



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

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Hearing Date: September 19, 2019

To: Humboldt County Planning Commission

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

Subject: **Zoning Ordinance Amendments - Cannabis Ordinances #1**  
Personal Use and Dispensaries in the Coastal Zone  
Case Numbers OR 14-001 (Personal Use) and OR 15-001 (Dispensaries)

The attached staff report has been prepared for your consideration of the Coastal Zone Cannabis Personal Use and Dispensaries Ordinance at the public hearing on September 19, 2019. The staff report includes the following:

Table of Contents		Page
Agenda Item Transmittal		2
Recommended Action and Executive Summary		3
Attachments		
Attachment 1:	Draft Resolution – Personal Use	4
Attachment 2:	Draft Coastal Zone Personal Use Ordinance	11
Attachment 3:	Draft Resolution – Dispensaries	33
Attachment 4:	Draft Coastal Zone Dispensaries Ordinance	40

Please contact Michael Richardson, Supervising Planner, at 268-3723, or by email at [mrichardson@co.humboldt.ca.us](mailto:mrichardson@co.humboldt.ca.us), if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
September 19, 2019	Zoning Ordinance Amendments – Personal Use and Dispensaries for the Coastal Zone	Michael Richardson

**Project:** Review of the Coastal Commission's suggested modifications to the ordinance which regulates Personal Use and Dispensaries of medical and adult use of cannabis in the coastal zone of Humboldt County. The project involves review of proposed amendments to the County's existing Outdoor Cannabis Cultivation for Personal Use Ordinance (313-55.2 of Title III, Division I, Chapter 3), and Cannabis Dispensaries Ordinance (313-55.3 of Title III, Division I, Chapter 3) to incorporate the Coastal Commission's suggested modifications. The proposed ordinance as modified would apply throughout the unincorporated areas of Humboldt County within the Coastal Zone.

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

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

**Present Zoning:** N/A.

**Assessor Parcel Number(s):** (multiple).

**Environmental Review:** The project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment).

**State Appeal Status:** Changes proposed to the Local Coastal Program must receive final certification from the California Coastal Commission before they may become effective.

**ORDINANCE AMENDING HUMBOLDT COUNTY CODE  
CONCERNING THE REGULATION OF CANNABIS PERSONAL USE AND DISPENSARIES  
IN THE COASTAL ZONE**

**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 ordinances, public input, and alternatives presented.
5. Take the following actions:

**Motion #1:** *"Move to make all of the required findings, based on evidence in the staff report and public testimony, and recommend the Board of Supervisors find the project is exempt from environmental review and approve the Cannabis Personal Use Outdoor Ordinance Amendments in the coastal zone in Attachment 2 by adopting the Resolution in Attachment 1."*

**Motion #2:** *"Move to make all of the required findings, based on evidence in the staff report and public testimony, and recommend the Board of Supervisors find the project is exempt from environmental review and approve the Cannabis Dispensaries Ordinance Amendments in the coastal zone in Attachment 4 by adopting the Resolution in Attachment 3."*

**Executive Summary:** The Board of Supervisors approved the Cannabis Personal Use Outdoor Ordinance #2453 on October 28, 2014 and the Cannabis Dispensaries Ordinance #2554 on July 19, 2016 and directed staff to submit the coastal versions of these ordinances to the Coastal Commission for certification. County staff and Coastal Commission staff worked together to identify suggested modifications to address Coastal Commission staff concerns the ordinances were not consistent with the County's coastal plans and the Coastal Act. On August 7, 2019 the Coastal Commission approved those modifications. For the ordinance to become effective, those modifications need to be accepted by the Board of Supervisors with recommendations from the Planning Commission.

Staff believes the necessary findings can be made for the Commission to approve the attached resolutions recommending that the Board of Supervisors adopt the proposed amendments with the modifications approved by the Coastal Commission. The draft resolution for the Personal Use – Outdoor Ordinance is included in the staff report as Attachment 1. The draft Personal Use – Outdoor ordinance with the Coastal Commission's suggested modifications is included in Attachment 2. The draft resolution for the Dispensaries Ordinance is included in the staff report as Attachment 3 and the Dispensaries ordinance with the Coastal Commission's suggested modifications is in Attachment 4.

The proposed ordinance amendments as modified by the Coastal Commission limit personal use outdoor cultivation to properties with an existing residence. This change is intended to better align the location of the cultivation site with the end use of the cannabis. The nature of the other changes made by the Coastal Commission did not change the regulatory intent or approach of the ordinances as crafted. Most of the changes are intended to increase clarity relative to regulations and policies specific to the Coastal Zone.

**Environmental Review:** The suggested modifications approved by the Coastal Commission increase protection of coastal resources consistent with the Local Coastal Plans and reduce impacts on the environment compared to the ordinances originally approved by the Board of Supervisors so the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment).

## **ATTACHMENT 1**

### **Draft Resolution Cannabis Personal Use Outdoor Ordinance**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19-**

**Case Number OR-14-001**

**RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 3 OF THE HUMBOLDT COUNTY CODE - REGULATIONS INSIDE THE COASTAL ZONE GOVERNING PERSONAL OUTDOOR CULTIVATION 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 October 28, 2014 the Board of Supervisors approved the Personal Use Outdoor Ordinance for the inland and coastal portions of the County, and directed staff to submit the coastal version to the Coastal Commission for certification; and

**WHEREAS**, County staff and Coastal Commission staff worked together to identify suggested modifications to address their concerns the ordinance was not consistent with the County's coastal plans and the Coastal Act; and

**WHEREAS**, on August 7, 2019 the Coastal Commission approved those modifications to the coastal version of the Personal Use Outdoor Ordinance; and

**WHEREAS**, for the ordinance to become effective, those modifications need to be approved by the Board of Supervisors with recommendations from the Planning Commission; and

**WHEREAS**, the proposed zoning text amendments may be approved if findings can be made that: (1) the proposed change is in the public interest; and (2) the proposed change is consistent with the General Plan; and (3) the amendment does 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; and; (4) the proposed change is consistent with the objectives of the Coastal Act and approved Local Coastal Plans.

**WHEREAS**, the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment) because the suggested modifications approved by the Coastal Commission increase protection of coastal resources consistent with the Local Coastal Plans and reduce impacts on the environment compared to the ordinances originally approved by the Board of Supervisors; and

**WHEREAS**, Exhibit A of this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning text; and

**WHEREAS** a public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

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

1. The Planning Commission makes the findings in Exhibit A of this resolution, which is incorporated fully herein, based on the evidence provided.

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

1. Hold a public hearing in the manner prescribed by law.
2. Find that the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment).

3. Take whatever formal action is necessary to implement the modifications.
4. Agree to issue coastal development permits subject to the approved Local Coastal Program.
5. Transmit the approved ordinance amendments to the Coastal Commission for final certification.
6. Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on \_\_\_\_\_, 2019.

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 H. 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 personal outdoor cultivation of cannabis for medicinal or adult use within the coastal zone portion of Humboldt County.  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. 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.  The modifications approved by the Coastal Commission align the Personal Use Ordinance with the County's Local Coastal Plans as described in the findings approved by the Coastal Commission in the August 7, 2019 staff report.	



Section(s)	Applicable Requirements
§312-50 of the Zoning Ordinance	<b>Finding A2.</b> That the proposed zoning change is in the public interest
<b>Evidence Supporting Finding A2</b> <p>These regulations are in the public interest because they are designed to protect the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated personal cannabis cultivation activities including neighboring property owners, 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.</p> <p>The modifications approved by the Coastal Commission align the Personal Use Ordinance with the County's Local Coastal Plans which is also in the public interest.</p>	

**Finding B: 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
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)
<b>Evidence Supporting Finding B</b> <p>The proposed ordinance amendments as modified by the Coastal Commission limit cultivation to properties with an existing residence, so the properties affected by the ordinance are not included in the residential land inventory used by the Department of Housing and Community Development in determining compliance with housing element law.</p>	

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

Section(s)	Applicable Requirements
Section 15091 of the CEQA Guidelines	<b>Finding C.</b> That the proposed zoning ordinance amendments comply with the requirements of CEQA
<b>Evidence Supporting Finding C</b> <p>the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment) because the suggested modifications approved by the Coastal Commission increase protection of coastal resources consistent with the Local Coastal Plans and reduce impacts on the environment compared to the ordinances originally approved by the Board of Supervisors.</p>	

#### **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.

<b>Section(s)</b>	<b>Applicable Requirements</b>
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>
<p><b>Evidence Supporting Finding D</b></p> <p>The proposed zoning ordinance amendments as modified by the Coastal Commission will help protect coastal resources from harm resulting from cannabis activities, including streams, fish, and wildlife and wildlife habitat, and Tribal Cultural Resources.</p> <p>The new policies and performance standards provide guidance and new tools to address land use issues surrounding the siting and operational standards for personal use cultivation activities. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial resources are likely to occur.</p> <p>The suggested modifications will make the Personal Use Outdoor Ordinance for the coastal zone more consistent with the County's Coastal Plans and the Coastal Act as described in the findings adopted by the Coastal Commission at their meeting on August 7, 2019.</p>	

ATTACHMENT 2

DRAFT COASTAL VERSION OF THE PERSONAL USE ORDINANCE  
WITH THE MODIFICATIONS APPROVED BY THE COASTAL COMMISSION ON AUGUST 7, 2019

(AMENDMENTS TO CHAPTER 3 OF ZONING REGULATIONS - COASTAL)

**LCP-1-HUM-16-0075-2 Part A (Personal Cultivation)**

**COMMISSION SUGGESTED MODIFICATIONS APPROVED AUGUST 7, 2019**

**Note:** County proposed text is shown in underline text for additions and ~~cross-out~~ for deletions. Commission suggested modifications, which include County staff proposed “friendly modifications” (see Appendix B) are shown in ~~double cross-out~~ text for deletions and double underline text for additions.

