

## SUPPLEMENTAL INFORMATION

For Planning Commission Agenda of:  
September 3, 2020

<input type="checkbox"/>	Administrative Agenda Item	}
<input checked="" type="checkbox"/>	Continued Hearing Item	}
<input type="checkbox"/>	New Hearing Item	}
<input type="checkbox"/>	Old Business Item	}
<input type="checkbox"/>	New Business Item	}

Subject: Public Hearing on Draft Amendments to the Commercial Cannabis Land Use Ordinance (CCLUO) for:

- Small Cultivators (Case # PLN-2020-16447),
- Financial Security (Case # PLN-2020-16571), and
- Amendment to the Outdoor Cultivation of Cannabis for Personal Use on Small Parcel Ordinance (Case # PLN-2020-16479)

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

1. Responses to comments received on the draft cannabis ordinance amendments.
2. Revised Attachment 5 – Small Cultivator Amendments modified to respond to comments received.

**Responses to Public Comments on the Small Cultivator, Personal Use and Financial Security Amendments to the Cannabis Ordinances August 31, 2020**

<b>Name &amp; Date</b>	<b>Comment</b>	<b>Staff Response</b>
<i>Small Cultivator Amendments</i>		
Department of Environmental Health (DEH) Ben Dolf 7/23/2020	Section 55.4.6.1.2 and 55.4.6.5.1.1 add "Fertilizer/pesticide mixing and application occurs more than 50' from any groundwater well."	No changes are recommended because this requirement should be in the County's Health and Safety Code, not the CCLUO.
Department of Environmental Health (DEH) Ben Dolf 7/23/2020	Section 55.4.6.1.2 and 55.4.6.5.1.1, #6, modify to read: "The residence is served by a properly functioning sewage disposal system, and the cultivation will not permanently impact or eliminate area available for disposal field replacement."	No changes are recommended because the CCLUO makes a distinct separation between Cannabis Cultivation and existing residences. For example, Section 55.6.5.7 Provisional Permitting limits compliance agreements to "not extend to personal residences".
Thomas Mulder 8/2/2020	Add allowance for small operators to process in an ag exempt building.	No changes are recommended because they would require an amendment to the building code which is beyond the scope of this item.
Tribal Historic Preservation Officers from Bear River, Blue Lake, Wiyot and Yurok Tribes 8/7/2020	Concern regarding Section 55.4.5.1.5 of 1 <sup>st</sup> edition of Amendments, which did not include tribal consultation for applications within the "curtilage/homesite area"	Agreed. Tribal Consultation led to striking the proposed amendments to Section 55.4.5.1.5 so that new applications under the Small Cultivator Amendments have the same requirements as any CCLUO cultivation permit, which requires tribal consultation as part of the permitting process. The Tribes expressed agreement on the Planning Commission Hearing draft of 8/20. Another consultation meeting is scheduled on 9/1 with the

Name & Date	Comment	Staff Response
		Karuk Tribe. The results of that consultation will be presented to the Planning Commission during the public hearing.
Unknown caller 8/20/2020	Ordinance allows lights and fans and other components as long as they are powered by something other than a generator. We should only be allowing full sun outdoor cultivation with these amendments without use of any electricity.	Agreed. <b>Proposed modifications to the ordinance:</b> "4. Cultivation is full sun outdoor or outdoor within permitted or ag exempted hoopouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of <del>generators</del> <b>for</b> electrical power."
Unknown caller 8/20/2020	Concern about adding a definition for an on-site nursery which normally requires electricity. This is beyond the scope of the proposed amendments.	Agreed. While this is something that we need to address in the CCLUO, it is not necessary for the Small Farmer Amendment and should be removed. <b>Proposed modifications to the ordinance: Delete definition of On-Site Nursery.</b>
Eugene Denson 8/20/2020	Wants to see amendments to the whole of the CCLUO to include; 1. The permit is automatically approved in 30 days unless a letter with specific deficiencies has been sent. 2. The fees are capped at the amount of the deposit so that applicants will not be surprised by later charges.	No changes are recommended because amending the permit requirements for all other commercial cannabis activities is beyond the scope of this item.
Eugene Denson 8/20/2020	Disagrees that the water source requirement of Section 55.4.6.1.2(a) 3) needs to be both permitted	No changes are recommended to address these comments. While staff agrees with the comment

