6.3 and 55.4.6.4, except for 55.4.6.4.4 (c) and (d). The aforementioned types of Cannabis Support Facilities may also be permitted in CH and MB zones with a Special Permit, where meeting all applicable Performance Standards, as well as all Eligibility and Siting Criteria specified in Sections 55.4.6.3 and 55.4.6.4.~~

##### 55.4.7.2 Cannabis Testing and Research Laboratories

~~Where meeting all applicable Performance Standards, as well as the Eligibility and Siting Criteria specified in Sections 55.4.6.3 and 55.4.6.4, except for 55.4.6.4.4 (c) and (d), Cannabis Testing and Research Laboratories shall be principally permitted with a Zoning Clearance Certificate in C-2, C-3, MB, ML, MH zones, or U (when accompanied by a Commercial or Industrial General Plan land use designation) or where previously developed for a lawful industrial or commercial use.~~

##### Locational Criteria

~~Cannabis Support Facilities shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.~~

#### 55.4.8.1 INDOOR CULTIVATION

##### ~~AND MANUFACTURING~~

~~Indoor Cultivation and Manufacturing Sites must comply with all applicable performance standards, as well as meet all the Eligibility and Siting Criteria specified in Section 55.4.6.3 as well as comply with the Siting Criteria specified in Sections 55.4.6.4.1,~~

~~55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d), and (g) except 55.4.6.4.4 (e) and (d). All Indoor Cultivation activities shall be conducted within an Enclosed setting. Indoor Cultivation and Manufacturing activities may then be permitted as follows:~~

~~55.4.8.1 Roads providing access to the Parcel(s) or Premises must comply with the Road System Performance Standard for Functional Capacity (all segments must either be paved with centerline stripe, or paved meeting the Category 4 standard). Exceptions are prohibited.~~

~~55.4.8.2 Indoor Cultivation and Manufacturing Activities shall be conducted within an Enclosed setting.~~

#### ~~55.4.8.3 Indoor Cultivation~~

~~55.4.8.1.3.1 Within those zones specified under 55.4.6.1.1 (AE, AG, FR, and U), up to 5,000 square feet of Indoor Cultivation may be permitted with a Zoning Clearance Certificate, but may only be conducted within a non-residential structure which was in existence prior to January 1, 2016.~~

#### ~~55.4.8.1.2~~

~~55.4.8.3.2 Within those zones specified under 55.4.6.2.1 (C-3, ML, MH, and U):~~

#### **Alternative 10**

55.4.8.3.2 Within those zones specified under 55.4.6.2.1 (C-2, C-3, ML, MH, and U):

~~Locational Criteria: The Parcel(s) or Premises shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.~~

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

#### ~~55.4.8.4 Manufacturing~~

~~55.4.8.4.1 Manufacturing may be permitted within the CH, C-2, C-3, MB, ML, MH zones, as well as the U zoning district, when accompanied by a Commercial or Industrial General Plan land use designation, or where previously developed for a lawful industrial or commercial use~~

- ~~a) Manufacturing activities conducting extraction using volatile and non-volatile solvents may be permitted with a Special Permit.~~

- ~~b) Manufacturers that produce edible or topical products using infusion processes or other types of medical cannabis products other than extracts or concentrates, and that do not conduct extractions, may be permitted with a Zoning Clearance Certificate.~~

#### **55.4.8.2 MANUFACTURING**

Manufacturing Sites must comply with all applicable performance standards, as well as meet the Eligibility Criteria specified in Section 55.4.6.3 as well as comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d) and (g).

Manufacturing activities may then be permitted as follows:

##### **55.4.8.2.1 Flammable Extraction**

55.4.8.2.1.1 Manufacturing activities involving Flammable Extraction may be permitted with a Special Permit in the MH zone, as well as the U zoning district, when accompanied by the Industrial General (IG) land use designation.

55.4.8.2.1.2 Manufacturing activities involving Flammable Extraction may also be permitted with a Conditional Use Permit in the C-3 and ML zones, as well as the U zoning district, where previously developed with a lawful heavy industrial use.

55.4.8.2.1.3 All manufacturing activities involving Flammable Extraction must be conducted within a commercial structure and must conform to the Special Area setbacks of 55.4.6.4.4(j) and (k).

##### **55.4.8.2.2 Non-Flammable Extraction**

55.4.8.2.2.1 Manufacturing activities involving Non-Flammable Extraction may be principally permitted subject to issuance of a Zoning Clearance Certificate within the C-3, ML, and MH zones, as well as the U zoning district, when accompanied by an Industrial land use designation.

55.4.8.2.2.2 Manufacturing activities involving Non-Flammable Extraction may also be permitted with a Special Permit within CH, C-2, C-3, MB, ML, and MH zones, as well as the U zoning district, when accompanied by a Commercial or Industrial land use designation, or where previously developed for a lawful industrial or commercial use.

55.4.8.2.2.3 Manufacturing activities involving Non-Flammable Extraction may be permitted with a Special Permit within those zones specified under 55.4.6.1.1 (AE, AG, FR, and U).

##### **55.4.8.2.3 Infusion**

55.4.8.2.3.1 Manufacturing activities involving Infusion may be principally permitted subject to issuance of a Zoning Clearance Certificate within the CH, C-2, C-3, MB, ML, and MH zones, as well as the U zoning district, when accompanied by a Commercial or Industrial land use designation, or where previously developed for a lawful industrial or commercial use.

55.4.8.2.3.2 Manufacturing activities which exclusively involve Infusion may be principally permitted in all zones which permit Cottage Industry activities, when in compliance with all performance standards found within 45.1.3, or with a Special Permit pursuant to 45.1.4.



Locational Criteria: The Parcel(s) or Premises shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

#### 55.4.9 **ADAPTIVE REUSE OF INDUSTRIAL SITES**

On Parcels 2 acres or larger in size, within existing structures previously developed for a prior lawful heavy industrial operation, occupancy of up to one acre of gross floor area may be permitted for use by Commercial Cannabis activities including: Indoor Cultivation, Manufacturing, and Cannabis Support Facilities. A Zoning Clearance Certificate will be required for each discrete lease area. Where permitted occupancy and use of the site has reached one acre, a Use Permit will be required to consider any further use of the site by Commercial Cannabis Activities.

#### 55.4.10 **OTHER PROVISIONS**

55.4.10.1 **Adult Use Retail Sales.** Adult Use Retail Sales facilities are a permitted use, subject to the same permit requirements that apply pursuant to Humboldt County Code Sections 314-55.3, et seq. applicable to Medical Cannabis Dispensaries. All regulations applicable to permitting of Medical Cannabis Dispensaries shall be applicable to Adult Use Retail Sales facilities, except those limiting sales exclusively to medical cannabis.

55.4.10.2 **Farm-Based Retail Sales.** In addition to the zones in which cannabis retail facilities may be permitted pursuant to Humboldt County Code Sections and 314-55.3, et seq. applicable to Medical Cannabis Dispensaries, retail sales of cannabis products limited to those produced on the same Parcel(s) or Premises where the cannabis was cultivated, may be authorized with a Conditional Use Permit, provided that the cultivator also obtains a state cannabis retail sale license, if necessary. Sales of any cannabis products not cultivated on the same parcel is prohibited, unless pursuant to a Microbusiness license. Farm-based retail sales are not permitted on any parcel zoned TPZ, or a parcel zoned U with an underlying land use designation of "Timberland".

55.4.10.3 **Microbusiness.** Microbusiness activities are a permitted use, subject to a Special Permit, in any of the zones in which authorized cannabis activities is a permitted use (except on parcels zoned FP or TPZ).