**SECTION 1. Section 313-55.1 of Chapter 3 of Division 1 of Title III is amended to read as follows:**

**~~313-55.1~~ MEDICAL MARIJUANA CANNABIS LAND USES: COASTAL**

**~~55.1~~ Indoor ~~Residential~~ Cultivation of Medical Marijuana Cannabis for Personal Use**

**55.1.1- Authority and Title**

~~Pursuant to the authority granted by Article XI, section 7 of the California Constitution, California Government Code sections 65850, 25845, and 53069.4 and California Health and Safety Code sections 11362.83 and 11362.768(f), the Board of Supervisors does hereby enact this Code, Section which (hereafter all references to “this Section” or “this Code” mean Section 313-55.1 et seq. of the Humboldt County certified coastal zoning regulations) shall be known and may be cited as the “Medical Marijuana Cannabis Land Use Code for Personal Indoor Cultivation”.~~

**55.1.2 Purpose and Intent**

The purpose and intent of the Medical Marijuana Cannabis Land Use Code for Personal Indoor Cultivation (“~~MMLUCIC~~” or “this Code”) is to regulate the cultivation of ~~medical marijuana cannabis~~ for personal use in a residence or detached accessory building in a manner that is consistent with State law and which promotes the health, safety, comfort, convenience, and general welfare of the residents and businesses within the unincorporated area of Humboldt County by balancing three primary needs: the needs of ~~patients and their caregivers~~ people to have access to ~~medical marijuana cannabis~~; the needs of residents, businesses, and communities to be protected from public health, safety, and nuisance impacts that can accompany the ~~residential~~ cultivation and processing of ~~medical marijuana cannabis~~ for an individual’s ~~patient’s personal~~ use; and the need to eliminate, or at least limit to the extent possible, the harmful environmental impacts that can accompany ~~marijuana cannabis~~ cultivation.

Despite the three needs identified above, nothing in this Code shall be construed to: allow persons to engage in conduct that endangers themselves or others, or causes a public nuisance as defined

herein; ~~allow the use or diversion of medical marijuana for non-medical purposes;~~ or allow any activity relating to the cultivation, processing, distribution, or consumption of ~~marijuana~~ cannabis that is otherwise illegal under the laws of the State of California. This Code is not intended to criminalize any activity which is otherwise permitted under state law and it is not intended to authorize conduct that is otherwise prohibited by state law.

### 55.1.3 Findings

~~The Board of Supervisors of the County of Humboldt hereby finds and declares the following:~~

- ~~1. In 1996, California voters approved Proposition 215 (codified as Health and Safety Code section 11362.5, and entitled “The Compassionate Use Act of 1996”).~~
- ~~2. The intent of the Compassionate Use Act is to permit the cultivation and possession of medical marijuana for the personal use of a seriously ill patient without fear of criminal prosecution against the patient, the patient’s caregiver or the physician who recommended medical marijuana for the patient. The Act further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.”~~
- ~~3. In 2004, Senate Bill 420 (codified as Health and Safety Code sections 11362.7 et seq. and known as the “Medical Marijuana Program Act” or “MMPA”) was enacted to clarify the scope of the Compassionate Use Act.~~
- ~~4. Neither the Compassionate Use Act nor the Medical Marijuana Program Act address land use or building code issues that may arise from the residential cultivation or processing of medical marijuana for personal use within the County.~~
- ~~5. In August 2008, the California Attorney General issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* that were intended to further clarify California laws governing medical marijuana, and provide guidelines for patients and law enforcement to ensure that medical marijuana is not diverted for non-medical purposes.~~
- ~~6. The federal Controlled Substances Act (codified as 21 U.S.C. sections 801 et seq.) is a regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. The Act lists marijuana as a controlled substance, classifying it as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, which has no currently accepted medical use in treatment, and has not been accepted as safe for use under medical treatment.~~
- ~~7. The United States Congress has provided that states are free to regulate in the areas of controlled substances, including marijuana, provided that state law does not positively conflict with the Controlled Substances Act (see 21 U.S.C. 903). The California Attorney General,~~

citing to California case law, has opined that neither the Compassionate Use Act nor the Medical Marijuana Program Act conflict with the Controlled Substances Act because, in adopting these laws, California did not legalize medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law.

8. ~~Law enforcement agencies report that depending upon the marijuana strain and whether it is grown indoors or outdoors, one plant may yield averages of roughly one quarter to one and a half pounds of usable marijuana per plant. As of 2010, law enforcement indicates the value of illegal marijuana grown in the County to be roughly \$1,500 to \$4,000 per pound.~~
9. ~~Due to the high monetary value placed upon marijuana, the County has experienced a number of home invasion robberies, thefts, and violent crimes, including homicides, related to marijuana cultivation. To defend against theft and armed robbery, some growers of marijuana have taken to arming themselves, which creates the potential for gunfire in the residential areas where indoor cultivation of marijuana is frequently occurring. The County has also experienced a number of residential fires from overloaded or improperly modified electrical systems used to power grow lights and exhaust fans for the cultivation of marijuana. Additionally, the County has experienced soil and water contamination due to leaks and improperly stored fuels and supplies for generators used to power grow lights and fans for off-the-grid marijuana grows.~~
10. ~~Widespread indoor cultivation of marijuana in Humboldt County has led to a decrease in needed rental housing stock as rental homes are converted solely to structures to grow marijuana in, as well as excessive energy consumption to power the lights, fans, and other systems needed for a large indoor marijuana growing operation. As rental homes are converted to these grow structures, the character of the neighborhood around the grow structure deteriorates.~~
11. ~~Marijuana that is grown indoors can lead to mold, mildew, and moisture damage to the building in which it is grown. Landlords, who thought they were renting a home for people to live in, later find that their property was turned into a structure to grow marijuana and extensively damaged by that use, requiring new flooring, walls, ceiling, electrical and plumbing work to return the home to a habitable state. Growing marijuana is susceptible to plant diseases, mold, mildew, and insect damage and may be treated with insecticides and herbicides that may harm human health when applied or when the chemical is disposed of in the trash or in the sewage disposal system.~~
12. ~~Cultivation of marijuana may also result in private or public nuisances. Whether grown indoors or outdoors, marijuana plants, particularly as they mature, produce a distinctive odor that is often detectable far beyond property boundaries. This strong, distinctive odor can interfere with neighboring owners' use and enjoyment of their property. In addition, this odor of growing or "green" marijuana may alert malefactors to the location where marijuana is grown and thereby create the risk of burglary and robbery at that location.~~

13. The right of qualified patients and their primary caregivers under state law to possess and cultivate marijuana for personal medical purposes does not confer upon them a right to create or maintain a nuisance. By adopting this Code, which regulates the land use aspects of indoor residential cultivation of medical marijuana for personal use, the County anticipates a significant reduction in complaints regarding medical marijuana-related odors and residential mold and moisture issues affecting rental housing stocks, as well as a decrease in crime and fires related to the indoor cultivation and processing of medical marijuana.
14. The County finds that while the need for qualified patients and/or their caregivers to use and cultivate marijuana is authorized by state law, the potential land use impacts to the environment and to public health, safety and welfare as identified, necessitates that the County create regulations, such as this Code, to govern the indoor cultivation of medical marijuana in a residence for personal use in the County of Humboldt.
15. The County finds that the indoor cultivation of more than fifty (50) square feet of medical marijuana that is more than ten (10) feet tall per residence or detached accessory building, as defined herein, within the unincorporated area of the County will result in an unreasonable risk of crime, fire, and other nuisance related impacts such as odors offensive to people living or working or recreating nearby, as well as resulting in the deterioration of the neighborhood character, decrease in rental housing stock, and excessive energy consumption and carbon dioxide emissions, along with the potential for diesel fuel and oil pollution from generators. Therefore, the indoor cultivation of more than fifty (50) square feet of medical marijuana that is more than ten (10) feet tall per residence or detached accessory building is hereby found and declared to be unlawful and a public nuisance.
16. The County further finds that the indoor cultivation of fifty (50) square feet or less of medical marijuana that is ten (10) feet tall or less per residence or detached accessory building, which is subordinate, incidental, and accessory to the residential use, within the unincorporated area of the County will achieve the goals of allowing qualified patients the ability to cultivate medical marijuana in their residence for their personal use, while minimizing, to the extent possible, the negative impacts on the neighbors, the neighborhood, local businesses, and the community from a qualified patient's medical marijuana cultivation and processing.

### 55.1.3 Applicability and Interpretation

55.1.3.1 The indoor cultivation and processing of ~~medical marijuana~~cannabis for personal use in a residence or detached accessory building within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the cultivation or processing existed or occurred prior to the adoption of this Code.