Name & Date	Comment	Staff Response
	<p>and non-diversionary. Recommends using <b>“jurisdictional water use must be permitted.”</b> because water use for the growing season could be supplied either by diversion of a class III stream in the rainy season or by captured rainfall. Thus, that non-diversionary requirement is cosmetic and not essential and does no harm to the environment. Additionally, a well might be permitted, but there is no need for a permit for rainfall capture.</p>	<p>that not all water capture methods require permits, in such cases, an application would be complete without a permit for the water source because the water source is permitted by default. Also, no changes are recommended to the non-diversionary water source requirement because they provide for streamlined permitting from state agencies.</p>
Eugene Denson 8/20/2020	<p>Section 55.4.4 definition of Permaculture is vague; it should reference some standards which can be understood and followed.</p>	<p>Agreed. The Planning Commission Hearing Draft Section 55.4.4 (definition of Permaculture) includes standards that can be understood and followed: <b>“the exclusive use of native soil; organic fertilizers, pesticides, rodenticides and insecticides; and use of water efficient irrigation systems for all commercial cannabis cultivation.”</b> No further changes are recommended.</p>
Eugene Denson 8/20/2020	<p>The cultivation must be “full sun”, reads that to preclude growing in partial shade, that is not the intent &amp; suggests deleting the term. <b>“Outdoor”</b> conveys what is wanted.</p>	<p>Agreed. The definitions in the CCLUO reference “outdoor” and do not reference “full sun”. To clarify, the following <b>proposed modifications have been made:</b>  <b>4. Cultivation is <del>full-sun-</del> outdoor or outdoor within permitted or ag exempted hoophouses or greenhouses</b>  ... </p>

Name & Date	Comment	Staff Response
Eugene Denson 8/20/2020	Section 55.4.6.1.2(a) 6) is unclear what "above" a leach field means that "on" a leach field doesn't. Suggests striking one or the other, but there's no harm as written if you don't mean to rule out land uphill from the field and that's made clear.	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	The requirements of Section (55.4.6.1.2 (a) 8) for the parcel being legally created is improper. If the parcel has an APN and the county collects taxes on it, then the legality of its creation is a technical issue for the county with no practical effect on cannabis cultivation and it should be dropped. These legal parcel issues seem go reach back for decades. I applaud wanting to straighten them out, but they have nothing to do with commercial cannabis cultivation. The county knows how to cure a parcel that is not "legally created" and should fix it without burdening the owner.	No changes are recommended to address these comments. This section helps ensure internal consistency between the proposed amendments and the other requirements of the Zoning Ordinance, specifically Title III, Section 312-11.2 of the Humboldt County Code which states that "Development permits shall be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations."
Eugene Denson 8/20/2020	Commenter applauds the cost of the permit not exceeding the deposit, but I would feel more comfortable knowing what the deposit will be.	Currently, the deposit for a Zoning Clearance Certificate is approximately \$3,000.
Sarah Bstar 8/20/2020	Definitions, "Home-site": Commenter asks if this means a permitted residence, because a lot of	No changes are recommended to address these comments. The Homesite Area definition