#### Locational Criteria

The Parcel(s) or Premises shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road

~~access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met. Roads providing access to the Parcel(s) or Premises must comply with the Road System Performance Standard for Functional Capacity (all segments must either be paved with centerline stripe, or paved meeting the Category 4 standard). Exceptions are prohibited. Sites must also comply with the Public Accommodation Standard; and all performance standards applicable to any of the uses combined under a single Microbusiness license.~~

**55.4.10.4 Temporary Special Events** ~~-- Temporary Special Events authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older may be permitted at any facility or location over which the County has jurisdiction. Events are a Temporary Use subject to a Use Permit as required by Humboldt County Code Section 314-62.1, which governs Special Events and Attractions. This includes events at a county fair, subject to consent of the Humboldt County Fair Association Board of Directors and City of Ferndale. Any event must be managed to insure that (1) all cannabis vendor participants are licensed; (2) cannabis consumption is not visible from any public place or area open to persons under 21 years of age; and (3) sale or consumption of alcohol or tobacco is not allowed within areas where cannabis consumption is authorized.~~

**55.4.10.5 Onsite Cannabis Consumption** ~~--- (Retail, Microbusiness) Onsite consumption facilities as an accessory use at a Medical Cannabis Dispensary, Adult Use Retail, or Microbusiness permitted facility are a permitted subject to approval of a Use Permit, provided that: (1) access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older; (2) cannabis consumption is not visible from any public place or area open to persons under 21 years of age; and (3) sale or consumption of alcohol or tobacco is not allowed on the premises. The applicant shall submit a site plan and operations plan that will demonstrate the onsite consumption facilities comply with these standards and all other limitations and restrictions, including but not limited to Health and Safety Code section 11362.3.~~

**55.4.10.6 Commercial Cannabis Tours And Tour Sites** ~~--- Public visitation and tours of sites host to Commercial Cannabis Activities may be authorized at locations meeting the Performance Standards for Public Accommodation and Tours. Businesses conducting tours to Commercial Cannabis Activity sites may be authorized with a Zoning Clearance Certificate, subject to meeting the following criteria:~~

~~55.4.10.6.1 Tour businesses must collect guests from a secure location with adequate off-street parking to store the vehicles of all tour patrons.~~

~~55.4.10.6.2 The tour vehicle must be stored at a location authorized for storage of commercial vehicles.~~

~~Tour Businesses not meeting the above criteria may be permitted with a Special Permit. The application shall include a Plan of Operation detailing how the operation of the tour will not adversely affect public parking or conflict with neighboring uses, while complying with all applicable performance standards.~~



~~55.4.10.7 Cannabis Farm Stays - Cannabis farm stays may be permitted in conjunction with a cannabis cultivation permit on properties in conformance with the Public Accommodation Performance Standards with a Special Permit as specified in Section 314-44.1 of the Humboldt County Code applicable to Bed and Breakfast establishments.~~

#### **Alternative 11**

**55.4.10.8 Transportation of Commercial Cannabis** With a business license, persons may engage in the transportation of commercial cannabis. Such persons shall identify the location where the vehicle used in transportation will be stored, and may only transport commercial cannabis between sites that are permitted or licensed for commercial cannabis activities. Transportation does not include warehousing or storage of cannabis.

#### **Alternative 12**

**55.4.10.9 Cannabis Research Gardens** shall be permitted wherever commercial cannabis cultivation activities are allowed, and subject to the same permitting requirements applicable to commercial cultivation activities, including participation in the Humboldt County and State of California track and trace program and annual inspection. Applications for a cannabis research garden permit shall provide an operations plan to include a verifiable method to assure that cannabis grown for research purposes is prevented from entering the stream of commerce.

~~55.4.10.10 - Interim Permitting of Pre-Existing Cultivation Sites - where adequate evidence has been submitted demonstrating that a cultivation site existed prior to January 1, 2016, permit applications seeking authorization of commercial cannabis cultivation and ancillary activities at these sites shall be eligible to receive an interim permit, provided the application was determined to be complete for processing on or before July 14, 2017. Prior to issuance of any interim permit, the Department shall independently review evidence of prior cultivation and specify the size of pre-existing cultivation area (if any) based upon aerial and satellite imagery, or other substantial evidence. Approval of the interim permit is conditional and shall occur through issuance of a Zoning Clearance Certificate and written Compliance Agreement on forms provided by the County. Compliance agreements will specify permit restrictions, penalties, and commitments to complete the permit process and confine continued operation to existing areas only. Violation of the compliance agreement shall be grounds for permit cancellation and disqualification of the property from future permitting. The interim permit authorizes the permittee to seek state licensure and continue operations until completion of the local permit review process and issuance or denial of a County permit, or July 1, 2018, whichever occurs first. The Director may extend this deadline for cause. Refusal of the Director to issue or extend an interim permit shall not entitle the applicant to a hearing or appeal of the decision. Additionally, approval of any interim permit does not obligate the County to anything except what is described in the compliance agreement, including but not limited to approval of a non-interim permit or extension of the interim permit. Permit cancellation and disqualification of the property from future permitting shall be decided~~

by the Zoning Administrator or the Planning Commission at a noticed public hearing. Those decisions may be appealed to the Board of Supervisors pursuant to the appeal procedures outlined under 312-13 of these regulations.

#### **55.4.11 APPLICATION REQUIREMENTS FOR CLEARANCES OR PERMITS**

Applications may be required to submit any or all of the following information, depending on permit activities and location: Site Plan; Security Plan; Cultivation Plan, Processing Plan; Operations Plan; Irrigation Plan; documentation of water use, source, and storage; information concerning previously secured state and local permits for cannabis related infrastructure or activities; evidence of prior cultivation where seeking a permit as a pre-existing cultivation site; restoration and remediation plans where appropriate; plans for energy use; and details of current known violations related to commercial cannabis activities.

The County may request additional information prior to application intake, or during application processing, where deemed necessary to perform environmental review pursuant to the California Environmental Quality Act (CEQA). All required plans and reports shall be designed to demonstrate compliance with relevant eligibility and siting requirements, and applicable performance standards, while conforming to relevant checklists and guidance documents maintained and supplied by the County. All Technical Reports and Plans are subject to final review and approval by the County.

#### **55.4.12 PERFORMANCE STANDARDS**

##### **55.4.12.1 Performance Standards for All Commercial Cannabis Activities**

55.4.12.1.1 Commercial cannabis activities shall be conducted in compliance with all applicable state laws and County ordinances.

55.4.12.1.2 The operator of the permitted facility shall maintain valid license(s) issued by the appropriate state licensing authority or authorities as provided in MAUCRSA for the type of activity being conducted, as soon as such licenses become available.

55.4.12.1.3 All permittees subject to state licensure shall participate in local and state programs for “Track and Trace”, once available.

55.4.12.1.4 All operators shall maintain a current, valid business license at all times.

55.4.12.1.5 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).

55.4.12.1.6 Pay all applicable application and annual inspection fees.

55.4.12.1.7 ~~Comply with any special conditions applicable to that permit or Premises which may be imposed as a condition of approval of any Special Permit or Use Permit.~~

55.4.12.1.8 **Performance Standard–Road Systems**

~~Roads providing access to any parcel(s) or premises on which commercial cannabis activities occur must comply with the following standards, as applicable:-~~

a) ~~Standard 1—Dead End Road Length~~

~~Projects shall not be located more than 2-miles (measured in driving distance) from the nearest intersection with a Category 4 road or that is part of a system providinghas secondary access byfor emergency vehicles and personnel, including wildland fire equipment.-~~

b) ~~Standard 2—Functional Capacity~~

~~Unless otherwise specified, Road roads systems providing access to the parcel(s) or premises must meet or exceed the Category 4 road standard (or same practical effect).-- The application package must demonstrate compliance with this requirement in one of the following ways:~~

~~1) parcel(s) served exclusively by roads which are paved publicly maintained or private roads where all portions of the road system feature a center-line stripe and two ten foot wide travel lanes require no further analysis only a notation on the plans that the access to the site meets this requirement, or~~

~~2) parcel(s) served by roads without a centerline stripe must submit a written assessment of the functional capacity of these road segments.-- If the assessment reveals that all road systems meet or exceed the Category 4 standard (or same practical effect), then no additional review is necessary. Documentation of self-certification shall be produced to the satisfaction of the County, including use of appropriate forms where provided.-- The County reserves the right to independently verify general compliance with this standard.-~~

~~Where access to a site is provided by roads not meeting the Category 4 standard, the application shall require a Special Permit and include a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the project, in addition to the existing traffic using the road(s). In the event that the roads cannot accommodate the traffic volume anticipated the engineer shall recommend improvements to bring the road up to an adequate functional capacity.~~

c) ~~Standard 3—Private Road Systems—Protections for Water Quality and Biological Resources--~~

- 1) Private road systems and driveways providing access to parcel(s) or premises shall be designed, maintained, or retrofitted in accordance with the latest edition of the document titled, "A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds", which was adopted by the Humboldt County Board of Supervisors on July 6, 2010, and is also known as the Five Counties Salmonid Conservation Roads Maintenance Manual. This includes measures to protect water quality using best management practices so that:
  - i. Impacts from point source and non-point source pollution are prevented or minimized, including discharges of sediment or other pollutants that constitute a threat to water quality. Road segments shall be designed and maintained in ways which minimize the potential for discharge of sediment through measures to reduce velocity of runoff, capture and detain stormwater from road systems to enable settling of transported sediments, and minimize direct delivery to nearby watercourses, to the greatest extent feasible.
  - ii. Design and construction of culverts, stream crossings, and related drainage features shall remove barriers to passage and use by adult and juvenile fish, amphibians, reptiles, and aquatic invertebrates.
- 2) Where access to a site is provided in part by private roads systems, any application to permit a Commercial Cannabis Activity shall include a report evaluating the design, condition, and performance of all private road segments within the defined Roadshed.
  - i. The report shall be prepared by a licensed engineer or similarly qualified professional.
  - ii. The report shall be prepared to the satisfaction of the County and shall include or be accompanied by exhibits and stationing information of sufficient detail to enable the location, attributes, and condition of all road drainage features to be itemized and documented. The narrative portion of the report must evaluate the current design, functionality and performance of discrete drainage systems and segments and develop conclusions concerning compliance and conformance with best management practices within the defined Roadshed. The County reserves the right to ask for additional information or choose to independently investigate and verify any and all conclusions within the report.
  - iii. Where an evaluation has determined, to the satisfaction of the County, that all private road segments comply with relevant best management practices, as defined herein, no further work is needed.