55.1.3.2 Nothing in this Code is intended, nor shall it be construed, to exempt any indoor ~~residential~~ cultivation of ~~medical marijuana~~cannabis for personal use, from compliance

with the Humboldt County zoning and land use regulations, or all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements, or any other applicable provisions of the County Code, or compliance with the Coastal Act, or any other applicable state or federal laws.

55.1.3.3 Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting ~~marijuana-cannabis~~ cultivation, smoking, or other related activities by tenants.

55.1.3.4 The definitions in this Code are intended to apply to ~~the MMLUCIG~~this Code. Applicable definitions in Humboldt County Code ~~section~~sections 313-435136 et seq. and ~~section~~ 111-1 et seq. may also apply to this Code.

#### 55.1.4 Compliance with Other Laws.

No provision of this Section shall be constructed to authorize, legalize, allow, approve, or condone any activity that violates any provision of State or federal law or this Code. Nothing in this Section shall be construed to ~~allow the use of marijuana for non-medical purposes, or~~ allow any activity relating to the cultivation, distribution, or consumption of ~~marijuana-cannabis~~ that is otherwise illegal under State or federal law. No provision of this Section may be deemed a defense or immunity to any action brought against any person by the Humboldt County District Attorney, the Attorney General of the State of California, or the Attorney General of the United States of America.

#### 55.1.5 Severability

If any section, subsection, sentence, clause, portion, or phrase of this Code or the application thereof, is held invalid, illegal, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other portions of this Code. The County hereby declares that it would have passed this Code and each section, subsection, sentence, clause, portion, or phrase hereof, regardless of the fact that any one or more section, subsection, sentence, clause or phrase has been declared illegal, invalid, or unconstitutional.

#### 55.1.6 Penalties

All of the remedies provided for in this section shall be cumulative and not exclusive for violations of this Code.

Any violation of this Code shall be, and the same hereby is declared to be, unlawful and a public nuisance and shall be subject to injunction, abatement or any other remedy available to the County under the applicable state and county laws, ~~including the County's medical marijuana abatement and administrative penalty procedures as put forth in Section 313-55.2.~~



### 55.1.7 Definitions

Except where the context otherwise requires, the following definitions shall govern the construction of this Code:

*Cannabis*: means any mature or immature male or female 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.

*Detached Accessory Building - Residential*: a building which is a) incidental and subordinate to the residence or residential use, b) located on the same parcel, and c) does not share at least ten (10) feet of common wall with the residence or other accessory building. ~~A greenhouse may be considered a Detached Accessory Building if it is a fully enclosed, secure and lockable structure that has a roof supported by connecting walls extending continuously to a perimeter foundation or equivalent base to which the connecting walls are securely attached. For the purposes of this Section, a greenhouse or hoophouse shall not be considered to be a detached accessory building.~~

*Indoor(s)*: within a fully enclosed and secure structure that has a roof supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

~~*Indoor Cultivation of Medical Marijuana Cannabis for Personal Use*: cultivation and processing of medical marijuana cannabis for personal use indoors in a residence or detached accessory structure, by a qualified patient, or the primary caregiver on behalf of a qualified patient, which does. The cultivation area may not exceed fifty (50) square feet or ten (10) feet in height. No more than six (6) cannabis plants may be cultivated for personal use in any residence or detached accessory structure at any time. Such cultivation shall be subordinate, incidental, and accessory to an existing residential use.~~

~~*Indoor Cultivation for Personal Use*: the growing of 50 square feet or less that is ten (10) feet or less in height of cannabis for personal use indoors within a residence or detached accessory structure, as defined herein. No more than six (6) cannabis plants may be cultivated for personal use in any residence or detached accessory structure at any time. Such cultivation shall be for a single person or household personal use and must be subordinate, incidental, and accessory to the residential use.~~

~~*Medical Marijuana*: marijuana, including concentrated cannabis or hashish, that has been recommended to an individual by a licensed physician for the treatment of an illness or disease pursuant to California Health & Safety 11362.5 et seq.~~

*Personal Medical Marijuana Use Cannabis*: ~~medical marijuana cannabis~~ that is cultivated, processed, or stored for a single ~~qualified patient's~~ person or household's exclusive use.

~~Primary Caregiver: an individual designated by the qualified patient who has consistently assumed responsibility for the housing, health, or safety of that patient pursuant to statutory and case law.~~

~~Qualified Patient: a person who has a recommendation for medical marijuana by a California-licensed physician, and who is entitled to the protections offered by California Health & Safety Code Section 11362.5, and who may or may not have an identification card issued by the State Department of Public Health identifying the individual as a person authorized to engage in the use of medical marijuana.~~

*Residence:* any structure designed or used for residential occupancy, regardless of whether it is located in a residential zone.

~~Residential Cultivation: the growing of fifty (50) square feet or less that is ten (10) feet or less in height of medical marijuana indoors within a residence or detached accessory structure, as defined herein. Such cultivation shall be for a qualified patient's personal use and must be subordinate, incidental, and accessory to the residential use.~~

#### 55.1.8 Indoor ~~Residential~~ Cultivation for Personal Use

The County shall not interfere with ~~a qualified patient's~~ indoor ~~residential~~ cultivation of ~~medical marijuana~~cannabis for ~~that patient's~~ personal use in the coastal zone, so long as the cultivation is in conformance with this Code and state law, including the California Coastal Act.

In order to eliminate the potential nuisance and health and safety impacts to the greatest extent possible, indoor ~~residential medical marijuana~~cannabis cultivation and processing for personal use shall be in conformance with the following standards:

~~1.55.1.8.1 Medical marijuana~~ Cultivation of cannabis for personal use in a residence shall not exceed six (6) plants, fifty (50) square feet of canopy area or exceed ten (10) feet in height per residence on a parcel; and

~~2.55.1.8.2 Medical marijuana~~Cannabis cultivation in detached accessory buildings shall not exceed six (6) plants, fifty (50) square feet of canopy area or exceed ten (10) feet in height per residence on a parcel; and

~~3.55.1.8.3~~ A total of ~~fifty (50)~~ square feet of indoor ~~medical marijuana~~cannabis cultivation for personal use, which does not exceed six (6) plants or ten (10) feet in height, is permitted for each residence on a parcel, regardless of whether the cultivation occurs in a residence or in a detached accessory building. In no case shall a residence or a detached accessory building have a total of more than six (6) plants, fifty (50) square feet or more than ten (10) feet in height of ~~medical marijuana~~cannabis cultivation area per residence on the parcel, regardless of the number of ~~qualified patients or primary caregivers~~persons residing at the

residence or participating directly or indirectly in the cultivation; and

4.55.1.8.4 The ~~medical-marijuana~~cannabis cultivation and processing area in the residence or detached accessory building shall be indoors, as defined herein, ~~posted with a legible copy of the individual patient's medical marijuana recommendation, and~~ secured against unauthorized entry, ~~and maintained for the exclusive use of the qualified patient;~~ and

5.55.1.8.5 Grow lights for ~~medical-marijuana~~cannabis cultivation for personal use in a residence or a detached accessory building shall not exceed 1200 watts total; and

6.55.1.8.6 All electrical equipment used in the indoor cultivation of ~~medical-marijuana~~cannabis in a residence or a detached accessory building shall be plugged directly into a wall outlet or otherwise hardwired. The use of extension cords to supply power to electrical equipment used in the ~~residential-indoor~~ cultivation of ~~medical-marijuana~~cannabis for personal use is prohibited; and

7.55.1.8.7 The use of gas products (CO<sub>2</sub>, butane, etc.) for indoor ~~medical-marijuana~~cannabis cultivation or processing in a residence or a detached accessory building is prohibited; and

8.55.1.8.8 No toxic or flammable fumigant shall be used for indoor cultivation of ~~medical-marijuana~~cannabis in a residence or a detached accessory building unless the requirements of section 1703 of the California Fire Code have been met; and

9.55.1.8.9 On parcels that contain more than one residence, no odor of ~~medical-marijuana~~cannabis shall be detectable from the exterior of the residence or detached accessory building by a person of ordinary senses. On parcels that contain only one residence, no odor of ~~medical-marijuana~~cannabis shall be detectable from the property boundaries by a person of ordinary senses. To achieve this, the ~~medical-marijuana~~cannabis cultivation area shall be, at a minimum, mechanically ventilated with a carbon filter or other superior method to prevent the odor of ~~marijuana~~cannabis from escaping the indoor cultivation area and negatively impacting neighbors and the surrounding community. Ventilation systems shall be installed in a manner that facilitates decommissioning and a return of the cultivation area to non-cultivation residential uses; and

10.55.1.8.10 From a public right of way, neighboring properties, or neighboring housing units, there shall be no visual or auditory evidence of indoor medical ~~marijuana~~cannabis cultivation ~~cannabis at the residence or detached accessory building that is detectable by a person of ordinary senses; and~~

11.55.1.8.11 ~~Medical-marijuana~~Cannabis cultivation, processing, or transfers in a residence or detached accessory building are prohibited as a Cottage Industry or a Home Occupation, and are not eligible for an address of convenience; and

~~12.55.1.8.12~~ No sale, trading, or dispensing of ~~medical-marijuana~~cannabis is allowed on a parcel where ~~residential-indoor~~ cultivation of ~~medical-marijuana~~cannabis for personal use occurs; and

~~13.55.1.8.13~~ ~~The qualified patient shall not~~ No person may cultivate ~~medical-marijuana~~cannabis for his or her personal use in more than one residence or detached accessory building within the jurisdiction of the County of Humboldt; and

~~14.55.1.8.14~~ The residence where ~~medical-marijuana~~cannabis is grown indoors for personal use shall maintain a kitchen and bathroom(s) for their intended use, and the kitchen, bathroom(s), and bedroom(s) shall not be used primarily for ~~medical-marijuana~~cannabis cultivation; and

~~15.55.1.8.15~~ No effluent, including but not limited to waste products, chemical fertilizers or pesticides shall be discharged into drains, septic systems, community sewer systems, water systems or other drainage systems including those that lead to rivers, streams and bays as a result of indoor ~~residential~~ cultivation of ~~medical-marijuana~~cannabis for personal use; and

~~16.55.1.8.16~~ The indoor ~~residential~~ cultivation of ~~medical-marijuana~~cannabis for personal use shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of ~~medical-marijuana~~cannabis; and

~~17.55.1.8.17~~ ~~The indoor~~ ~~residential~~ cultivation of ~~medical-marijuana~~cannabis for personal use must comply with all applicable state and county laws, including fire and building codes.