Name & Date	Comment	Staff Response
	<p>rural dwellings are not permitted, despite residents' willingness to do so. The long debate over rural living has not "had its day in court". The community's reactions to code enforcement actions since the 80's have clearly (and loudly) expressed interest in non-standard development.</p>	<p>describes the area around a home without establishing a permit requirement for the home.</p>
<p>Sarah Bstar 8/20/2020</p>	<p>Definition of Permaculture seems at odds to say that water must be stored in plastic lined ponds or tanks but that growing must occur in the ground. And that a key principle in Permaculture is groundwater recharge and value added cultivation is part of a fully functioning homestead. For example, breeding chickens for select traits in a controlled environment, cage culturing fish or utilizing greenhouses for the growing of specialty crops are all components to natural farming. The commenter provides examples of permaculture techniques.</p>	<p>No changes are recommended to address these comments. The proposed amendments do not require water be stored in plastic lined ponds or tanks.</p>

Name & Date	Comment	Staff Response
Sarah Bstar 8/20/2020	CEQA Addendum, The industrial model that has appeared on the landscape since the adoption of Humboldt County's Commercial Cannabis Cultivation Ordinance has encouraged more ground disturbance, more stream and road work, more infrastructure and more vegetation disturbance than the CEQA suggests. The abatement of small scale family farms, that were giving back to the land and living simply so that others may simply live has done irreparable harm to both the human and nonhuman communities.	These comments are directed at the EIR for the CCLUO – they are not directed at the proposed Addendum. The proposed amendments are intended to encourage the entry of the small family farms mentioned by the commenter into the legal cannabis marketplace. No changes are recommended to address these comments.

<i>Personal Use Amendments</i>		
Thomas Mulder 8/2/20	Allow up to 400sf if a parcel over 5 acres.	Agreed. Proposed Planning Commission Hearing Draft allows up to 400sf of outdoor cultivation if a parcel is over 5 acres in size
Thomas Christie 08/14/2020	Commenter asked if the proposed Amendments to the Ordinance would mean if there is a current 215 registered to the property, I can still do 99 or less?	No changes are recommended to address these comments. Staff notes that State law limits personal use cannabis cultivation to a maximum of six plants per household - the County's cannabis ordinances do not modify those limits.
Laura Cooskey 8/15/2020	Commenter had several questions about how the Amendments to the Ordinance are proposed and how that works with State Law and the Sheriff's Department. She has gotten conflicting information and wants to understand what is allowed on her parcel that has two (2) residences on it.	No changes are recommended to address these comments.
Michael M Gordon 08/19/2020	Commenter is concerned that the Proposed New Amendments to Establish Personal Use Allowances for Large Parcels is NOT adequate to address the needs of Qualified Patients and Primary Caregivers. And provides the following proposed revision (in bold): 55.2.7.1 It shall not be deemed a nuisance per se for a <b>"Qualified Patient" or "Primary Caregiver"</b> to cultivate medicinal Cannabis outdoors for therapeutic use as an alternative to indoor cultivation, as defined herein, if	No changes are recommended to address these comments. While the Personal Use Ordinance could benefit by adding standards for Primary Caregivers, this is outside the scope of the proposed amendments - to establish standards for Personal Use cultivation on parcels larger than five acres in size because there are currently no provisions for Personal Use on parcels larger than five acres in size. Staff is concerned that adding fixes outside of those necessary to



	the following restrictions are adhered to:	fulfill the purpose of the amendments can distract from and unnecessarily complicate the review of the proposed amendments.
Michael M Gordon 08/19/2020	Commenter suggests the following changes in bold: 55.2.7.2.2 On parcels greater than one (1) acre and up to five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoors may not exceed two hundred (200) square feet in size <b>for each "Qualified Patient" who resides at the property not to exceed four hundred (400) square feet</b> , nor may cultivation occur 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	No changes are recommended to address these comments. The intent of this Amendment is a clean-up item of the County's personal cannabis cultivation ordinances, because there are currently no provisions for Personal Use on parcels larger than five acres in size. The change suggested in this comment would allow parcels between one to five acres in size to have up to 400 square feet of canopy which is beyond the scope of these amendments.
Michael M Gordon 08/19/2020	<b>55.2.7.2.3 On parcels greater than five (5) acres in size, the total plant canopy of medical marijuana cultivated outdoor may not exceed two hundred (200) square feet in size for each "Qualified Patient" who resides at the property or "Qualified Patient" designated to a "Primary Caregiver" who resides at the property, not to exceed a total of twelve hundred (1200) square feet, nor may cultivation occur within forty (40) feet of a property boundary line, where the</b>	No changes are recommended to address these comments. State law limits Personal Use cultivation to six plants per household. The proposed 400 square foot canopy limit is sufficient to accommodate the state's maximum allowances for Personal Use cultivation.