d) Road Maintenance Associations and Cost Sharing-

- 1) Where three or more permit applications have been filed for Commercial Cannabis Activities on parcels served by the same shared private road system, the owner of each property must consent to join or establish the

appropriate Road Maintenance Association (RMA) prior to operation or provisional permit approval. This requirement shall also apply to existing permittees seeking to renew their permit. Evidence shall be provided to the satisfaction of the County, and may include minutes from a meeting, written correspondence and confirmation from the RMA Secretary, or similar information.

- 2) When one or more applicants in a defined ~~Roadshed~~ have prepared and submitted a Professional Private Road Evaluation called for by this section, all contemporaneous applicants served by the same ~~Roadshed~~ shall be required to contribute to the cost of preparation of the report. The cost allocation shall be determined by any Road Maintenance Association(s) within the ~~Roadshed~~ that includes the road segments providing access to the cultivation site of each applicant. In determining the cost allocation the Road Maintenance Association shall consider the recommendation or formula for cost sharing included in the report.

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3) With each annual inspection, all applicants for Commercial Cannabis Activities within any RMA shall provide evidence they are current on all applicable dues or other payments required by the RMA.

#### e) Special Noticing Requirements

Wherever an exception to the Functional Capacity road standard is being sought, in addition to noticing property owners and occupants within 300 feet of the boundaries of the Parcel(s) or Premises, notice of the project will also be sent to all owners and occupants of property accessed through common Shared Use Private Road Systems.

#### 55.4.12.2 Performance Standards for Commercial Cannabis Cultivation Activities

*General Standards applicable to all Commercial Cannabis Activities*

55.4.12.2.1 Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights.

55.4.12.2.2 Maintain enrollment with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, and where applicable, any State Water Quality Control Board Order, or any substantially equivalent rule addressing water quality protections and waste discharge that may be subsequently adopted by the County of Humboldt or other responsible agencies.

55.4.12.2.3 Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

Where no prior agreement has been secured for prior work within areas of DFW jurisdiction, notification entering an agreement pursuant to 1602

of the Fish and Game Code shall not ~~commence~~ **be completed** until the ~~processing of the~~ County permit has been completed.

- 55.4.12.2.4 Comply with the terms of any permit or exemption approved by the California Department of Forestry and Fire Protection (CAL-FIRE), including a less-than-3-acre conversion exemption or timberland conversion permit.

Existing or proposed operations occupying sites created through prior unauthorized conversion of timberland, 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 circulate the report to CAL-FIRE for review and comment.

- 55.4.12.2.5 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."

- 55.4.11.2.6 Provide and maintain an approved means of sewage disposal.

- 55.4.11.2.7 Comply with all federal, state, and local laws and regulations applicable to California Agricultural Employers, including those governing cultivation and processing activities.

55.4.12.3 *[Reserved for Future Use]*

55.4.12.4 **Performance Standard for Light Pollution Control**

- a) Structures used for Mixed Light Cultivation and Nurseries shall be shielded so that no light escapes between sunset and sunrise.
- b) Where located on a Parcel abutting a residential Zoning District or proposed within Resource Production or Rural Residential areas, any Security Lighting for Commercial Cannabis Activities shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the Parcel(s) or Premises or directly focusing on any surrounding uses.
- ~~e) Structures used for Mixed Light Cultivation or Nurseries are prohibited within 200 feet of a riparian zone.~~
- ~~dc)~~ The County shall provide notice to the operator upon receiving any light pollution complaint concerning the cultivation site. Upon receiving notice, the applicant shall correct the violation as soon as possible and submit written documentation within fourteen (10) calendar days, demonstrating that all shielding has been repaired, inspected and corrected as necessary. Failure to correct the violation and provide documentation within this period shall be grounds for permit cancellation or administrative penalties, pursuant to the provisions of 55.4.5.3.

#### 55.4.12.5 **Performance Standards for Energy Use**

All electricity sources utilized by Commercial Cannabis Cultivation, Manufacturing, or Processing activities shall conform to one or more of the following standards:

55.4.12.5.1 grid power supplied from 100% renewable source

55.4.12.5.2 on-site renewable energy system with zero net energy use

#### **Alternative 14**

55.4.12.5.2 on-site renewable energy system with **zero** **twenty percent** net **non-renewable** energy use

55.4.12.5.3 grid power supplied by partial or wholly non-renewable source with purchase of carbon offset credits

Purchase of carbon offset credits (for grid power procured from non-renewable producers) may only be made from reputable sources, including those found on Offset Project Registries managed by the California Air Resources Board, or similar sources and programs determined to provide bona fide offsets recognized by relevant state regulatory agencies.

#### 55.4.12.6 **Performance Standard for Noise from Generator Use at Pre-Existing Cultivation Sites**

~~Noise from cultivation and related activities. Generators shall not result in an increase in of more than three decibels of continuous noise above existing ambient noise levels at the any property line of the site, and shall not be audible by humans from neighboring residences located on separate nearby Parcels. Existing ambient noise levels shall be determined by taking twenty four hour measurements on three or more property lines when all cannabis related activities are not in operation.~~

- a) ~~In TPZ zones and U zones (with a General Plan Land Use Designation of "Timberland"), the use of generators is prohibited.~~
- b) ~~Where located within one (1) mile of mapped critical habitat for Marbled Murrelet or Spotted Owls where timberland is present, maximum noise exposure from the combination of background and generator cultivation related created noise may not exceed 50 decibels measured at a distance of 100 feet from the generator noise source or the edge of habitat, whichever is closer. Where ambient noise levels, without including cultivation related generator noise, exceed 50 decibels within 100 feet from the cultivation related noise source generator or the edge of habitat, generators may continue to be used when an increase in ambient noise levels would not result.~~
- c) ~~The permit application must include information demonstrating compliance with the noise standards, including but not limited to:~~



- i) site plan detailing the location of ~~the generator~~ all noise sources, property lines, and nearby forested areas and sensitive receptors
- ii) existing ambient noise levels at the property line using current noise measurements (excluding ~~generator~~ cultivation related noise) ~~during typical periods of use~~
- iii) Details on the design of any structure(s) or equipment used to attenuate noise
- iv) Details on the location and characteristics of any landscaping, natural features, or other measures which ~~provide~~ serve to attenuate generator noise levels at nearby property lines or habitat.

#### 55.4.12.7 **Performance Standards for Diversionary Water Use Cannabis Irrigation**

A Special Permit shall be required where Irrigation of Commercial Cannabis Cultivation Activities occurs wholly or in part using one or more Diversionary sources of water, All Cannabis Irrigation ~~and~~ shall be subject to the following standards:

##### *Documentation of Current and Projected Water Use*

55.4.12.7.1 All requests to permit Commercial Cannabis Cultivation Activities shall provide information detailing past and proposed use(s) of water on the Parcel(s) or Premises. Information in the plan shall be developed to the satisfaction of County staff, and will be used to assist in identifying and establishing an appropriate Forbearance Period. At a minimum, the following items shall be included:

- a) Information identifying the cultivation season(s)
- b) A water budget showing weekly and monthly past or projected Irrigation demands, including daily Irrigation demand during periods of peak usage, broken out by each discrete Cultivation Site. Irrigation reporting or projections shall be differentiated where cultivation methods and conditions result in differences in water usage at specific cultivation sites.
- c) A listing of current or proposed areas of on-site water storage, showing volume in gallons.
- d) A description of on-site water conservation measures including but not limited to: rainwater catchment systems, drip irrigation, timers, mulching, irrigation water recycling, and methods for insuring Irrigation occurs at agronomic rates

##### *Forbearance Period & Storage Requirements*

55.4.12.7.2 The County may require that operators of Cannabis Cultivation Site(s) forbear from diversions of Surface Water for Irrigation during periods of low or reduced stream flows. Unless otherwise specified, the default forbearance period shall occur between May 15<sup>th</sup> thru October 31<sup>st</sup> of each year. In determining the appropriate Forbearance Period, the County shall review the past record of water use at the Parcel(s) or Premises, the volume and availability of water resources and other water use and users in the local watershed, as well as relevant gaging information. Under certain circumstances, limited diversion during the forbearance period(s) may be authorized.