~~18.55.1.8.18~~ A waterproof membrane or other waterproof barrier shall be installed in the cultivation area or beneath individual plants to protect the floor of the indoor cultivation area from water damage.

~~55.1.8.19~~ Outdoor cultivation, as described in Section 313-55.2, may not occur on any parcel in addition to the indoor cultivation provisions described herein.

**SECTION 2. Section 313-55.2 of Chapter 3 of Division 1 of Title III is added to read as follows:**

**55.2 Outdoor Cultivation of ~~Medical Marijuana~~Cannabis for Personal Use ~~on Small Parcels~~**

### 55.2.1 Authority and Title

~~Pursuant to the authority granted by Article XI, section 7 of the California Constitution, California Government Code sections 65850, 25845, and 53069.4 and California Health and Safety Code sections 11362.83 and 11362.768(f), the Board of Supervisors does hereby enact this Code, Section which (hereafter all references to “this Section” or “this Code” mean Section 313-55.2 *et seq.* of the Humboldt County certified coastal zoning regulations) shall be known and may be cited as the “Medical MarijuanaCannabis Land Use Code for Small Parcel Personal Outdoor Cultivation”.~~

### 55.2.2 Purpose and Intent

~~The purpose and intent of the Medical MarijuanaCannabis Land Use Code for Small ParcelPersonal Outdoor Cultivation (“MMLUCSPOC” or “this Code”) is to establish reasonable regulations governing the outdoor cultivation of medical-marijuanacannabis for personal use as defined herein, in a manner that is consistent with State law and which promotes the health, safety, comfort, convenience, and general welfare of the residents and businesses within the unincorporated area of Humboldt County by balancing three primary needs: the needs of patients and their caregiverspeople to have access to medical-marijuanacannabis; the needs of residents, businesses, and communities to be protected from public health, safety, and nuisance impacts that can accompany the cultivation and processing of medical-marijuanacannabis for an individual’s patient’s personal use; and the need to eliminate, or at least limit to the greatest extent possible, harmful environmental impacts that can accompany outdoor marijuana-cannabis cultivation.~~

~~Despite the three needs identified above, nothing in this Code shall be construed to: allow persons to engage in conduct that endangers themselves or others, or causes a public nuisance as defined herein; allow the use or diversion of medical-marijuana for non-medical purposes; or allow any activity relating to the cultivation, processing, distribution, or consumption of marijuana-cannabis that is otherwise illegal under the laws of the State of California. This Code is not intended to criminalize any activity which is otherwise permitted under state law and it is not intended to authorize conduct that is otherwise prohibited by state law.~~

### 55.2.3 Applicability and Interpretation

~~55.2.3.1 The outdoor cultivation and processing of medical-marijuanacannabis on parcels five (5) acres or less in sizefor personal use within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the governed activities were established or occurred prior to the adoption of this Code.~~

~~55.2.3.2 Nothing in this Code is intended to exempt, nor shall it be construed to exempt any outdoor cultivation activities on parcels five (5) acres or less in sizeof cannabis for personal use from compliance with the Humboldt County zoning and land use regulations.~~

or all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements, or any other applicable provisions of the County Code, or compliance with the Coastal Act, or any other applicable state or federal laws. ~~If outdoor cultivation of cannabis for personal use involves development as defined under Section 30106 of the Coastal Act, pursuant to Section 312-3.1.4 of the Humboldt County Code a Coastal Development Permit must be secured, unless the development is exempted or excluded under the California Public Resources Code (Section 30000, and following) or the California Code of Regulations.~~

55.2.3.3 Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting ~~marijuana cannabis~~ cultivation, smoking, or other related activities by tenants.

55.2.3.4 The definitions in this Code are intended to apply to ~~the MMLUCSPOC~~ this Code. Applicable definitions in Humboldt County Code sections 313-136 et seq. and 111-1 et seq. may also apply to this Code.

#### 55.2.4 Compliance with Other Laws.

No provision of this Section shall be constructed to authorize, legalize, allow, approve, or condone any activity that violates any provision of State or federal law or this Code. Nothing in this Section shall be construed to ~~allow the use of marijuana for non-medical purposes, or~~ allow any activity relating to the cultivation, distribution, or consumption of ~~marijuana cannabis~~ that is otherwise illegal under State or federal law. No provision of this Section may be deemed a defense or immunity to any action brought against any person by the Humboldt County District Attorney, the Attorney General of the State of California, or the Attorney General of the United States of America.

#### 55.2.5 Severability

If any section, subsection, sentence, clause, portion, or phrase of this Code or the application thereof, is held invalid, illegal, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any other portions of this Code. The County hereby declares that it would have passed this Code and each section, subsection, sentence, clause, portion, or phrase hereof, regardless of the fact that any one or more section, subsection, sentence, clause or phrase has been declared illegal, invalid, or unconstitutional.

#### 55.2.6 Definitions

Except where the context otherwise requires, the following definitions shall govern the construction of this Code:

Acre: means 43,560 square feet. See also the definition of “Lot Size” found under Section 313-147 of the code.

~~Marijuana Plant~~Cannabis: means any mature or immature male or female ~~marijuana~~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~~plant, or any marijuana seedling, unless otherwise specifically provided herein.~~

Canopy: means the area, in square feet, of vegetative growth, of a ~~marijuana~~cannabis plant including starts. ~~Area shall be calculated using the following formula: Diameter of Plant squared, and then multiplied by the conversion factor ( $\pi/4$ ). For example, if the diameter of one (1) plant is equal to 30 inches (2.5 feet), the canopy would equal 4.9 square feet [ $2.5 \text{ feet}^2 \times 0.7854$ ].~~

Enforcing Officer: means the Code Enforcement Investigator or the Sheriff, or the authorized deputies or designees of either, each of whom is independently authorized to enforce this Code.

~~Indoor Cultivation of Medical Marijuana~~: ~~cultivation and processing of medical marijuana inside a residence or detached accessory structure by a qualified patient, or the primary caregiver on behalf of a qualified patient, which does not exceed six (6) plants, fifty (50) square feet or ten (10) feet in height.~~

~~Medical Marijuana~~: ~~marijuana, including concentrated cannabis or hashish, that has been recommended to an individual by a licensed physician for the treatment of an illness or disease pursuant to California Health & Safety 11362.5 et seq.~~

Outdoor(s): means not within an enclosed building, excepting a greenhouse or hoophouse, but instead on an open and uncovered portion of the property.

Outdoor Cultivation of Cannabis for Personal Use: means the planting, growing, harvesting, drying, processing, or storage of one or more ~~marijuana~~cannabis plants, or any part thereof, in any outdoor location. Such cultivation shall be subordinate, incidental, and accessory to an existing residential use.

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

Property: shall mean a single, legal parcel. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single “property” for purposes of this Section.

Personal Use ~~Medical Marijuana~~Cannabis: ~~medical marijuana~~cannabis that is cultivated, processed, or stored for a single ~~qualified patient’s~~person or household’s exclusive use.



*Pesticides:* shall have the same meaning as set forth in Article 1, Division 6, Section 6000 of the California Code of Regulations, and Article 1, Division 7, Section 12753 of the California Food and Agriculture Code.

*Place of Religious Worship:* a specially designed structure or consecrated space where individuals or a group of people such as a congregation come to perform acts of devotion, veneration, or religious study.

~~*Primary Caregiver:* an individual designated by the qualified patient who has consistently assumed responsibility for the housing, health, or safety of that patient pursuant to statutory and case law.~~

~~*Qualified Patient:* a person who has a recommendation for medical marijuana by a California-licensed physician, and who is entitled to the protections offered by California Health & Safety Code Section 11362.5, and who may or may not have an identification card issued by the State Department of Public Health identifying the individual as a person authorized to engage in the use of medical marijuana.~~

*Residence:* any structure designed or used for residential occupancy, regardless of whether it is located in a residential zone.

*School:* means an institution of learning for minors, whether public or private, offering a regular course of instruction as required by the California Education Code. This definition includes a kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.