	<b>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</b>	
Eugene Denson 8/20/2020	Proposition 64 does not pertain to medical cannabis. See Health and Safety Code section 11018 where it cites the Proposition to state it applies to "nonmedical cannabis."	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	Health and Safety Code section 11362.1 was contained in Prop. 64 and it allows 6 plants. As the Prop did not apply to medical cannabis, neither does this section of the Health and Safety Code	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	HCC Section 314.5.2. does not apply to the 6 plants under HSC 11362.1	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	Proposition 215 (Health and Safety Code 11362.5) remains the law in California. Much of the interpretation of this brief law has been in court decisions handed down since 1996 when it became law. The commenter provides these sections and interprets the court cases. The commenter makes points that medical cannabis amounts are set between doctor and patient, not by the state, county or city.	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	There is nothing inherent in the cultivation of cannabis that requires non-commercial medical cultivation to be limited to 400 square feet on parcels larger than 5 acres. Indeed, the county encourages commercial cultivation and has permitted	No changes are recommended to address these comments. State law limits Personal Use cultivation to six plants per household. The proposed 400 square foot canopy limit is sufficient to accommodate the state's

	<p>many operations 25, 50, even 500 times larger than the medical limit sought. In fact, the county is presently contemplating an ordinance with concessions for "small farmers" who will restrict themselves to operations 5 times larger than the proposed limit on non-commercial medical gardens. If 401ft<sup>2</sup> of cannabis threatens the health and safety of the county's residents, those dangers must be nothing compared with the dangers 10,000 ft<sup>2</sup> or 100,000 ft<sup>2</sup> create, right? The health and safety rationale for this regulation won't work,</p>	<p>maximum allowances for Personal Use cultivation.</p>
<p>Eugene Denson 8/20/2020</p>	<p>There being no legal or medical purpose in restricting the size of medical gardens, it seems apparent that the ordinance's purpose is to bolster the county's failing commercial licensing system by driving more people to have to buy their medicine rather than grow it. Or, to put it more kindly, the Board believes that the doctors, despite their years of demanding education and their years of experience in practice, are mistaken about their patients' needs; and the amendment's purpose is to correct these medical professionals mistakes by replacing their medical opinions with the medical opinions of a majority of the Board of Supervisors.</p>	<p>See above response.</p>

Eugene Denson 8/20/2020	If the Board believes that driven by need or greed medical patients might sell their medicine, society has a way to handle that: criminal laws enforced by the Sheriff. Rather than reduce legal medicine to sick people, increase the Sheriff's budget and leave the crime-stopping to people trained to do it. Using civil law to preemptively prevent crime is a perversion of good government. In the justice system "It is better than 10 guilty people go free than that 1 innocent person be convicted." I believe that is the proper standard for the Board to use. Why should the people trust a government that doesn't trust them?	No changes are recommended to address these comments.
Eugene Denson 8/20/2020	The US and State Constitutions guarantee the people equal treatment under the law. This goes for medical patients growing their cannabis as well as large scale commercial enterprises. You might be able to justify being stricter with commercial growers than with sick individuals, but I don't think you can justify the opposite.	No changes are recommended to address these comments.