55.4.12.7.3 The County may require the submittal of a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar



qualified professional, establishing a smaller or larger water storage and forbearance period, if required, based upon local site conditions.

55.4.12.7.4 Where subject to forbearance, the applicant shall provide a plan for developing adequate on-site water storage to provide for Irrigation, based on the size of the area to be cultivated.

#### *Metering and Recordkeeping*

55.4.12.7.5 A metering device shall be installed and maintained on all discrete points of diversion ~~or other locations of water withdrawal (including wells).~~ ~~The meter shall be located at or near the point of diversion or withdrawal.~~

55.4.12.7.6 A metering device shall be installed and maintained at or near the outlet of all water storage facilities utilized for Irrigation.

55.4.12.7.7 Operators shall maintain a weekly record of water collected from Diversionary sources, as well as a record of all water used in Irrigation of permitted Cultivation Areas. A copy of these records shall be stored and maintained at the cultivation site, and kept separately or differentiated from any record of water use for domestic, fire protection, or other irrigation purposes. Irrigation records shall be reported to the County on an annual basis, at least thirty (30) days prior to the annual renewal date of the permit. Records shall also be made available for review during site inspections by local and state officials.

#### **55.4.12.8 Performance Standards for Water Storage**

All facilities and equipment storing water for Irrigation shall be designed and managed in conformance with the following performance standards, as applicable:

##### *Ponds and Reservoirs*

- a) Except in limited circumstances where already permitted or existing, ponds shall be located “off-channel” from watercourses and adequately setback from streams, springs, and other hydrologic features.
- b) To prevent occupancy by and survival of non-native bullfrog species, ponds shall be designed to be drained. Draining may be required on an annual basis or other interval where determined necessary.
- c) Introduction or maintenance of non-native species is prohibited where an existing or proposed pond is filled from, or outlets to a nearby stream or wetland.
- d) Ponds shall be designed with pathways enabling escape by local wildlife. These may include rock-lined portions or similar features providing equivalent means of egress. ~~Ponds shall not be fenced.~~
- e) All ponds and reservoirs shall be designed by a licensed civil engineer where utilizing a dike, earthen dam, berm or similar feature to facilitate water storage. The engineer shall evaluate the risk of pond failure under natural conditions and specify provisions for periodic inspection, routine maintenance, and long-term management. An engineered reclamation and remediation plan shall be submitted for County approval within one year of sunset or cancellation of the permit, and completed within standard permitting timeframes.

Bladders & Above-Ground Pools, and similar vessels

- f) Use of bladders, above-ground pools, and similar vessels is prohibited. Where a Pre-Existing Cultivation site utilizes any of these means for water storage, removal and replacement with a substitute approved method of water storage (e.g., tank(s), reservoir, etc.) shall be completed within 2 years of provisional permit approval.

Tanks located in designated Flood Zones

- g) Tanks shall be sited at least one foot above the base flood elevation or wet flood proofed and anchored.

**55.4.12.9 Performance Standard for Wells on Small Parcels**

Cultivation Site(s) located within areas planned or zoned for lot sizes of ten acres or smaller where proposing or conducting Irrigation with water from a proposed or existing well located within 400 feet of a property line, shall be subject to groundwater testing to determine connectivity of the source supply well. These tests shall be preceded by a minimum of eight (8) hours of non-operation to maintain a static depth to water measurement. Results of testing are required to be provided with the permit application submittal. If the testing demonstrates use of the well results in the drawdown of any adjacent well(s), a Special Permit will be required. Use of the well for cannabis-related Irrigation may be prohibited, limited, or subject to provisional approval and monitoring.

**55.4.12.10 Soils Management and Conservation Performance Standard**

Where Commercial Cannabis Cultivation activities are primarily conducted within soil which has been imported to the cultivation site(s), a soils management plan shall be provided detailing the use of imported and native soil on the Parcel(s) or Premises. The plan shall provide accounting for the annual and seasonal volume of soil that is imported and exported, differentiating between soil used for propagation and cultivation activities, and detailing the location of any Parcel(s) used for off-site disposal of spent soil if this occurs or is proposed. A Special Permit will be required for cultivation sites which annually reuse less than 75 percent of their imported soils and amendments. The application must demonstrate why it is not technically feasible to meet the soil conservation target. Approval may be subject to any and all of the following measures:

- a) Implementation of practices to improve and develop local soils at the cultivation site through use of amendments and similar measures which reduce or eliminate the current or projected volume of annual soil import.
- b) Restricting the number, timing, and volume of soil deliveries.
- c) Developing a strategy for meeting the soil conservation target. Permit approval may be provisional pending achievement and transition to compliance with the 75 percent standard for annual soil reuse.

## Alternative 15

### 55.4.12.10 Soils Management and Conservation Performance Standard

Where Commercial Cannabis Cultivation activities are primarily conducted within soil which has been imported to the cultivation site(s), a A soils management plan shall be provided detailing the use of imported and native soil on the Parcel(s) or Premises. The plan shall provide accounting for the annual and seasonal volume of soil that is imported and exported, differentiating between soil used for propagation and cultivation activities, and detailing the location of any Parcel(s) used for off-site disposal of spent soil if this occurs or is proposed. A Special Permit will be required for cultivation sites which annually reuse less than 75 percent of their imported soils and amendments. The application must demonstrate why it is not technically feasible to meet the soil conservation target. Approval may be subject to any and all of the following measures:

- a) Implementation of practices to improve and develop local soils at the cultivation site through use of amendments and similar measures which reduce or eliminate the current or projected volume of annual soil import.
- b) Restricting the number, timing, and volume of soil deliveries.
- c) Developing a strategy for meeting the soil conservation target. Permit approval may be provisional pending achievement and transition to compliance with the 75 percent standard for annual soil reuse.

### 55.4.12.11 Existing Site Reconfiguration

- a) Where an existing site does not conform to one or more performance standards or eligibility criteria, or cannot comply with local, state, or federal regulatory requirements, reconfiguration of the cultivation site and associated infrastructure may be permitted, provided that the reconfiguration results in an improvement in the environmental resources of the site, and the site is brought into compliance with the requirements of this section.
- b) 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.
- c) Any new timberland conversion proposed in association with cultivation site reconfiguration must not exceed the areas of existing conversion to be relocated. Pre-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.
- f) 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.

- g) All remediation activities shall be performed in accordance with the Remediation Performance Standard.

#### **55.4.12.12 Performance Standard for Adaptive Reuse of Developed Industrial Site(s)**

All Commercial Cannabis Activities shall be conducted in a way which avoids displacing or destroying existing buildings or other infrastructure on the Parcel developed for prior commercial or industrial uses. Adaptations shall be carefully designed to preserve future opportunity for future resumption or restoration of other commercial or industrial uses after Commercial Cannabis Activities have ceased or been terminated.

- a) Development of additional buildings or infrastructure only allowed once existing infrastructure has been fully occupied.
- b) 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.
- c) Newly constructed facilities must comply with all development standards of the principal zoning district(s)

#### **55.4.12.13 Performance Standard for Remediation Activities**

All remediation activities shall be conducted in accordance with the requirements for Mitigation and Monitoring Plans described within 314-61.1 of the Humboldt County Code, including the standards for documentation, reporting, and adaptive management.

#### **55.4.12.14 Performance Standard for Public Accommodations**

Sites of permitted Commercial Cannabis Activities may be authorized to host visits by the general public, as follows:

- a) Public visitation may be principally permitted with a Zoning Clearance Certificate at all sites within Commercial and Industrial Zoning Districts or where zoned Unclassified and planned for or developed with lawful commercial or industrial uses, when meeting the requirements of this section.
- b) Public visitation may be permitted with a Special Permit at sites located within those zones listed under 55.4.6.1.1 (AE, AG, FR, and U), when meeting the requirements of this section. Where access to the site is provided through Shared Use Private Road Systems, notice of the project will also be sent to all owners and occupants of property accessed through these common road systems, pursuant to 55.4.12.1.8(e). The permit may limit or specify the size and weight of vehicles authorized to visit the site, periods during which visitation may occur, and other measures to insure compatibility with neighboring land uses and limit impacts to of Shared Use Private Road Systems.