*School Bus Stop:* means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233, or school pupil activity buses, as defined in Vehicle Code section 546.

*Traditional Native American Cultural Site:* means a place with an association with cultural practices and beliefs that are rooted in the local tribal history and are important to maintaining the continuity of a tribal community's traditional beliefs and practices.

#### 55.2.7 Outdoor ~~Residential~~ Cultivation for Personal Use

The County shall not interfere with a ~~qualified patient's~~ outdoor cultivation of ~~medical marijuana~~cannabis for ~~that patient's~~ personal use in the coastal zone, so long as the cultivation is in conformance with this Code and state law, including the California Coastal Act.

In order to eliminate the potential nuisance and health and safety impacts to the greatest extent possible, ~~all~~ outdoor ~~medical marijuana~~cannabis cultivation and processing for personal use ~~on~~



~~parcels five (5) acres or less in size,~~ shall be in conformance with the following standards:

55.2.7.1 Parcel size shall be determined in accordance with the definition of “Lot Size” found under Section 313-147 of the code.

55.2.7.2 ~~On parcels (5) acres or less in size, it shall not be deemed a nuisance per se for a qualified patient to cultivate~~ Cultivation of ~~medical marijuana~~cannabis outdoors for personal use is allowed as an alternative to indoor cultivation, as defined herein, if the following restrictions are adhered to:

55.2.7.2.1 On parcels one (1) acre or smaller in size, ~~up to six plants may be cultivated for personal use provided~~ the total plant canopy of ~~the medical marijuana~~cannabis cultivated outdoors ~~may does~~ not exceed ~~one hundred (100)~~-square feet in size, ~~nor may and no part of the~~ cultivation area occurs within ~~twenty (20)~~ feet of a property boundary line; and

55.2.7.2.2 On parcels greater than one (1) acre ~~and up to five (5) acres~~ in size, ~~up to six (6) plants may be cultivated for personal use provided~~ the total plant canopy of ~~medical marijuana~~cannabis cultivated outdoors ~~may does~~ not exceed ~~two hundred (200)~~ square feet in size, ~~nor may no part of the~~ cultivation area occurs within ~~forty (40)~~ feet of a property boundary line, where the neighboring parcel is less than five (5) acres in size, or ~~twenty (20)~~-feet of a property line, where the neighboring parcel is five (5) acres or above in size; and

55.2.7.2.3 No outdoor cultivation for personal use may occur within 600 feet of any School, School Bus Stop, Public Park, Place of Religious Worship, or Traditional Native American Cultural Site, so long as these uses existed prior to the outdoor cultivation of ~~medical marijuana~~cannabis in compliance with this Code; and

55.2.7.2.4 Indoor ~~medical marijuana~~cannabis cultivation for personal use may not occur in addition to the outdoor cultivation provisions described herein.

55.2.7.2.5 ~~The qualified patient shall not~~No person may cultivate ~~medical marijuana~~cannabis for his or her personal use in more than one residence, or detached accessory building, or outdoor cultivation area within the jurisdiction of the County of Humboldt; and

55.2.7.2.6 Cultivation within a greenhouse or “hoophouse” for personal use shall be deemed outdoor cultivation subject to the requirements of this Code, including the parcel-size-specific canopy restrictions and setbacks.

55.2.7.2.7 No effluent, including but not limited to waste products, chemical fertilizers or pesticides shall be discharged into drains, septic systems, community sewer systems,

water systems or other man-made or natural drainage systems including those that lead to rivers, streams and bays as a result of indoor or outdoor ~~residential~~ cultivation of ~~medical-marijuana~~cannabis for personal use; and

55.2.7.2.8 The outdoor cultivation of ~~medical-marijuana~~cannabis shall not adversely affect the health or safety of residents, neighbors, or nearby businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes associated with the cultivation of ~~medical-marijuana~~cannabis; and

55.2.7.2.9 Where applicable, private water systems utilized in association with outdoor cultivation of ~~medical-marijuana~~cannabis pursuant to this Code shall comply with Section 1602 of the Fish and Game Code. This includes notification of the California Department of Fish and Wildlife of associated water diversions to determine whether a Lake and Streambed Alteration Agreement is necessary. If such an Agreement is required, the water use must comply with all of its terms.

55.2.7.3 On lands within the Shelter Cove community served by the Resort Improvement District, outdoor cultivation of ~~medical-marijuana~~cannabis for personal use may only ~~occur-be done~~ by a ~~qualified-patient~~person who occupies a permitted residence located on the same property that is host to the cultivation activities. If the ~~qualified-patient~~person ~~cultivating cannabis outdoors for personal use~~ is not the owner of the property, they ~~occupant~~ must be a leaseholder or lawful occupant who has retained the notarized consent of the property owner, or their designated agent specifically approving the outdoor cultivation on the property.

#### ~~55.2.8 Nuisance Declared; Specialized Abatement Process; Enforcement~~

55.2.8.1 Any violation of this Section shall be unlawful and constitute a public nuisance per se and be subject to injunction, abatement, or any other remedy available to the County as provided by all applicable provisions of law, ~~including the specialized abatement process of this Code.~~ Development that exceeds the minimum necessary to abate the public nuisance requires a Coastal Development Permit.

~~55.2.8.2 Notice to Abate Unlawful Marijuana Cultivation. Whenever an Enforcing Officer determines that a public nuisance as described in this Code exists on any property within the unincorporated area of Humboldt County he or she is authorized to notify the owner and/or occupant(s) of the premises through issuance of a "Notice and Order to Abate Unlawful Marijuana Cultivation".~~

~~55.2.8.2.1 Contents of Notice. The "Notice and Order to Abate Unlawful Marijuana Cultivation" shall be in writing and shall include the following:~~

~~55.2.8.2.1.1 Name of the owner(s) of the property upon which the nuisance exists, as listed in the records of the county assessor, and any occupant(s) shall also be identified, if known; and~~

~~55.2.8.2.1.2 A description of the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property and/or identification of such property by reference to the assessor's parcel number; and~~

~~55.2.8.2.1.3 A statement that medical marijuana cultivation in violation of this Section exists on the property and therefore such cultivation is a public nuisance per se;~~

~~55.2.8.2.1.4 A description of the medical marijuana cultivation in violation of this Section that exists on the property and the actions required to abate it;~~

~~55.2.8.2.1.5 A statement that the owner and/or occupant is required to abate the identified violations of this Code within fourteen (14) calendar days after the date that said Notice was served;~~

~~55.2.8.2.1.6 A statement that the owner and/or occupant may, within ten (10) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the Enforcing Officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Section;~~

~~55.2.8.2.1.7 A statement that, unless the owner and/or occupant abates the unlawful marijuana cultivation, or requests a hearing before the Board of Supervisors, within the time prescribed in the Notice, the Enforcing Officer will abate the nuisance. It shall also generally describe the abatement costs, including administrative costs, and provide notice that a special assessment may be added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll if such costs are unpaid;~~

~~55.2.8.3 Service of Notice. The "Notice and Order to Abate Unlawful Marijuana Cultivation" ("Notice and Order") shall be served by delivering it personally to the owner and/or to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the owner and/or occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll and by posting a copy of the Notice and Order on the real property upon which the nuisance exists as follows: copies of the Notice and Order shall be posted along the frontage of the subject property and at such other locations on the property reasonably~~

~~likely to provide notice to the owner. In no event shall fewer than two (2) copies of the Notice and Order be posted on a property pursuant to this section.~~

~~55.2.8.3.1 The date of service is deemed to be the date of deposit in the mail, personal delivery, or posting, as applicable.~~

#### ~~55.2.8.4 Administrative Review.~~

~~55.2.8.4.1 Any person upon whom a Notice and Order to Abate Unlawful Marijuana Cultivation has been served may appeal the determination of the Enforcing Officer that the conditions set forth in the Notice and Order constitute a public nuisance to the Board of Supervisors, or may show cause before the Board of Supervisors why those conditions should not be abated in accordance with the provisions of this Section. Any such administrative review shall be commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within ten (10) calendar days after the date that said Notice and Order was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this Section, the findings of the Enforcing Officer contained in the Notice and Order shall become final and conclusive on the eleventh day following service of the Notice and Order.~~

~~55.2.8.4.2 Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the Clerk of the Board of Supervisors shall set a hearing date not less than seven (7) days or more than thirty (30) days from the date the request was filed. The Clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice and Order was served, and to the Enforcing Officer.~~

~~55.2.8.4.3 Any hearing conducted pursuant to this Section need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Board of Supervisors has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.~~

~~55.2.8.4.4 The Board of Supervisors may continue the administrative hearing from time to time.~~

~~55.2.8.4.5 The Board of Supervisors shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice and Order. The Board~~

~~of Supervisors shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the nuisance, as well as findings concerning the propriety and means of abatement of the nuisance conditions set forth in the Notice and Order. Such decision shall be mailed to the party requesting the hearing, any other parties upon whom the Notice and Order was served, and the Enforcing Officer.~~

~~55.2.8.4.6 The decision of the Board of Supervisors shall be final and conclusive on the date it is made.~~

~~55.2.8.5 Liability for Costs:~~

~~55.2.8.5.1 In any enforcement action brought pursuant to this Section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Section, whether those costs are incurred prior to, during, or following enactment of this Section.~~

~~55.2.8.5.2 In any action by the Enforcing Officer to abate unlawful marijuana cultivation under this Section, whether by administrative proceedings or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this Code shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.~~

~~55.2.8.6 Abatement by Owner or Occupant. Any owner or occupant may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to commencement of abatement by the enforcing officer.~~

~~55.2.8.7 Enforcement. Whenever the Enforcing Officer becomes aware that an owner or occupant has failed to abate any unlawful marijuana cultivation within fourteen (14) days of the date of service of the Notice and Order, unless timely appealed, or of the date of the decision of the Board of Supervisors requiring such abatement, the Enforcing Officer may take one or more of the following actions:~~

~~55.2.8.7.1 Enter upon the property and abate the nuisance. The Enforcing Officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the abatement work, if necessary; and/or~~

~~55.2.8.7.2 Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance.~~

~~55.2.8.8 Accounting. The Enforcing Officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the Board of Supervisors showing the cost of abatement and the administrative costs for each parcel.~~

~~55.2.8.9 Notice of Hearing on Accounting; Waiver by Payment. Upon receipt of the account of the Enforcing Officer, the Clerk of the Board of Supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the Board of Supervisors will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the Enforcing Officer prior to the time set for the hearing by the Board of Supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.~~

~~55.2.8.10 Hearing on Accounting.~~

~~55.2.8.10.1 At the time fixed, the Board of Supervisors shall meet to review the report on the accounting by the Enforcing Officer. An owner may appear at said time and be heard on whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner, is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.~~

~~55.2.8.10.2 The report and the accounting of the Enforcing Officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.~~

~~55.2.8.10.3 Modifications. The Board of Supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.~~

~~55.2.8.10.4 Special Assessment and Lien. The Board of Supervisors may order that the cost of abating nuisances pursuant to this Section and the administrative costs as~~

~~confirmed by the Board be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The Board of Supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code.~~

~~55.2.8.11 Enforcement by Civil Action. As an alternative to the procedures set forth in this Section the County may abate the violation of this Section by the prosecution of a civil action through the Office of the County Counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Section or requiring compliance with other terms.~~

~~55.2.8.12 No Duty to Enforce. Nothing in this Section shall be construed as imposing on the enforcing officer or the County of Humboldt any duty to issue an Notice and Order, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the County of Humboldt shall be held liable for failure to issue an order to abate any unlawful marijuana cultivation, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation.~~

~~55.2.8.13 Remedies Cumulative. All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this Section shall be deemed to authorize or permit any activity that violates any provision of state or federal law.~~

~~55.2.8.14 Other Nuisance. Nothing in this Section shall be construed as a limitation on the County's authority to abate any nuisance which may otherwise exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.~~

## 55.2.9 Best Practices

The following guidelines are advisory and represent “good neighbor” cultivation practice recommendations designed to insure compatibility with adjacent land uses, medicine safety, and responsible environmental stewardship.

55.2.9.1 **Low Odor Strains.** To alleviate the potential the potential for unwelcome odors escaping beyond the property and affecting neighboring residents during the flowering period, cultivation of low odor strains is recommended.

55.2.9.2 **Greenhouses.** If cultivating within a greenhouse, invest in a permanent greenhouse with a poured concrete or similar foundation, walls and roof made using tempered glass or other similarly durable solid material, and a filtration system to minimize odors.

55.2.9.3 **Water Supply.** To reduce potential impacts on neighboring rivers and streams and the fish and wildlife that depend on these ecosystems, cultivating using water from a municipal source or rain catchment system. If a private water system must be used, maintain sufficient water storage capacity to satisfy or supplement watering needs during the driest months, July 15<sup>th</sup> through November 1<sup>st</sup>.

55.2.9.4 **Potential Toxics.** Avoid use of chemicals and other potentially harmful substances on or near ~~medical-marijuana~~cannabis or the area where ~~medical-marijuana~~cannabis is being cultivated. Grow, process, and store ~~medical-marijuana~~cannabis in as “organic” and safe a fashion as possible to reduce potential adverse effects during use ~~by medical patients who are ill and may have compromised immune systems.~~

55.2.9.5 **Best Practices.** Review and consider implementing the recommendations contained in Best Management Practices –Northern California Farmer’s Guide.



**ATTACHMENT 3**

**Draft Resolution Cannabis Dispensaries Ordinance**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19-**

**Case Number OR-15-001**

**RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 3 OF THE HUMBOLDT COUNTY CODE - REGULATIONS INSIDE THE COASTAL ZONE GOVERNING DISPENSING 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 July 19, 2016 the Board of Supervisors approved the Dispensaries Ordinance for the inland and coastal portions of the County, and directed staff to submit the coastal version to the Coastal Commission for certification; and

**WHEREAS**, County staff and Coastal Commission staff worked together to identify suggested modifications to address their concerns the ordinance was not consistent with the County's coastal plans and the Coastal Act; and

**WHEREAS**, on August 7, 2019 the Coastal Commission approved those modifications to the coastal version of the Dispensaries Ordinance; and

**WHEREAS**, for the ordinance to become effective, those modifications need to be approved by the Board of Supervisors with recommendations from the Planning Commission; and

**WHEREAS**, the proposed zoning text amendments may be approved if findings can be made that: (1) the proposed change is in the public interest; and (2) the proposed change is consistent with the General Plan; and (3) the amendment does 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; and; (4) the proposed change is consistent with the objectives of the Coastal Act and approved Local Coastal Plans.

**WHEREAS**, the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment) because the suggested modifications approved by the Coastal Commission increase protection of coastal resources consistent with the Local Coastal Plans and reduce impacts on the environment compared to the ordinances originally approved by the Board of Supervisors; and

**WHEREAS**, Exhibit A of this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning text; and

**WHEREAS** a public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

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

1. The Planning Commission makes the findings in Exhibit A of this resolution, which is incorporated fully herein, based on the evidence provided.

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

1. Hold a public hearing in the manner prescribed by law.
2. Find that the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment).

3. Take whatever formal action is necessary to implement the modifications.
4. Agree to issue coastal development permits subject to the approved Local Coastal Program.
5. Transmit the approved ordinance amendments to the Coastal Commission for final certification.
6. Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on \_\_\_\_\_, 2019.

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.

\_\_\_\_\_  
John H. 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**

3. The proposed zoning change is consistent with the General Plan.
4. The proposed change is in the public interest

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

3. 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).
4. 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 dispensing of cannabis for medicinal or adult use within the coastal zone portion of Humboldt County.  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. 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.  The modifications approved by the Coastal Commission align the Dispensaries Ordinance with the County's Local Coastal Plans as described in the findings approved by the Coastal Commission in the August 7, 2019 staff report.	

Section(s)	Applicable Requirements
§312-50 of the Zoning Ordinance	<b>Finding A2.</b> That the proposed zoning change is in the public interest
<b>Evidence Supporting Finding A2</b>  <p>These regulations are in the public interest because they are designed to protect the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated cannabis dispensing activities including neighboring property owners, 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.</p> <p>The modifications approved by the Coastal Commission align the Dispensaries Ordinance with the County's Local Coastal Plans which is also in the public interest.</p>	

**Finding B: 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
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)
<b>Evidence Supporting Finding B</b>  <p>The proposed ordinance amendments as modified by the Coastal Commission limit dispensaries to commercial zones, so the properties affected by the ordinance are not included in the residential land inventory used by the Department of Housing and Community Development in determining compliance with housing element law.</p>	

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

Section(s)	Applicable Requirements
Section 15091 of the CEQA Guidelines	<b>Finding C.</b> That the proposed zoning ordinance amendments comply with the requirements of CEQA
<b>Evidence Supporting Finding C</b>  <p>the project is exempt from environmental review per Section 15307 of the CEQA Guidelines (actions to assure protection of the environment) because the suggested modifications approved by the Coastal Commission increase protection of coastal resources consistent with the Local Coastal Plans and reduce impacts on the environment compared to the ordinances originally approved by the Board of Supervisors.</p>	

#### **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.

<b>Section(s)</b>	<b>Applicable Requirements</b>
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>
<p><b>Evidence Supporting Finding D</b></p> <p>The proposed zoning ordinance amendments as modified by the Coastal Commission will help protect coastal resources from harm resulting from cannabis activities, including streams, fish, and wildlife and wildlife habitat, and Tribal Cultural Resources.</p> <p>The new policies and performance standards provide guidance and new tools to address land use issues surrounding the siting and operational standards for dispensaries. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial resources are likely to occur.</p> <p>The suggested modifications will make the Dispensaries Ordinance for the coastal zone more consistent with the County's Coastal Plans and the Coastal Act as described in the findings adopted by the Coastal Commission at their meeting on August 7, 2019.</p>	

ATTACHMENT 4

DRAFT COASTAL VERSION OF THE DISPENSARIES ORDINANCE  
WITH THE MODIFICATIONS APPROVED BY THE COASTAL COMMISSION ON AUGUST 7, 2019

(AMENDMENTS TO CHAPTER 3 OF ZONING REGULATIONS - COASTAL)



**LCP-1-HUM-16-0075-2 Part B (Medical Dispensaries)**

**COMMISSION SUGGESTED MODIFICATIONS APPROVED AUGUST 7, 2019**

**Note:** County-adopted text deletions are shown in ~~black cross-out~~ text, and County-adopted text additions are shown in black underline text. Commission suggested modifications, which include County staff proposed “friendly modifications” (see Appendix B), are shown in ~~double cross-out~~ text for deletions and double underline text for additions.

313-55.3 Medical Cannabis Dispensaries

55.3.1 Authority and Title

~~This Section (hereafter all references to “this Section” or “this Code” mean Section 313-55.3 et seq. of the Humboldt County certified coastal zoning regulations) shall be known and may be cited as the Cannabis Land Use Code for Medical Dispensaries. This section applies to all medical Cannabis Dispensaries, as defined in this Code, that are located in the coastal zone.~~

55.3.2 Purpose and Intent

~~The purpose of this Section is to minimize the negative land use impacts that can be associated with the dispensing of medical cannabis by a Dispensary, as defined herein, to a qualified patient and to facilitate local implementation of the California Medical Cannabis Regulation and Safety Act (“MCRSA”).~~

55.3.3 Applicability and Interpretation

55.3.3.1 These regulations shall apply to the locating and permitting of medical cannabis Dispensaries in zoning districts which authorize this use, as specified under Section 55.3.8.2 of this Code.

55.3.3.2 The distribution of medical cannabis by medical cannabis Dispensaries within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Code, regardless of whether the distribution existed or occurred prior to the adoption of this Code.

~~55.3.3.3 All distribution of medical cannabis by medical cannabis Dispensaries, as defined herein, regardless of whether the use was previously approved by the Humboldt County Planning Commission or the Humboldt County Board of Supervisors, shall come into full compliance with these regulations within one (1) year of the adoption of the ordinance establishing this Code.~~

55.3.3.43 Nothing in this Code is intended, nor shall it be construed, to exempt the dispensing of medical cannabis by a dispensary or delivery service, as defined herein,

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

55.3.3.~~54~~ Nothing in this Code is intended, nor shall it be construed, to exempt ~~medical~~ cannabis Dispensaries, as defined herein, or other cannabis-related activities governed by these regulations from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.

55.3.3.~~65~~ Nothing in this Code is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting ~~medical~~ cannabis Dispensaries.

55.3.3.~~76~~ The definitions in this Code are intended to apply solely to the regulations herein. Applicable definitions in Humboldt County Code section 313-135 et seq. and section 111-1 et seq. may also apply to this Code.

#### 55.3.4 Severability

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

#### 55.3.5 Release of Liability and Hold Harmless

As a condition of approval for any conditional use permit and coastal development permit approved for ~~medical~~ cannabis Dispensaries, as defined herein, the owner or permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the operations of ~~medical~~ cannabis Dispensaries and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the handling or dispensing of ~~medical~~ cannabis.

#### 55.3.6 Penalties

All of the remedies provided for in this section shall be cumulative and not exclusive for violations of this Code.

Any violation of this Code 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.

### 55.3.7 Definitions

Except as otherwise provided, when used in this Code, the following terms shall have the following meanings:

*Church:* a non-profit organization that operates exclusively for religious purposes and is an organization as described in section 501(c) (3) of the Internal Revenue Tax Code, as amended. For purposes of this Code, “church” includes a church, synagogue, temple, mosque, or other place of worship and related church property, such as a school or a youth camp.

*Dispensing:* any activity involving the retail sale of ~~medical~~-cannabis or ~~medical~~-cannabis products from a dispensary.

~~*Medical Cannabis:* “Cannabis” 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 (as defined in Business and Professions Code section 19300.5(f)), including marijuana and cannabis concentrate (as defined in Business and Professions Code section 19300.5(g)), that has been recommended to an individual by a licensed physician for the treatment of an illness or disease pursuant to California Health & Safety 11362.5 et seq.~~

~~*Medical Cannabis Dispensary:* a facility where ~~medical~~-cannabis, ~~medical~~-cannabis products, or devices for the use of ~~medical~~-cannabis or ~~medical~~-cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers ~~medical~~-cannabis and ~~medical~~-cannabis products as part of -retail sale. This does not include ~~Medical Cannabis Research Laboratories and Testing Facilities; and Medical Cannabis Business Offices, as described under Sections 313-55.3.154 and 55.3.1613 of this code.~~~~

~~*Medical Cannabis Delivery Service:* A ~~medical~~-cannabis Dispensary, as defined herein, that delivers ~~medical~~-cannabis to ~~qualified patients~~ persons from a “store-front” base of operations located in a commercial or industrial zone within the unincorporated area of Humboldt County. A ~~medical~~-cannabis delivery service shall not be operated from a residential-zoned parcel and is not eligible for an address of convenience.~~

~~*Personal Use Medical Cannabis:* ~~medical~~-cannabis that is cultivated, processed, or stored for a single person or household’s exclusive use~~ single-qualified patient’s use.

*Place Where Children Congregate:* may include, but is not limited to, a school bus stop, park, playground, a school as defined herein, tutoring facility, or any establishment that either advertises in a manner that identifies it as providing services primarily intended for minors or the

individuals who regularly patronize, congregate, or assemble at the establishment are primarily minors.

~~Primary Caregiver: an individual designated by the qualified patient who has consistently assumed responsibility for the housing, health, or safety of that patient pursuant to statutory and case law.~~

~~Qualified Patient: a person who has a recommendation for medical cannabis by a licensed physician and is entitled to the protections offered by California Health & Safety Code Section 11362.5, and who may or may not have an identification card issued by the State Department of Public Health identifying the individual as a person authorized to engage in the use of medical cannabis.~~

Residential Treatment Facility: a facility, whether residential or non-residential, providing treatment for drug or alcohol dependency.

School: public or private institution of learning for minors offering a regular course of instruction as required by the California Education Code, or any child or day care facility licensed by the State of California. This includes a nursery school, kindergarten, Head Start program, elementary school, middle school, high school, continuation or vocational school for minors, or any special institute of education, but it does not include a vocational or professional institution of higher education primarily intended for students over eighteen (18), such as a community or junior college, college, or university.

#### 55.3.8 General Provisions

This section applies to all ~~medical~~ cannabis Dispensaries, as defined in this Code.

55.3.8.1 All ~~medical~~ cannabis Dispensaries shall operate in compliance with this Code, ~~the MCRSA,~~ and all other applicable state and local laws.

55.3.8.2 ~~Medical~~ Cannabis dispensaries shall only be allowed in specifically enumerated zones with a valid business license, and a conditional use permit and coastal development permit, issued pursuant to Section 312-3.1 of the code. Zoning districts where a Dispensary may be located are CN, CG, MB, and ML, ~~and MG.~~ Dispensaries may only be permitted in the MG zone and in the MC zone as an interim use as Microbusiness activities consistent with Section 313-55.4.

55.3.8.3 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a coastal development permit and a conditional use permit from the County of Humboldt to operate a Dispensary within the jurisdiction of the County.

55.3.8.4 Dispensaries shall at all times be operated in such a way as to ensure ~~the public~~ safety ~~of patients and staff~~, and to ensure the security of the ~~medical~~ cannabis, and to safeguard against the diversion of medical cannabis for non-medical purposes.

55.3.9 ~~Medical~~ Cannabis Dispensary Requirements

In addition to all other requirements for a conditional use permit and coastal development permit, and in addition to the requirements applicable to Adult Use Retail Sales of cannabis in section 313-55.4 of the coastal zoning regulations, all of the following terms and provisions must be met in order for the Planning Commission to consider granting or renewing a conditional use permit or coastal development permit to operate a ~~medical~~ cannabis Dispensary:

55.3.9.1 Preparation of a hazardous materials storage, handling, and disposal plan approved by the Division of Environmental Health, if applicable.

55.3.9.2 The Planning Commission shall specifically regulate the location of ~~medical~~ cannabis Dispensaries by considering the potential impacts and cumulative impacts of proposed ~~medical~~ cannabis Dispensaries to the community area as a whole and specifically on the following existing uses located within a 600 foot radius of a proposed Dispensary, regardless of whether those existing uses are located within the jurisdiction of the County. The Planning Commission shall have the discretion to deny a conditional use permit or a coastal development permit for any proposed ~~medical~~ cannabis Dispensary within 600 feet of the following uses if the Commission determines that the impacts of a proposed Dispensary have the potential to be significant on the following uses:

55.3.9.2.1 Residential neighborhoods and their inhabitants;

55.3.9.2.2 Church, as defined herein;

55.3.9.2.3 Playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate, as defined herein;

55.3.9.2.4 Residential treatment facilities, as defined herein; and

55.3.9.2.5 The cumulative impacts resulting from the addition of another cannabis dispensary, delivery service or other distribution or transfer facility when there are others within a 600 foot radius of the proposed new facility.

55.3.9.3 No ~~medical~~ cannabis Dispensaries, operators, establishments, or providers who possess, cultivate, or distribute ~~medical~~ cannabis shall be located within a 600-foot radius of a school ~~[Health & Safety Code section 11362.768 (b)]~~. This distance shall be measured in a straight line from the property line of the school to the property line of the ~~medical~~ cannabis dispensing facility, operator, establishment, or provider.

55.3.9.4 Submission of an Operations Manual and compliance with the Operating Standards, pursuant to sections 55.3.10 and 55.3.11 of this Code.

55.3.10 Operations Manual

Notwithstanding any other regulations or requirements for submitting an application for a conditional use permit or a coastal development permit, ~~medical~~ cannabis Dispensaries shall submit to the Planning Commission an Operations Manual which provides for the following:

55.3.10.1 Authorization for the County, its agents, and employees, to seek verification of the information contained within the conditional use permit and coastal development permit applications, the Operations Manual, and the Operating Standards at any time before or after the conditional use permit and coastal development permit are issued; and

55.3.10.2 A description of the staff screening processes, which shall include a requirement for criminal background checks; and

55.3.10.3 The hours and days of the week when the Dispensary will be open; and

55.3.10.4 Text and graphic materials showing the site, floor plan and facilities. The material shall also show structures and land uses within a 600 foot radius; and

55.3.10.5 A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification, and how these will assure the safety of staff and clients ~~and secure the medical cannabis against diversion for non-medical purposes~~; and

55.3.10.6 A description of the screening, ~~registration and validation~~ process and procedures for ~~qualified patients and primary caregivers~~ clients; and

55.3.10.7 A description of ~~qualified patient~~ client records acquisition and retention procedures and policies; and

55.3.10.8 A description of the processes, procedures and inventory controls for tracking the disparate strains, the source of supply, and amounts of ~~medical~~ cannabis that come in and go out of the Dispensary; and

55.3.10.9 Description of measures taken to minimize or offset the carbon footprint from operational activities; and

55.3.10.10 Description of chemicals stored, used and any effluent discharged as a result of operational activities; and

55.3.10.11 The procedure, documentation, and notice process for assuring the quality and safety of all ~~medical~~-cannabis distributed; and

55.3.10.12 The procedure and documentation process for determining ~~patient~~ dosage, including any testing for the major active agents in ~~medical~~-cannabis offered to ~~qualified patients~~clients, such as cannabinoids tetrahydrocannabinol (THC), Cannabidiol (CBD), and Cannabinol (CBN); and

55.3.10.13 Any other information as may be requested by the County, its employees, and/or by the Planning Commission; and

55.3.10.14 Dispensaries shall implement their policies and procedures as outlined in their Operations Manual as approved by the Planning Commission. Any deviations from or changes in the Operations Manual must be ~~conveyed to the Humboldt County Planning and Building Department in writing within thirty (30) days of the changes submitted to the Planning and Building Department for review for conformance with the approved permit. No changes in the Operations Manual are allowed unless authorized in writing by the Planning and Building Department.~~

#### 55.3.11 Operating Standards

Notwithstanding any other regulations or requirements, ~~medical~~-cannabis Dispensaries shall comply with all of the following operating standards:

55.3.11.1 Dispensaries that function as ~~medical~~-cannabis delivery services shall not operate from an address of convenience located in a residential zone, as this category of business is not eligible for an address of convenience. ~~Medical-e~~Cannabis delivery services shall only operate from a “store-front” Dispensary in a commercial or industrial zone with an approved conditional use permit and coastal development permit; and

55.3.11.2 ~~Medical-e~~Cannabis Dispensaries may not be operated by any persons who have been convicted of a felony in the last five (5) years; and

55.3.11.3 No dispensing of ~~medical~~-cannabis to an individual ~~qualified patient~~ shall be permitted more than twice a day; and

55.3.11.4 The hours of operation of ~~medical~~-cannabis Dispensaries shall be no earlier than 10 a.m. and no later than 7 p.m.; and

55.3.11.5 ~~Medical-C~~annabis Dispensaries shall only provide ~~medical~~ cannabis to an individual ~~qualified patient who has a valid, verified physician's recommendation issued in the State of California. Dispensaries shall verify on an annual basis, or more frequently if required by the State of California, that the physician's recommendations of their clients are current and valid~~over the age of 21 or qualified patients or caregivers as defined in the Health and Safety Code section 11357 et seq.; and

55.3.11.6 Dispensaries shall display their client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the Dispensary. A copy of the client rules and/or regulations shall be provided to ~~the qualified patient~~clients by a ~~medical~~ cannabis delivery service; and

55.3.11.~~87~~ Each building entrance to a ~~medical~~ cannabis Dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are qualified patients and they are accompanied by their parent or legal guardian; and

55.3.11.~~98~~ No ~~medical~~ cannabis Dispensary or delivery service shall provide ~~medical~~ cannabis to ~~any any~~ qualified patient ~~or holder of a medical cannabis recommendation~~ who is under 18 unless their parent or guardian has previously given written permission that is on file with the delivery service and that same parent or guardian is present to accept the delivery of ~~medical~~ cannabis; and

55.3.11.~~409~~ All ~~medical~~ cannabis Dispensaries shall display a copy of the inspection receipt issued by the Humboldt County Sealer of Weights and Measures for all weighing and measuring devices; and

55.3.11.~~410~~ All ~~medical~~ cannabis dispensed by Dispensaries must be obtained in accordance with ~~the MCRSA and other~~ applicable state and local laws; and

55.3.11.~~4211~~ All signs for ~~medical~~ cannabis Dispensaries must comply with sections 313-87.3 and 314-87.2 of the County Zoning Regulations; and

55.3.11.~~4312~~ An up-to-date inventory of all hazardous materials stored and used onsite shall be maintained on the premises of the ~~medical~~ cannabis Dispensary with a copy of this inventory provided to the Humboldt County Division of Environmental Health; and

55.3.11.~~4413~~ ~~Medical-Ce~~annabis Dispensaries shall maintain all necessary permits, and pay all required taxes and fees. Dispensaries shall also provide invoices to vendors to ensure vendor's tax liability responsibility; and



~~55.3.11.15 Medical cannabis Dispensaries shall implement their policies and procedures as outlined in their Operations Manual as approved by the Planning Commission. Any deviations from or changes in the Operations Manual or in the Operating Standards must be conveyed to the Humboldt County Planning and Building Department in writing within thirty (30) days of the change; and~~

~~55.3.11.14~~ 55.3.11.14 ~~Medical e~~Cannabis Dispensaries shall comply with any and all conditions of their conditional use permit and coastal development permit.

#### ~~55.3.12 Performance Review Reports~~

~~55.3.12.1 Medical eCannabis Dispensaries shall submit a “Performance Review Report” on an annual basis from their initial date of operation for review and approval by the Planning Commission. The Planning Commission may delegate review of the annual Performance Review Report to the Zoning Administrator at the time of the initial hearing or at any time thereafter. This annual “Performance Review Report” is intended to identify the effectiveness of the approved conditional use permit, Operations Manual, Operating Standards, and conditions of approval, as well as the identification and implementation of additional procedures as deemed necessary. In the event the Planning Commission identifies problems with specific CCDF that could potentially lead to revocation of the associated conditional use permit and coastal development permit pursuant to section 312-14 of the Humboldt County Code, the Planning Commission may require the submittal of more frequent “Performance Review Reports.”~~

~~55.3.12.2 Medical eCannabis Dispensaries shall be inspected by the Humboldt County Sheriff or his/her designee, and/or employees of the Humboldt County Planning and Building Department and/or the Code Enforcement Investigator on an annual basis, or more frequently as requested by the Planning Commission (or the Zoning Administrator if authority is delegated per section 55.3.12.1), to determine if the Dispensary is in compliance with its conditional use permit and coastal development permit, Operating Standards, and Operations Manual. After payment of the inspection fees as indicated in the following section, a copy of the results from this inspection shall be given to the Dispensary for inclusion in their “Performance Review Report” to the Planning Commission (or the Zoning Administrator if authority is delegated per section 55.3.12.1).~~

~~55.3.12.3 Inspection and review fees pursuant to the County’s adopted schedule of fees and charges, as amended from time to time by the Board of Supervisors, shall be paid by medical cannabis Dispensaries and accompany the “Performance Review Report” for costs associated with the inspection and the review of the report by County staff.~~

~~55.3.12.4 Non-compliance by medical cannabis Dispensaries in allowing the inspection by the above mentioned County personnel, or refusal to pay the required fees, or non-compliance in submitting the annual "Performance Review Report" for review by the Planning Commission shall be deemed grounds for a revocation of the conditional use permit and coastal development permit and/ or subject the holder of the permit(s) to the penalties outlined in this Code, above.~~

### 55.3.12 Permit Revocation & Transfer

~~55.3.12.1~~ A conditional use permit and coastal development permit shall be revoked or modified according to Humboldt County Code Section 312-14 (Revocation Procedures). Permit revocation or modification shall be sought for non-compliance with one or more of the requirements listed in this Code, for failure to comply with the requirements of the Humboldt County Certified Unified Program Agency (CUPA), or for the grounds listed in Section 312-14.1 and any successor provisions.

~~55.3.12.2~~ Conditional use permits and coastal development permits to operate a ~~medical~~ cannabis Dispensary may be transferred upon approval by the Planning Commission after a noticed public hearing.

### 55.3.13 ~~Medical~~ Cannabis Business Offices

~~Business offices for medical cannabis Dispensaries at which no cultivation, processing, storage, handling, or distribution of cannabis in any form occurs shall be allowed in any zone in which business offices are allowed. Medical Cannabis business offices shall be subject to all the regulations and standards applicable to business offices in the Humboldt County Code.~~