<i>Financial Security Amendments</i>		
Thomas Mulder 8/7/20	Seeking clarification – if an owner is an applicant and agrees to pay the taxes, no performance bond is required.	Agreed. Also, if the property owner is leasing their property to an applicant and the owner agrees to pay the taxes no performance bond is needed. No ordinance changes are necessary.
Ross Huber, C&D Huber 8/20/20	Opposed to Amendments – believes it's unfair to penalize legal cannabis farms by requiring bonds vs. other businesses	No changes are recommended to address these comments. Although some changes are being made to the Commercial Marijuana Cultivation Tax Code, these amendments are intended to better align the CCLUO. Additionally, with a property owner's agreement and/or approval, no additional costs will be incurred by cultivators who are either property owners or have permission from the property owner to make an agreement to pay taxes.
Eugene Denson 8/20/2020	I am not a tax attorney, so there's lots I don't know about taxation, but I can't think of any other special tax that has to be paid in advance. Doesn't the County trust the growers? They are very people who are the financial backbone of the County economy, after all. The advance payment sections of this ordinance make me feel a bit more like living in a County occupied by a foreign power than like we have a government that is part of our community. We seem to have a government of the government, by the government and for the government.	No changes are recommended to address these comments. Advance payment is one option, bond is another, written consent of the owner is another which doesn't require advance payment of taxes.

Eugene Denson 8/20/2020	I am not a specialist in governmental law, but don't you think it's strange that the security for taxes is being given to the Planning Department and not the Tax Collector?	No changes are recommended to address these comments. The Planning Department oversees compliance with the CCLUO which is proposed to now have a requirement for security for upcoming taxes due in the upcoming growing year. Administration of this requirement is functionally related to ensuring compliance with the other annual permit requirements, so it is logical for the Planning Department to take on these additional duties.
Eugene Denson 8/20/2020	These prepayments of the taxes place yet another burden on the cultivators. It wasn't long ago that the county was postponing tax payments so that struggling growers could harvest before paying.	No changes are recommended to address these comments. As stated previously, the proposed ordinance includes an option that does not require any prepayment.
Eugene Denson 8/20/2020	These impositions of advance taxes show the complete lack of faith the County has in the people it governs. This is not a healthy relationship between the government and the governed.	No changes are recommended to address these comments.
Holly Carter 8/20/2020	While the overdue bills are certainly a concern, the burden to be placed on the permit holders and the planning department to acquire and accurately track additional paperwork or payments. As we are all aware, there have been concerns in this regard, and I have concerns with adding layers of compliance and paperwork for all involved. The cost burden is another concern, a concern shared by our Board	No changes are recommended to address these comments. Staff acknowledges these new requirements will increase the paperwork required for commercial cannabis applicants. This is balanced with fairer treatment for all applicants by ensuring up-front payments or owner consent to pay upcoming tax bills.

	when the timing of payment was shifted.	
Holly Carter 8/20/2020	As a condition to compliance, non-payment of the cultivation tax already is a trigger for permit to be deactivated. Please encourage departments to utilize the tools already available, rather than add hurdles.	No changes are recommended to address these comments. Ensuring upfront payments or owner consent to pay upcoming tax bills is a less disruptive option than permit deactivation for the County and applicants.
Margro Advisors 8/20/2020	Commenter is writing in firm opposition to the proposed Financial Security amendments ordinance. These changes assume that all legal tax paying Cannabis farmers are expected to be delinquent in paying their excise tax. Additionally, this proposed requirement which does not exist for other types of farmers, once again shows the county's ongoing discrimination against those who have the courage to willingly travers the many challenges which exist on the path to legal Cannabis permitting, licensure, and ongoing compliance.	No changes are recommended to address these comments. With a property owner's consent to pay upcoming tax bills, no additional costs will be incurred by applicants.
Margro Advisors 8/20/2020	Commenter states that if late fees are still insufficient penalties, then a bond should only be required for repeat offenders who have failed to pay. To that we say punish the bad actors if you must, but stop punishing those who deserve our support for the courage to weather these ongoing challenges in a highly-regulated market. To do otherwise, is not in the best interest of our community.	While this alternative mechanism for ensuring financial security for upcoming tax bills should be considered, staff believes the proposed mechanism is more likely to result in fairer treatment of all commercial cannabis applicants.