- c) Visitation by the general public may include Tours and Tour Groups, Farmstays, Farm-Based Retail Sales, and similar activities. Visitation does not include weddings, parties, or similar occasions. Special Events and other Temporary Uses are permissible with a Conditional Use Permit pursuant to 314-62.1.

The following standards apply to any Commercial Cannabis Activity site open to the public:

- d) Sites located in those zones specified in Section 55.4.6.1, shall limit hours of operation for public access other than employees to between 9:00 am to 6:00 pm.
- e) Restroom facilities shall be provided for visitors to the site.
- f) All facilities open to the public (parking, structures, restrooms, etc.) shall be designed and managed in compliance with relevant provisions for accessibility, as established in compliance with the Americans with Disabilities Act (ADA).
- g) Agricultural-exempt structures may not be opened to visitation by the general public.

h) Road System & Driveways

- 1) ~~Locational Criteria - The Parcel(s) or Premises shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.~~

~~Roads providing access to the Parcel(s) or Premises must comply with the Road System Performance Standard for Functional Capacity (all segments must either be paved with centerline stripe, or paved meeting Category 4 standard). Exceptions to this standard are prohibited.~~

- 2) Sites shall have a driveway and turnaround area meeting the following requirements:

- i. All driveways shall be constructed to a minimum Road Category 1 standard. Driveways shall have a minimum 10-foot traffic lane and an unobstructed vertical clearance of 15 feet along their entire length. Driveways in excess of 1,320 feet in length shall be constructed to the standard for Road Category 2.
- ii. Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where a driveway exceeds 800 feet, turnouts shall be spaced at intervals of approximately 400 feet. The location and spacing of turnouts shall be in conformance with the County Roadway Design Manual.
- iii. A turnaround shall be within 50 feet of the parking area.

- iv. ~~The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.~~
- v. ~~Sites within the jurisdiction and service area of a local fire protection district shall meet the driveway and turnaround requirements of that agency.~~

i) Parking

- 1)- ~~Sites shall host independently accessible on-site parking for tour vehicles that is adequately sized.~~
- 2)- ~~Sites shall include a minimum of six (6) parking spaces plus one (1) additional parking space for every two employees~~

#### 55.4.12.15 ~~Performance Standards for Tour Operators and Tour Sites~~

##### ~~Tour Operators~~

~~Tour Operators shall comply with all of the following measures:~~

- a) ~~The use of sound amplification equipment outside the tour vehicle is prohibited.~~
- b) ~~Tour guests shall be restricted to adults 21 years of age or older. Age and patient status shall be verified prior to the start of any tour.~~
- c) ~~Travel shall only be made to sites eligible for hosting visits by the general public. Prior to initially visiting any site, the tour operator shall contact the Planning and Building Department to confirm the eligibility of the site, and any applicable special conditions.~~
- d) ~~Tour operators shall observe any vehicle weight restrictions when visiting tour sites.~~

##### ~~Tour Site Eligibility Criteria~~

~~Where authorized, the site(s) of any permitted Commercial Cannabis Activity may host tours when meeting the following criteria:~~

- e) ~~The site(s) conform with the Public Accommodation Performance Standard~~
- f) ~~Visitation is restricted to vehicles in compliance with the applicable weight restriction~~

#### 55.4.13 ~~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:~~

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

#### 55.4.14 ~~Right to Farm 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 cannabis.

**SECTION 6.** The repeal Section 314-55.4, Section 314-55.3.11.7, Section 314-55.3.7, and Section 314-55.3.15 of Chapter 4 of Division 1 of Title III of the Humboldt County Code and re-adoption of Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code (Regulations Inland of the Coastal Zone) shall take effect and be in force thirty (30) days following adoption. The repeal Section 313-55.4, Section 313-55.3.11.7, Section 313-55.3.7, and Section 313-55.3.15 of Chapter 3 of Division 1 of Title III of the Humboldt County Code and re-adoption of Section 313-55.3 of Chapter 3 of Division 1 of Title III of the Humboldt County Code (Regulations Inside the Coastal Zone) shall take effect immediately upon certification of the proposed amendments to the Local Coastal Program by the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED the \_\_\_\_\_ day of \_\_\_\_\_, 2017, on the following vote, to wit:

AYES: Supervisors  
NOES: Supervisors  
ABSENT: Supervisors

Humboldt

\_\_\_\_\_  
VIRGINIA BASS, Chair  
Board of Supervisors, County of  
State of California

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

By: \_\_\_\_\_  
Kathy Hayes Clerk of the Board of Supervisors Ana Hartwell, Deputy

## **ATTACHMENT 3**

### **Mitigation Measures in the DEIR**



## **Mitigation Measures Involving Changes to the Ordinance**

### **Mitigation Measure 3.3-4: Prohibit burning of cannabis and other vegetative material**

The County shall amend the proposed ordinance to reflect the following requirements:

The burning of excess plant material associated with the cultivation and processing of commercial cannabis is prohibited.

### **Mitigation 3.4-1a: Special-status amphibian preconstruction surveys and relocation.**

The following shall be included as performance standards in the proposed ordinance for the protection of special-status amphibian species from new development related to cannabis activities.

- Forty-eight hours prior to proposed new development activities within 200 feet of any SMA or Other Wet Area, a preconstruction survey for special-status amphibians shall be conducted by a qualified biologist. The biologist shall be familiar with the life cycle of foothill yellow-legged frog, northern red-legged frog, Pacific tailed-frog, red-bellied newt, and southern torrent salamander, and will conduct appropriate surveys for the applicable life stages (i.e., eggs, larvae, adults).
- Preconstruction surveys for special-status amphibian species shall be conducted throughout the proposed construction area and a 400-foot buffer around the proposed development area. Surveys shall consist of "walk and turn" surveys of areas beneath surface objects (e.g., rocks, leaf litter, moss mats, coarse woody debris) for newts and salamanders, and visual searches for frogs.
- If red-bellied newt or southern torrent salamander or special status frogs are detected during the preconstruction survey, the proposed development area shall be relocated to be no closer than 200 feet from the occurrence(s) measured as a horizontal line perpendicular to, and moving away from, the SMA.

### **Mitigation 3.4-1b: Western pond turtle preconstruction surveys and relocation.**

The following shall be included as a performance standard in the proposed ordinance for the protection of western pond turtle from new development related to cannabis activities.

Within 24 hours before beginning proposed new development activities within 200 feet of SMA or Other Wet Area, a qualified biologist shall survey areas of anticipated disturbance for the presence of western pond turtle. If pond turtles are found during the survey the proposed development area shall be relocated to be no closer than 200 feet from the occurrence(s) measured as a horizontal line perpendicular to, and moving away from, the SMA.

### **Mitigation 3.4-1c: Nesting raptor preconstruction survey and establishment of protective buffers.**

The following shall be included as performance standards in the proposed ordinance for the protection of nesting raptors from new development related to cannabis activities.

- To minimize the potential for loss of nesting raptors, tree removal activities shall only occur during the nonbreeding season (September 1-January 31).
- Prior to removal of any trees, or ground-disturbing activities between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nesting raptors, and shall identify active nests within 500 feet of the proposed development area. The surveys shall be conducted between February 1 and August 31.
- Impacts to nesting raptors shall be avoided by establishing appropriate buffers around active nest sites identified during preconstruction raptor surveys. The buffer areas shall be protected with construction fencing, and no activity shall occur within the buffer areas until a qualified biologist has determined, in coordination with CDFW, that the young have fledged, the nest is no longer active, or

reducing the buffer would not likely result in nest abandonment. CDFW guidelines recommend implementation of a 500-foot buffer for raptors, but the size of the buffer may be adjusted if a qualified biologist and the applicant, in consultation with CDFW, determine that such an adjustment would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist during and after construction activities will be required if the activity has potential to adversely affect the nest.

- Trees shall not be removed during the breeding season for nesting raptors unless a survey by a qualified biologist verifies that there is not an active nest in the tree.

**Mitigation 3.4-1d: Special-status nesting bird surveys and establishment of protective buffers.**

The following shall be included as performance standards in the proposed ordinance for the protection of bank swallow, little willow flycatcher, tricolored blackbird, and western yellow-billed cuckoo from new development related to cannabis activities. This will apply to any commercial cannabis activity that would result in the disturbance or loss of riparian, riverine, mudflat, or grassland habitats.

- To minimize the potential for disturbance or loss of bank swallow, little willow flycatcher, tricolored blackbird, western snowy plover, western yellow-billed cuckoo, or other bird nests, vegetation removal activities shall only occur during the nonbreeding season (September 1-January 31). Alteration of or disturbance to suitable river bank habitat (i.e., for bank swallow nests) and mudflat habitat (i.e., for western snowy plover) is prohibited because of limited habitat availability for this species.
- Prior to removal of any vegetation or any ground disturbance between February 1 and August 31, a qualified biologist shall conduct preconstruction surveys for nests on any structure or vegetation slated for removal, as well as for potential tricolored blackbird nesting habitat. The surveys shall be conducted no more than 14 days before construction commences. If no active nests or bank swallow colonies are found during focused surveys, no further action under this measure will be required. If active nests are located during the preconstruction surveys, the biologist shall notify the Planning Director and CDFW. If deemed necessary by the Planning Director in consultation with CDFW, modifications to the project design to avoid removal of occupied habitat while still achieving project objectives may be required. If the Planning Director determines in consultation with CDFW that avoidance is not feasible or conflicts with project objectives, construction shall be prohibited within a minimum of 100 feet of the nest to avoid disturbance until the nest or colony is no longer active.

**Mitigation 3.4-1e: Marbled murrelet preconstruction habitat suitability surveys and establishment of protective buffers.**

The following shall be included as performance standards in the proposed ordinance for the protection of marbled murrelet from new development related to cannabis activities.

- To avoid the potential for loss of or disturbance to marbled murrelet nests and habitat, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.
- Prior to removal of any trees, or ground-disturbing activities adjacent or within suitable habitat for marbled murrelet between April 15 and August 5, a qualified biologist, familiar with the life history of the marbled murrelet, shall conduct preconstruction surveys for nests within a 0.25-mile buffer around the site as described in *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research* (Evans Mack et. al 2003).
- If marbled murrelets are determined to be absent from the site, then no further mitigation is required.

- If marbled murrelets are determined to be present within the site, a 0.25-mile buffer will be established around occupied nest sites. No project activity may occur within the 0.25-mile buffer areas until the end of marbled murrelet breeding season (August 6).

**Mitigation 3.4-1f: Generator noise reduction.**

The ordinance requires generators to be enclosed in a structure designed to not increase existing ambient noise levels at the property line of the site. In addition, the noise standards shall include the following standards to protect wildlife (USFWS 2006).

- Project-generated sound must not exceed ambient nesting conditions by 20-25 decibels.
- Project-generated sound, when added to existing ambient conditions, must not exceed 90 decibels.
- Time of day adjustment: Marbled murrelet and northern spotted owl are most active during dawn and dusk. Within approximately 2 hours of sunrise and sunset, ambient sound levels are lower than during the middle of the day (by approximately 5-10 decibels). This will be accounted for when determining impacts of project-generated sound.

**Mitigation Measure 3.4-1g: American badger preconstruction survey and establishment of protective buffers.**

The following shall be included as performance standards in the proposed ordinance for the protection of the American badger from new development related to cannabis activities.

Prior to the commencement of construction activities, a qualified wildlife biologist shall conduct surveys of the suitable grassland or agricultural habitats slated for conversion within the site to identify any American badger burrows/dens. These surveys shall be conducted not more than 30 days prior to the start of construction. If occupied burrows are not found, further mitigation shall not be required. If occupied burrows are found, impacts to active badger dens shall be avoided by establishing exclusion zones around all active badger dens, within which construction related activities shall be prohibited until denning activities are complete or the den is abandoned. A qualified biologist shall monitor each den once per week to track the status of the den and to determine when a den area has been cleared for construction.

**Mitigation Measure 3.4-1h: Fisher and Humboldt marten preconstruction survey and preservation of active den sites.**

The following shall be included as performance standards in the proposed ordinance for the protection of the fisher and Humboldt marten from new development related to cannabis activities.

- To minimize the potential for loss of or disturbance to fisher and Humboldt marten habitat and dens, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.
- Prior to commencement of from new development related to cannabis activities occurring within the fisher and Humboldt marten denning season (March 1 to July 31), including tree removal (non-old growth), a qualified wildlife biologist will conduct preconstruction surveys of all suitable habitat within the site, and will identify sightings of individual fishers or martens, as well as potential dens.
- If individuals or potential or occupied dens are not found, further mitigation will not be required.
- If fisher or Humboldt marten are identified or if potential dens of these species are located, an appropriate method shall be used by a qualified wildlife biologist to confirm whether a fisher or marten is occupying the den. This may involve use of remote field cameras, track plates, or hair snares. Other devices such as fiber optic scope may be utilized to determine occupancy. If no fisher or marten occupies the potential den, the entrance will be temporarily blocked so that no other

animals occupy the area during the construction period but only after it has been fully inspected. The blockage will be removed once construction activities have been completed.

- If a den is found to be occupied by a fisher or marten, a no-disturbance buffer will be placed around the occupied den location. The no-disturbance buffer will include the den tree (or other structure) plus a suitable buffer as determined by the biologist in coordination with USFWS and CDFW. Construction activities in the no-disturbance buffer will be avoided until the nest is unoccupied as determined by a qualified wildlife biologist in coordination with USFWS and CDFW.

**Mitigation Measure 3.4-1i: Preconstruction bat survey and exclusion.**

The following shall be included as performance standards in the proposed ordinance for the protection of the pallid bat and Townsend's big-eared bat from new development related to cannabis activities.

- Before commencing any new development related to cannabis activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study will be required.
- If pallid bats or Townsend's big-eared bats are found in the surveys, a mitigation program addressing mitigation for the specific occurrence shall be submitted to the Planning Director and CDFW by a qualified biologist subject to the review and approval of the Planning Director in consultation with CDFW. Implementation of the mitigation plan shall be a condition of project approval. At a minimum, the mitigation plan shall establish a 400-foot buffer area around the nest during hibernation or while females in maternity colonies are nursing young.

**Mitigation Measure 3.4-1j: Preconstruction vole survey and relocation.**

The following shall be included as performance standards in the proposed ordinance for the protection of the Sonoma tree vole and white-footed vole from new development related to cannabis activities.

- To minimize the potential for loss of or disturbance to vole habitat and nests, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3 Sensitive natural communities, riparian habitat, old growth habitat, and wetland vegetation.
- Before commencing any tree or other vegetation removal activities, or ground-disturbance, a qualified biologist shall conduct surveys for vole nests (e.g., nest searching within trees on the site, and confirming that nests belong to voles rather than squirrels or birds). If no evidence of vole nests is found, then no further study shall be required. A report summarizing the results of the surveys shall be prepared and submitted to the Planning Director and shall be subject to his review and approval in consultation with CDFW.
- If occupied trees or nests are identified within 100 feet of the site, the biologist shall determine whether project development activities will adversely affect the voles, based on factors such as noise level of development activities, or line of sight between the tree and the disturbance source. If it is determined that development activities would not affect the voles, then development can proceed without protective measures.
- If the biologist determines that development activities would likely disturb voles, the proposed area of disturbance shall be relocated a minimum of 200 feet from the nest.

**Mitigation 3.4-3a: Special-status plants.**

The following shall be included as performance standards in the proposed ordinance for the protection of special-status plant species from new development related to cannabis activities.

- Prior to commencement of new development related to cannabis activities and during the blooming period for the special-status plant species with potential to occur in the site, a qualified botanist will conduct protocol-level surveys for special-status plants in all proposed disturbance areas.
- If special-status plants are not found, the botanist will document the findings in a letter report to USFWS, CDFW, and the applicant and no further mitigation will be required.
- If special-status plant species are found that cannot be avoided, the applicant, as part of its application to the County, shall retain a qualified botanist to consult with CDFW and/or USFWS (as appropriate, depending on species status) to determine the appropriate mitigation measures for direct and indirect impacts through a Mitigation and Monitoring Plan. The applicant shall be responsible for implementing the approved Mitigation and Monitoring Plan to the satisfaction of the Planning Director in consultation with, CDFW, and/or USFWS to achieve a 2:1 replacement ratio of habitat and individuals. Mitigation measures may include preserving and enhancing existing populations, creation of offsite populations on project mitigation sites through seed collection or transplantation, and/or restoring or creating suitable habitat in sufficient quantities to achieve a 2:1 replacement ratio of habitat and individuals.
- If relocation efforts are part of the Mitigation and Monitoring Plan, the plan shall include details on the methods to be used, including collection, storage, propagation, receptor site preparation, installation, long-term protection, and management, monitoring and reporting requirements, success criteria, and remedial action responsibilities should the initial effort fail to meet long-term monitoring requirements.
- Success criteria for preserved and compensatory populations shall include:
- The extent of occupied area and plant density (number of plants per unit area) in compensatory populations will be equal to or greater than the affected occupied habitat.
- Compensatory and preserved populations will be self-producing. Populations will be considered self-producing when:
  - plants reestablish annually for a minimum of five years with no human intervention such as supplemental seeding; and
  - reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity.
- If offsite mitigation includes dedication of conservation easements, purchase of mitigation credits, or other offsite conservation measures, the details of these measures shall be included in the mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long term viable populations.

**Mitigation 3.4-3b: Invasive plant species.**

The following shall be included as performance standards in the proposed ordinance to avoid the introduction or spread of plants classified as invasive plant species by the California Invasive Plant Council.

- All invasive plant species shall be removed from the site using measures appropriate to the species. For example, species that cannot easily re-root, re-sprout, or disperse seeds may be left on site in a debris pile. Species that re-sprout readily (e.g., English ivy) or disperse seeds (e.g., Pampas grass) should be hauled offsite and disposed of appropriately at a landfill site.

- Heavy equipment and other machinery shall be inspected for the presence of invasive species prior to on-site use, and shall be cleaned prior to entering the site, to reduce the risk of introducing invasive plant species.

**Mitigation 3.4-4: Sensitive natural communities, riparian habitat, and wetland vegetation.**

The following shall be included as performance standards in the proposed ordinance for the protection of sensitive natural communities and riparian habitat.

- For projects that could disturb sensitive natural communities or riparian habitat, the application shall include a report prepared by a qualified biologist that surveys the site for these sensitive resources, including riparian habitat associated with aquatic features; old growth Sitka spruce, Douglas fir, and redwood forests; special-status fish stream habitats; marsh habitats; and northern foredune grassland near Humboldt Bay and the Mattole River; and coastal terrace prairie within Table Bluff Ecological Reserve.
- The report shall include requirements that before development activities commence, all sensitive areas shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist to require that grading, excavation, other ground-disturbing activities, and vegetation removal will not occur within these areas. Foot traffic by construction personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species. Periodic inspections during construction shall be conducted by the monitoring biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.
- If the report documents that site development would affect the bed, bank, channel, or associated riparian habitat subject to CDFW jurisdiction under Fish and Game Code Section 1602, a Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1600 et seq. of the California Fish and Game Code. If proposed activities are determined to be subject to CDFW jurisdiction, the project proponent shall abide by the conditions of any executed agreement prior to the issuance of a grading permit by Humboldt County.
- Subject to the review and approval of the Planning Director in consultation with CDFW applicants shall compensate for permanent loss of riparian habitat at a minimum of a 2:1 ratio through contributions to a CDFW approved wetland mitigation bank or through the development and implementation of a Compensatory Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area (such as the proposed ordinance site reconfiguration criteria for existing cultivation sites). If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of existing riparian habitat through removal of nonnative species, where appropriate, and planting additional native riparian plants to increase cover, continuity, and width of the existing riparian corridor along streams in the site and surrounding areas. Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement as required under Section 1602 of the Fish and Game Code as well as the Regional Water Quality Control Board North Coast Region Order R1-2015-0023.
- The Compensatory Stream and Riparian Mitigation and Monitoring Plan shall include the following:
  - identification of compensatory mitigation sites and criteria for selecting these mitigation sites;
  - in kind reference habitats for comparison with compensatory riparian habitats (using performance and success criteria) to document success;

- monitoring protocol, including schedule and annual report requirements (Compensatory habitat will be monitored for a minimum of 5 years from completion of mitigation, or human intervention [including recontouring and grading], or until the success criteria identified in the approved mitigation plan have been met, whichever is longer.);
- ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship; at a minimum, compensatory mitigation planting sites must achieve 80 percent survival of planted riparian trees and shrubs by the end of the five-year maintenance and monitoring period or dead and dying trees will be replaced and monitoring continued until 80 percent survivorship is achieved;
- corrective measures if performance standards are not met;
- responsible parties for monitoring and preparing reports; and
- responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions.

**Mitigation 3.4-5: Waters of the United States.**

The following shall be included as performance standards in the proposed ordinance for the protection of waters of the United States from new development related to cannabis activities.

- The application shall include a report prepared by a qualified biologist that surveys the site for sensitive resources, including wetlands, streams, and rivers. Wetlands and other waters of the United States are of special concern to resource agencies and are afforded specific consideration, based on Section 404 of the Clean Water Act and other applicable regulations.
- If the report documents waters of the United States to be present, a delineation of waters of the United States, including wetlands that would be affected by the project, shall be prepared by a qualified biologist through the formal Section 404 wetland delineation process. The delineation shall be submitted to and verified by USACE.
- If, based on the verified delineation, it is determined that fill of waters of the United States would result from implementation of the project, authorization for such fill will be secured from USACE through the Section 404 permitting process.
- Any waters of the United States that would be affected by site development shall be replaced or restored on a "no-net-loss" basis in accordance with USACE mitigation guidelines (or the applicable USACE guidelines in place at the time of construction). In association with the Section 404 permit (if applicable) and prior to the issuance of any grading permit, Section 401 Water Quality Certification from the RWQCB will be obtained.
- USACE may not issue a Section 404 permit for activities associated with cannabis cultivation. If a Section 404 permit cannot be obtained, then the applicant shall modify the proposed project to avoid any wetlands or other waters of the United States by providing a buffer of at least 50 feet around these features.

**Mitigation 3.4-6b: Retention of fisher and Humboldt marten habitat features**

The following shall be included as performance standards in the proposed ordinance for the protection of the habitat for fisher and Humboldt marten.

- To minimize the potential for loss of or disturbance to fisher and Humboldt marten habitat, removal of old growth habitat shall be prohibited, as outlined in Mitigation Measure 3.4-3, Sensitive natural communities, riparian habitat, and wetland vegetation.
- Habitat features within non-old growth habitat, such as large trees, large snags, coarse woody debris, and understory vegetation (e.g., shrubs) shall be retained within the site to the extent feasible, to maintain connectivity of fisher and marten habitat.

**Mitigation 3.5-1: Protection of historic resources.**

The following shall be included as performance standards in the proposed ordinance for the protection of historic resources.

- Applicants shall identify and evaluate all historic-age (over 45-years in age) buildings and structures that are proposed to be removed and modified as part of cannabis operations. This will include preparation of an historic structure report and evaluation of resources to determine their eligibility for recognition under State, federal, or County Local Official Register of Historic Resources criteria. The evaluation shall be prepared by an architectural historian, or historical architect meeting the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualification Standards. The evaluation shall comply with CEQA Guidelines Section 15064.5(b), and, if federal funding or permits are required, with Section 106 of the National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. § 470 et seq.).
- If resources eligible for inclusion in the NRHP, CRHR, or Local Official Register of Historic Resources are identified, an assessment of impacts on these resources shall be included in the report, as well as detailed measures to avoid impacts. If avoidance of a significant architectural/built environment resource is not feasible, additional mitigation options include, but are not limited to, specific design plans for historic districts, or plans for alteration or adaptive re-use of a historical resource that follows the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings*.

**Mitigation 3.5-2: Avoid potential effects on unique archaeological resources.**

The following shall be included as performance standards in the proposed ordinance for the protection of archaeological resources.

- Applicants for projects that include any ground disturbance shall retain a qualified archaeologist to conduct archaeological surveys of the site. The applicant shall follow recommendations identified in the survey, which may include activities such as subsurface testing, designing, and implementing a Worker Environmental Awareness Program, construction monitoring by a qualified archaeologist, avoidance of sites, or preservation in place.
- All projects shall include the following requirements as a condition of approval: If evidence of any prehistoric or historic-era subsurface archaeological features or deposits are discovered during construction-related earth-moving activities (e.g., ceramic shard, trash scatters, lithic scatters), all ground-disturbing activity in the area of the discovery shall be halted and the County shall be notified immediately. A qualified archaeologist shall be retained to assess the significance of the find. If the find is a prehistoric archaeological site, the appropriate Native American group shall be notified. If the archaeologist determines that the find does not meet NRHP or CRHR standards of significance for cultural resources, construction may proceed. If the archaeologist determines that further



information is needed to evaluate significance, a data recovery plan shall be prepared. If the find is determined to be significant by the qualified archaeologist (i.e., because the find is determined to constitute either an historical resource or a unique archaeological resource), the archaeologist shall work with the project applicant to avoid disturbance to the resources, and if complete avoidance is not feasible in light of project design, economics, logistics, and other factors, follow accepted professional standards in recording any find including submittal of the standard DPR Primary Record forms (Form DPR 523) and location information to NCIC.

**Mitigation Measure 3.6-5 Protection of discovered paleontological resources.**

The following shall be included as performance standards in the proposed ordinance for the protection of paleontological resources.

- If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and shall immediately contact the County.
- A qualified paleontologist shall be retained to observe all subsequent grading and excavation activities in the area of the find and shall salvage fossils as necessary. The paleontologist shall establish procedures for paleontological resource surveillance and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of fossils. If major paleontological resources are discovered that require temporarily halting or redirecting of grading, the paleontologist shall report such findings to the County. The paleontologist shall determine appropriate actions, in cooperation with the applicant and the County, that ensure proper exploration and/or salvage. Excavated finds shall first be offered to a State-designated repository such as the Museum of Paleontology, University of California, Berkeley, or the California Academy of Sciences. Otherwise, the finds shall be offered to the County for purposes of public education and interpretive displays. The paleontologist shall submit a follow-up report to the County that shall include the period of inspection, an analysis of the fossils found, and the present repository of fossils.

**Mitigation Measure 3.7-2a: Prepare Environmental Site Assessments**

The following shall be included as performance standards in the proposed ordinance for proposed development of commercial cannabis facilities on existing commercial, business park, or industrial sites:

Applications for new cannabis activities in commercial, business park, or industrial sites shall include a site assessment for the presence of potential hazardous materials, including an updated review of environmental risk databases. If this assessment indicates the presence or likely presence of contamination, the applicant shall prepare a Phase I ESA in accordance with the American Society for Testing and Materials' E-1527-05 standard. For work requiring any demolition, the Phase I ESA shall make recommendations for any hazardous building materials survey work that shall be done. All recommendations included in a Phase I ESA prepared for a site shall be implemented. If a Phase I ESA indicates the presence or likely presence of contamination, the applicant shall prepare a Phase II ESA, and recommendations of the Phase II ESA shall be fully implemented prior to ground disturbance, which will be made a condition of approval for the project.

**Mitigation Measure 3.7-2b: Prepare a Hazardous Materials Contingency Plan for Construction Activities**

The following shall be included as performance standards in the proposed ordinance for proposed development of commercial cannabis facilities on existing commercial, business park, or industrial sites:

Applications for new cannabis activities in commercial, business park, or industrial sites shall include a hazardous materials contingency plan for review and approval by Humboldt County Division of Environmental Health. The plan shall describe the necessary actions that would be taken if evidence of contaminated soil or groundwater is encountered during construction. The contingency plan shall identify conditions that could indicate potential hazardous materials contamination, including soil discoloration, petroleum or chemical odors, and presence of USTs or buried building material. The plan shall include the provision that, if at any time during constructing the project, evidence of soil and/or groundwater contamination with hazardous material is encountered, the project applicant shall immediately halt construction and contact Humboldt County Division of Environmental Health. Work shall not recommence until the discovery has been assessed/treated appropriately (through such mechanisms as soil or groundwater sampling and remediation if potentially hazardous materials are detected above threshold levels) to the satisfaction of Humboldt County Division of Environmental Health, RWQCB, and DTSC (as applicable). The plan, and obligations to abide by and implement the plan, shall be incorporated into the conditions of approval for the project.

**Mitigation Measure 3.8-2: Minimum Size of Commercial Cultivation Activities**

The County shall amend the proposed ordinance to require compliance with the requirements of North Coast RWQCB Order 2015-0023 or any subsequent water quality standards to apply to all new commercial cannabis cultivation operations and not limited by a minimum cultivation area size.

**Mitigation Measure 3.8-4: Provision of drainage facilities to attenuate increases in drainage flows.**

The County shall include the following drainage requirement in the proposed ordinance application requirements:

Applications will provide details of drainage facilities and stormwater management. This will include a drainage analysis of increases or alteration of on-site and off-site drainage flows from project facilities and identification of drainage swales, detention basins, or other facilities that will ensure that the project will retain pre-project drainage conditions.

**Mitigation 3.8-5: Implement water diversion restrictions and monitoring and reporting requirements.**

The text of the proposed ordinance shall be modified to align with the State Water Resources Control Board Cannabis Cultivation Policy when it is approved, which may include the following measures that are in the draft policy as of July 1, 2017:

- The period of forbearance shall extend from April 1 through October 31 of each year, and be subject to the following additional restrictions:
- From November 1 through December 14 of each year, the surface water diversion period shall not begin until after seven consecutive days in which the surface waterbody's real-time Numeric Flow Requirement are met (see Appendix E).
- From December 15 through March 31 of each surface water diversion period, surface water diversion may occur on any day in which the surface waterbody's real-time daily average flow is greater than the Numeric Flow Requirement (see Appendix E).
- Groundwater users will be required to demonstrate that the groundwater source is not hydrologically connected to an adjacent surface water feature and is not subject to the forbearance requirements through the establishment of a flow gage in the stream or river and groundwater pumping tests to

monitor and verify no connection to the satisfaction of the County and/or State Water Resources Control Board. The monitoring and testing protocol shall be reviewed and approved by the County and/or State Water Resources Control Board prior installation of the well and flow gage.

- Cannabis cultivators shall bypass a minimum of 50 percent of the surface water flow past their point of diversion, as estimated based on visually observing surface water flow at least daily.
- Water diversion rates may be further restricted in a manner to provide minimum instream flow requirements needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability by the State Water Resources Control Board and/or California Department of Fish and Wildlife as part of state surface water diversion approvals in circumstances where multiple diversions existing along a single waterway.
- The cannabis cultivator shall not divert more than a maximum instantaneous diversion rate of 10 gallons per minute, unless authorized under an existing appropriative water right.

**Mitigation Measure 3.10-1: Implement construction-noise reduction measures.**

The County shall include the following construction noise requirement for new commercial cannabis operations and modifications to existing commercial cannabis operations in the ordinance:

All outdoor construction activity and use of heavy equipment outdoors shall take place between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 9:00 a.m. and 6:00 p.m. on Saturday and Sunday.

**Mitigation Measure 3.13-2: Verification of adequate water supply and service for municipal water service.**

The County shall include the following additional water supply verification requirements in the ordinance for all new commercial cannabis operations that plan to obtain municipal water service:

Applicants for new commercial cannabis operations that plan to obtain water from CSD or other entities will obtain, and provide to the County, written verification from the water service provider that adequate water supply is available to serve the site. If adequate capacity does not exist, applicants shall coordinate with the relevant service provider to ensure that adequate improvements are made to accommodate the increased demand, and if not, infrastructure improvements for the appropriate public service or utility shall be identified. The relevant public service provider or utility shall be responsible for undertaking project-level review as necessary to provide CEQA clearance for new facilities.

**Mitigation not requiring changes to the ordinance**

**Mitigation Measure 3.13.-1a: Prepare a treatment program for all new indoor cultivation and non-cultivation activities.**

Applicants for new commercial indoor cultivation and non-cultivation cannabis operations shall prepare a materials management program that will address each permit type sought within a site. The program shall include:

- A detailed description of activities and processes occurring onsite, including:
- Equipment type and number;
- Detailed standard operating procedures for processes;
- Chemical requirements and reactions;
- Cleaning procedures for equipment; and
- Disposal methods for all materials (e.g., plant materials, solvents, empty containers), and
- Type and quantity of items produced.
- Material Safety Data Sheets for all chemical substances occurring onsite;

- Manifests for each chemical describing quantities purchased, date used, and quantities disposed;
- Facility site plan with storage map, showing where hazardous materials will be stored;
- An inventory of all emergency equipment with the location and description of items, including:
  - Personal protective equipment;
  - Fire extinguishing systems;
  - Spill control equipment and decontamination equipment, and
  - Communication and alarm systems.
- An employee training plan that includes:
  - Emergency response procedures and incident reporting, and
  - Chemical handling procedures.

The materials management program shall be submitted to Humboldt County Division of Environmental Health and public agencies or private enterprises accepting waste materials, including CSDs and waste transfer stations. Commercial cannabis permits shall not be granted without approval of the materials management program relevant agencies.

**Mitigation Measure 3.13-1b: Verification of adequate wastewater service and necessary improvements for public wastewater systems.**

Applicants shall determine whether sufficient wastewater treatment capacity exists for a proposed project. These determinations must ensure that the proposed development can be served by its existing or planned treatment capacity and wastewater conveyance through approval of the relevant service provider. If adequate capacity does not exist, applicants shall coordinate with the relevant service provider to ensure that adequate improvements are made accommodate the increased demand, and if not, infrastructure improvements for the appropriate public service or utility shall be identified. The relevant public service provider or utility shall be responsible for undertaking project-level review as necessary to provide CEQA clearance and implementation of adopted mitigation measures for new facilities.

## ATTACHMENT 4

Draft Environmental Impact Report (provided separately)

<http://humboldt.gov.org/DocumentCenter/Home/View/60897>

<http://humboldt.gov.org/DocumentCenter/Home/View/60898>

## **ATTACHMENT 5**

**Agency, Organization and Public Comments Received (provided separately)**

Available via the Agenda link