**ATTACHMENT 5**

**DRAFT SMALL CULTIVATOR AMENDMENTS TO THE  
COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO)**

**Modified to Respond to Comments Received**



ORDINANCE AMENDING SECTIONS 314-55.4.6.1, 314-55.4.6.5 AND 314-55.4.12.1.10 OF THE COMMERCIAL CANNABIS LAND USE ORDINANCE IN CHAPTER 4 - ZONING REGULATIONS (TITLE III OF HUMBOLDT COUNTY CODE) TO FACILITATE PERMITTING OF SMALL FARMS ADJACENT TO HOMES

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

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

SECTION 1. PURPOSE. The ordinance facilitates permitting of small new and pre-existing cannabis farms adjacent to homes that existed prior to December 31, 2016 by establishing a streamlined permitting pathway. The eligible farms minimize the impacts on the environment and archaeological resources because they are owner-occupied, the cultivation area is no more than 2,000 square feet in size and within the already disturbed homesite area of the existing home. Also, water for irrigation is provided from permitted non-diversionary sources, permaculture is practiced, and the cultivation is done outdoors or in permitted or ag exempted hoophouses/greenhouses and does not use generators for electrical power.

SECTION 2. TEXT AMENDMENTS.

Section 314-55.4.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

55.4.4        **DEFINITIONS**

“Homesite Area” means the land up to 2-acres immediately surrounding a house or dwelling, including any closely associated buildings and structures, garden, storage, driveway and parking areas, but excluding any associated "open fields beyond", and also excluding any closely associated buildings, structures, or divisions that contain the separate activities of their own respective occupants with those occupying residents being persons other than those residents of the house or dwelling of which the building is associated.

“On-site Nursery” means a facility that produces only clones, immature plants, and seeds for licensed cultivators to be used specifically for on-site planting, propagation, and cultivation of cannabis, of which does not exceed 20% of the area of the Cultivation Area.

“Permaculture” means is a set of design principles centered on whole systems thinking, simulating, or directly utilizing the patterns and resilient features observed in natural ecosystems. Commonly associated with permaculture include agro-forestry, swales, contour plantings, soil and water management, hedgerows and windbreaks, and integrated farming systems such as pond-dike aquaculture, aquaponics, intercropping, and polyculture. For the purposes of this Section, Permaculture includes the exclusive use of native soil; organic fertilizers, pesticides, rodenticides and insecticides; and use of water efficient irrigation systems for all commercial cannabis cultivation.

Section 314-55.4.6.1 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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

**55.4.6.1.1 Zoning**

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

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

- a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:
1. Cultivation is located within the Homesite Area of the home, and the home existed prior to December 31, 2016; and
  2. The property is owner-occupied; and
  3. Water source for Irrigation is permitted and non-diversionary; and
  4. Cultivation is **full-sun** outdoor or outdoor within permitted or ag exempted hoopouses or greenhouses without the use of lights or fans or other components which would otherwise require the use of **generators for** electrical power; and
  5. Permaculture is practiced; and
  6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
  7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
  8. The parcel is confirmed to be a legally created parcel.

Where an application for cultivation meets all the above criteria, the application is exempted from section 55.4.12.1.8- Performance Standard–Road Systems, and as long as a Special Permit or Conditional Use Permit is not otherwise required, the application shall be processed as a Zoning Clearance and approved within 30 days, or will be automatically approved unless the applicant is notified in writing of specific deficiencies related to compliance with this Section. The cost of the Zoning Clearance Certificate shall not exceed the initial deposit for processing the application.

- ~~a~~ b) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size:
- 1) up to 5,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
  - 2) up to 10,000 sq. ft. of Cultivation Area with a Special Permit.
- ~~b~~ c) On parcels 10 acres or larger in size:
- 1) up to 10,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
  - 2) up to 43,560 sq. ft. of Cultivation Area with a Special Permit.

- e d) On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted. All cultivation areas must have access from paved roads with centerline stripe, meeting the Category 4 standard. Exceptions may be considered subject to a separate Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation (prepared by a licensed engineer) of the local road network providing access to the site. The Hearing Officer shall not grant an exception unless there is substantial evidence to support a finding that the cultivation sites will not adversely affect the public health, safety, and welfare because the roads as they exist or are improved provide fire safe road access, capacity to support anticipated traffic volumes, maintain water quality objectives, and protect sensitive habitats.

Section 314-55.4.6.5 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

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

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

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

Except as stated below, applications for Pre-Existing Cultivation Sites submitted before December 31, 2018 may be permitted at one hundred percent of the documented pre-existing cultivation area and applications for pre-existing cultivation submitted between January 1, 2019 and December 31, 2019 shall not be approved for more than fifty percent of the documented existing cultivation area. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019, except applications for cultivation sites of 2,000 square feet or less pursuant to Section 55.4.6.5.1.1(a) may be submitted after December 31, 2019, and (b) may be permitted for one hundred percent of the documented pre-existing Cultivation Area up to 2,000 square feet.

##### **55.4.6.5.1 Small Cultivation Sites**

55.4.6.5.1.1 On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

- a) On parcels one acre or larger in size, up to 2,000 square feet of Cultivation Area is allowed on a property where all the following criteria are met:

1. Cultivation is located within the 2-acre Homesite Area of the home, and the home existed prior to December 31, 2016; and
2. The property is owner-occupied; and
3. Water source for Irrigation is permitted and non-diversionary; and
4. Cultivation is **full-sun** outdoor or outdoor within permitted or ag exempted hoophouses or greenhouses without the use of lights or fans or other components which would otherwise require the use **of generators for** electrical power; and
5. Permaculture is practiced; and
6. Cultivation is not located on, above, or disrupting leach field areas or systems; and
7. The Cultivation Area is not located on a parcel with any other Commercial Cannabis Activity; and
8. The parcel is confirmed to be a legally created parcel.

Where an application for cultivation meets all the above criteria, the application is exempted from section 55.4.12.1.8- Performance Standard–Road Systems, and as long as a Special Permit or Conditional Use Permit is not otherwise required, the application shall be processed as a Zoning Clearance and approved within 30 days, or will be automatically approved unless the applicant is notified in writing of specific deficiencies related to compliance with this Section. The cost of the Zoning Clearance Certificate shall not exceed the initial deposit for processing the application.

55.4.6.5.1.2 On Parcels 5 acres or larger in size, up to 3,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Zoning Clearance Certificate, subject to the following additional requirements and allowances:

- a) The operator's principal residence is located on the same parcel and the residence was in existence before January 1, 2016
- b) Not more than one cultivation permit may be issued for the same Parcel.
- c) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply
- d) The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:
  - i. Within one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant 55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.
  - ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.
- e) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

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

55.4.6.5.3 On parcels between one acre and five acres in size, up to 3,000 square feet of Cultivation Area may be permitted with a Special Permit.

SECTION 3. SEVERABILITY. The individual parts of this ordinance are severable, such that if one or more parts are determined to be invalid, all the other parts will remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED, AND ADOPTED the \_\_\_\_ day of \_\_\_\_\_, 2020, on the following vote, to wit:

AYES: Supervisors

NOES: Supervisors

ABSENT: Supervisors

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ESTELLE FENNELL, Chair  
Board of Supervisors, County of Humboldt  
State of California

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

By: \_\_\_\_\_  
Ryan Sharp, Deputy Clerk

Date: