

ORDINANCE No. \_\_\_\_\_

An ordinance amending Title III of the Humboldt County Code relating to the commercial cultivation, processing, manufacturing and distribution of cannabis for medical use.

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

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

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

55.4.1 Authority and Title

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

55.4.2 Purpose and Intent

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

55.4.3 Applicability and Interpretation

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

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

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

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

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

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

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

#### 55.4.4 Severability

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

#### 55.4.5 Release of Liability and Hold Harmless

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

#### 55.4.6 Penalties and Enforcement

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

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

#### 55.4.7 Definitions

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

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

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

“Cultivation Area” the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

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

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

“Indoor” means indoor cultivation using exclusively artificial lighting.

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

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

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

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

“Outdoor” means outdoor cultivation using no artificial lighting.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

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

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

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

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

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

#### 55.4.8 General Provisions

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

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

55.4.8.2 Outdoor and Mixed Light commercial cultivation of cannabis for medical use shall be allowed in specifically enumerated zones in which general agriculture is a principally permitted use, or a conditional use, only with a Zoning Clearance Certificate, Special Permit, or Use Permit issued pursuant to Sections 312-2.1 or 312-3.1 of the Humboldt County Code. Inside the Coastal Zone, zoning districts where the Outdoor and Mixed-Light commercial cultivation of cannabis for medical use may be located are RA, AE, TC, and TPZ (within any 3 acre conversion exemption area), subject to the conditions and limitations set forth in this Section.

55.4.8.3 In the CG, MB, ML, MG zoning districts, indoor commercial cultivation of cannabis for medical use shall be principally permitted subject to the conditions and limitations set forth in this Section, provided there is sufficient on-grid electrical power and municipal water or permitted well water available to meet the demand of the indoor cultivation site. In AE zones, indoor commercial cultivation of cannabis for medical use may occur as a principally permitted use or with a Use Permit, pursuant to the “indoor” parcel size and cultivation area provisions described in the table of permit types, and subject to the conditions and limitations set forth in this Section.

55.4.8.4 Processing Facilities for commercial cannabis for medical use shall be a conditionally permitted use inside the Coastal Zone in zoning districts CG, MB, ML,

MG, and AE, subject to a Use Permit and the conditions and limitations set forth in this Section.

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

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

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

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

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

55.4.8.10 No more than four commercial cannabis activity permits of any type enumerated in Sections 55.4.8.2 through 55.4.8.7 of this ordinance may be issued to a single person, as defined herein. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities.

#### 55.4.9 Permit Types

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

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

In the Coastal Zone, with a Zoning Clearance Certificate or permit type specified below, Outdoor and Mixed-Light cultivation is permitted on all 'Agricultural Land' or in zones in which 'General Agriculture' is a principal permitted use (RA, AE, TC, or TPZ)			
	<u>Parcel Size</u>	<u>Permit Tier</u>	<u>Cultivated Area Size Limit</u>
<b>OUTDOOR</b>	<b>less than 1 acre</b>	I - Zoning Clearance Certificate	100 sq ft
	<b>1 - 5 acres</b>		200 sq ft
	<b>0 - 5 acres</b>	III - Use Permit	>200 - 43,560 sq ft
	<b>&gt; 5 acres to 10 acres</b>	I - Zoning Clearance Certificate	up to 3,000 sq ft
		III - Use Permit	>3,000 - 43,560 sq ft
	<b>&gt; 10 acres to 30 acres</b>	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 - 43,560 sq ft
	<b>&gt; 30 acres to 320 acres</b>	I - Zoning Clearance Certificate	up to 10,000 sq ft
		II - Special Permit	10,000 - 20,000 sq ft
		III - Use Permit	>20,000 - 43,560 sq ft
	<b>&gt; 320 acres +</b>	I - Zoning Clearance Certificate	up to 20,000 sq ft
		III - Use Permit	>20,000 - 43,560 sq ft
	<b>MIXED - LIGHT</b>	<b>less than 1 acre</b>	I - Zoning Clearance Certificate
<b>1 - 5 acres</b>		200 sq ft	
<b>0 - 5 acres</b>		III - Use Permit	>200 - 22,000 sq ft
<b>&gt; 5 acres to 10 acres</b>		I - Zoning Clearance Certificate	up to 3,000 sq ft
		III - Use Permit	>3,000 - 22,000 sq ft
<b>&gt; 10 acres to 30 acres</b>		I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 - 22,000 sq ft
<b>&gt; 30 acres to 320 acres</b>		I - Zoning Clearance Certificate	up to 10,000 sq ft
		II - Special Permit	10,000 - 22,000 sq ft
<b>&gt; 320 acres +</b>		I - Zoning Clearance Certificate	up to 22,000 sq ft

Indoor Cultivation permitted in AE Zones with on-grid power and non-diversionary source of water with Zoning Clearance Certificate or permit type specified below.			
<b>INDOOR - AE</b>	<b>less than 1 acre</b>	I - Zoning Clearance Certificate	100 sq ft
	<b>1 - 5 acres</b>		200 sq ft
	<b>0 - 5 acres</b>	III - Use Permit	>200 - 22,000 sq ft
	<b>&gt; 5 acres to 10 acres</b>	I - Zoning Clearance Certificate	up to 3,000 sq ft
		III - Use Permit	>3,000 - 22,000 sq ft
	<b>&gt; 10 acres to 30 acres</b>	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 - 22,000 sq ft
	<b>&gt; 30 acres to 320 acres</b>	I - Zoning Clearance Certificate	up to 10,000 sq ft
		II - Special Permit	10,000 - 22,000 sq ft
<b>&gt; 320 acres +</b>	I - Zoning Clearance Certificate	up to 22,000 sq ft	
Indoor Cultivation Permitted in CG, MB, ML and MG Zones with on-grid power and non-diversionary source of water with zoning clearance or permit type specified below.			
<b>INDOOR</b>	Must be within footprint of structure allowed within applicable zone	I - Zoning Clearance Certificate	up to 22,000 sq ft

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



55.4.9.1 Processing of cannabis that is cultivated pursuant to a Zoning Clearance Certificate may occur at the cultivation site if the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11(o) thru (s) below are met. Processing for cultivation requiring a Special Permit or Use Permit will be considered in the Use Permit application. All processing that will not occur at the cultivation site is subject to a Use Permit application. Processing may occur in all of those zones where indoor and outdoor cultivation may occur.

55.4.9.2 Multiple applicants may obtain a Zoning Clearance Certificate for outdoor cultivation, mixed-light cultivation, or both on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in section 55.4.9.

55.4.9.3 A combination of the permit types that may be allowed in the same zone (e.g. outdoor and mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel for those permit types, may be processed with a single Zoning Clearance Certificate application. Permitting for a combination of permit types that is larger than the area that may be processed with a Zoning Clearance Certificate, or may be processed with a single Special Permit or Conditional Use Permit, as applicable.

#### 55.4.9.4 Pre-Application Registration of Existing Cultivation Site

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

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

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

55.4.10. Application Requirements for All CMMLUO Clearances or Permits

- a) The name, contact address and phone number(s) of the applicant.
- b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- c) Site plan showing the entire parcel, including easements, streams and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet.
- d) A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper use and storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season.
- e) Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable.
- f) Description of water source, irrigation plan, and projected water usage.
- g) Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- h) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- i) If the source of water is a well, a copy of the County well permit, if applicable.
- j) If the parcel is zoned TC or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre

conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE).

- k) Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter.
- l) For indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes.
- m) Acknowledge that the county reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe “government to government” consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS).

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

- a) Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional clearance or permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings and sites that are used for commercial cannabis activity and shall not extend to personal residences or other structures that are not used for commercial cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 55.4.13 below, except the Planning Commission, and not the

Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.

- b) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.
- c) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- d) The area of cannabis cultivation shall be located as shown on the application site plan, set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, Public Park, or Tribal Cultural Resources. The minimum setback required from property lines or adjacent uses may be waived or reduced with the express consent of the adjacent property owner and occupant. Cultivation areas and associated facilities shall observe all required setbacks from watercourses, wetlands and Environmentally Sensitive Habitat Areas, as described within sections 313-33 and 313-38 of the code, as well as applicable resource protection policies and standards of the Local Coastal Plan. For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to 314-61.1.
- e) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- f) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023, is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.
- g) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- h) Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE).
- i) Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).

- j) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA).
- k) Pay all applicable application and annual inspection fees.
- l) Where surface water diversion provides any part of the water supply for irrigation of cannabis cultivation, the applicant shall either: 1) consent to forebear from any such diversion during the period from May 15<sup>th</sup> to October 31<sup>st</sup> of each year and establish on-site water storage for retention of wet season flows sufficient to provide adequate irrigation water for the size of the area to be cultivated, or 2) submit a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar qualified professional, that establishes minimum water storage and forbearance period, if required, based upon local site conditions, or 3) obtain approval from the RWQCB through enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan.
- m) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, “emergency” is defined as: “a sudden, unexpected occurrence demanding immediate action.”
- n) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Coastal Development Permit, Special Permit, or Use Permit.

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

- o) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall “provide a statement declaring the applicant is an ‘agricultural employer,’ as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.”
- p) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
- q) Cultivators engaged in processing shall comply with the following Processing Practices:
  - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.

- iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
- r) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - 1) Emergency action response planning as necessary;
    - 2) Employee accident reporting and investigation policies;
    - 3) Fire prevention;
    - 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
    - 5) Materials handling policies;
    - 6) Job hazard analyses; and
    - 7) Personal protective equipment policies, including respiratory protection.
  - ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - 1) Operation manager contacts;
    - 2) Emergency responder contacts;
    - 3) Poison control contacts.
  - iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- s) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:
- i. Summary of Processing Practices.
  - ii. Description of location where processing will occur.
  - iii. Estimated number of employees, if any.
  - iv. Summary of Employee Safety Practices.
  - v. Description of toilet and handwashing facilities.
  - vi. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
  - vii. Description of source of drinking water for employees.
  - viii. Description of increased road use resulting from processing and a plan to minimize that impact.
  - ix. Description of on-site housing, if any.

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

- t) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- u) The light source should comply with the International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Humboldt County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.
- v) The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.
- w) Storage of Fuel. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.

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

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

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

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

#### 55.4.13 Appeal of Inspection Determination

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

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

#### 55.4.14 Cap on Total Number of Permits

There shall be no cap on the number of permits issued pursuant to this Ordinance, but this provision shall be reviewed every three months by the Planning Commission to evaluate the possibility of implementation of a cap.

#### 55.4.15 Retirement, Remediation, and Relocation (RRR)

The county shall develop a program to incentivize, promote, and encourage the retirement, remediation and relocation of existing cannabis cultivation occurring in inappropriate or marginal sites to relocate to environmentally superior sites.

#### 55.4.16 Humboldt Artisanal Branding

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

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

#### 55.4.17 Disclosure

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



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

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

55.4.1 Authority and Title

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

55.4.2 Purpose and Intent

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

55.4.3 Applicability and Interpretation

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

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

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

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

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

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

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

#### 55.4.4 Severability

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

#### 55.4.5 Release of Liability and Hold Harmless

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

for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

#### 55.4.6 Penalties and Enforcement

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

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

#### 55.4.7 Definitions

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

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

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

“Cultivation Area” the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

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

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

“Indoor” means indoor cultivation using exclusively artificial lighting.

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

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

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

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

“Outdoor” means outdoor cultivation using no artificial lighting.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

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

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

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

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

and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

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

#### 55.4.8 General Provisions

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

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

55.4.8.2 Outdoor and Mixed-Light Commercial cultivation of cannabis for medical use shall be allowed in specifically enumerated zones in which general agriculture is a principally permitted use, or conditional use, only with a Zoning Clearance Certificate, Special Permit, or Use Permit issued pursuant to Sections 312-2.1 or 312-3.1 of the Humboldt County. Zoning districts where the commercial cultivation of cannabis for medical use may be located are RA, AG, AE, FR, TPZ, and U (where the General Plan designates the area for agricultural development), subject to the conditions and limitations set forth in this Section.

55.4.8.3 In the C-2, C-3, MB, ML, and MH zoning districts, indoor commercial cultivation of cannabis for medical use shall be principally permitted subject to the conditions and limitations set forth in this Section, provided there is sufficient on-grid electrical power and municipal water or permitted well water available to meet the demand of the indoor cultivation site. In AE zones, indoor commercial cultivation of cannabis for medical use may occur as a principally permitted use or with a Use Permit, pursuant to the “indoor” parcel size and cultivation area provisions described in the table of permit types, and subject to the conditions and limitations set forth in this Section.

55.4.8.4 Processing Facilities for commercial cannabis for medical use shall be a conditionally permitted use in C-2, C-3, MB, ML, MH and AE zoning districts, subject to a Use Permit and the conditions and limitations set forth in this Section.

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

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

55.4.8.7 Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale shall be a conditionally permitted use in zoning districts C-2, C-3, ML, MH and MB, subject to a Use Permit and the conditions and limitations set forth in this Section. Nurseries producing commercial cannabis nursery products for bulk wholesale sale or to supply retail nursery outlets held under the same license shall be a conditionally permitted use in the AE zoning district, subject to a Use Permit and the conditions and limitations set forth in this Section.

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

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

55.4.8.10 No more than four commercial cannabis activity permits of any type enumerated in Sections 55.4.8.2 through 55.4.8.7 of this ordinance may be issued to a single person, as defined herein. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities.

#### 55.4.9 Permit Types

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

**Table of Humboldt County Commercial Cannabis Cultivation Permit Types - Inland**

Outside the Coastal Zone, with a Zoning Clearance Certificate or permit type specified below, Outdoor and Mixed-Light cultivation is permitted on all 'Agricultural Land' where 'General Agriculture' and 'Agricultural Uses' are principally permitted (zoned AE, AG, FR, TPZ, RA, or U) and are consistent with the underlying land use designation			
	<u>Parcel Size</u>	<u>Permit Tier</u>	<u>Cultivated Area Size Limit</u>
<b>OUTDOOR</b>	<b>less than 1 acre</b>	I - Zoning Clearance Certificate	100 sq ft
	<b>1 - 5 acres</b>		200 sq ft
	<b>0 - 5 acres</b>	III - Use Permit	>200 - 43,560 sq ft
	<b>&gt; 5 acres to 10 acres</b>	I - Zoning Clearance Certificate	up to 3,000 sq ft
		III - Use Permit	>3,000 - 43,560 sq ft
	<b>&gt; 10 acres to 30 acres</b>	I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 - 43,560 sq ft
	<b>&gt; 30 acres to 320 acres</b>	I - Zoning Clearance Certificate	up to 10,000 sq ft
		II - Special Permit	10,000 - 20,000 sq ft
		III - Use Permit	>20,000 - 43,560 sq ft
	<b>&gt; 320 acres +</b>	I - Zoning Clearance Certificate	up to 20,000 sq ft
		III - Use Permit	>20,000 - 43,560 sq ft
	<b>MIXED - LIGHT</b>	<b>less than 1 acre</b>	I - Zoning Clearance Certificate
<b>1 - 5 acres</b>		200 sq ft	
<b>0 - 5 acres</b>		III - Use Permit	>200 - 22,000 sq ft
<b>&gt; 5 acres to 10 acres</b>		I - Zoning Clearance Certificate	up to 3,000 sq ft
		III - Use Permit	>3,000 - 22,000 sq ft
<b>&gt; 10 acres to 30 acres</b>		I - Zoning Clearance Certificate	up to 5,000 sq ft
		II - Special Permit	5,000 - 10,000 sq ft
		III - Use Permit	>10,000 - 22,000 sq ft
<b>&gt; 30 acres to 320 acres</b>		I - Zoning Clearance Certificate	up to 10,000 sq ft
		II - Special Permit	10,000 - 22,000 sq ft
<b>&gt; 320 acres +</b>		I - Zoning Clearance Certificate	up to 22,000 sq ft

Indoor Cultivation permitted in AE zones with on-grid power and non-diversionary source of water with Zoning Clearance Certificate or permit type specified below.			
<b>INDOOR - AE</b>	<b>less than 1 acre</b>	<b>I - Zoning Clearance Certificate</b>	<b>100 sq ft</b>
	<b>1 - 5 acres</b>		<b>200 sq ft</b>
	<b>0 - 5 acres</b>	<b>III - Use Permit</b>	<b>&gt;200 - 22,000 sq ft</b>
	<b>&gt; 5 acres to 10 acres</b>	<b>I - Zoning Clearance Certificate</b>	<b>up to 3,000 sq ft</b>
		<b>III - Use Permit</b>	<b>&gt;3,000 - 22,000 sq ft</b>
	<b>&gt; 10 acres to 30 acres</b>	<b>I - Zoning Clearance Certificate</b>	<b>up to 5,000 sq ft</b>
		<b>II - Special Permit</b>	<b>5,000 - 10,000 sq ft</b>
		<b>III - Use Permit</b>	<b>&gt;10,000 - 22,000 sq ft</b>
	<b>&gt; 30 acres to 320 acres</b>	<b>I - Zoning Clearance Certificate</b>	<b>up to 10,000 sq ft</b>
		<b>II - Special Permit</b>	<b>10,000 - 22,000 sq ft</b>
<b>&gt; 320 acres +</b>	<b>I - Zoning Clearance Certificate</b>	<b>up to 22,000 sq ft</b>	
Indoor Cultivation Permitted in C-2, C-3, MB, ML, and MH zones with on-grid power and non-diversionary source of water with zoning clearance or permit type specified below.			
<b>INDOOR</b>	Must be within footprint of structure allowed within applicable zone	<b>I - Zoning Clearance Certificate</b>	<b>up to 22,000 sq ft</b>

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



55.4.9.1 Processing of cannabis that is cultivated pursuant to a Zoning Clearance Certificate may occur at the cultivation site if the Processing Performance Standards and Employee Safety Practices enumerated in section 55.4.11(o) thru (s) below are met. Processing for cultivation requiring a Special Permit or Use Permit will be considered in the Use Permit application. All processing that will not occur at the cultivation site is subject to a Use Permit application. Processing may occur in all of those zones where indoor and outdoor cultivation may occur.

55.4.9.2 Multiple applicants may obtain a Zoning Clearance Certificate for outdoor cultivation, mixed-light cultivation, or both, on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in section 55.4.9.

55.4.9.3 A combination of the permit types that may be allowed in the same zone (e.g. outdoor and, mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel for those permit types, may be processed with a single Zoning Clearance Certificate application. Permitting for a combination of permit types that is larger than the area that may be processed with a Zoning Clearance Certificate, or may be processed with a single Special Permit or Use Permit application, as applicable.

#### 55.4.9.4 Pre-Application Registration of Existing Cultivation Site

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

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

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

55.4.10. Application Requirements for All CMMLUO Clearances or Permits

- a) The name, contact address and phone number(s) of the applicant.
- b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- c) Site plan showing the entire parcel, including easements, streams and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet.
- d) A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season.
- e) Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable.
- f) Description of water source, irrigation plan, and projected water usage.
- g) Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- h) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- i) If the source of water is a well, a copy of the County well permit, if available.
- j) If the parcel is zoned FR or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE).

- k) Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter.
- l) For indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes
- m) Acknowledge that the county reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe “government to government” consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS).

55.4.11 Performance Standards for all CMMLUO Cultivation and Processing Operations

- a) Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws, except if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, compliance with a written approved compliance agreement signed by the applicant and the relevant enforcement agency or agencies, to abate or cure violations at the earliest feasible date, but in no event no more than two (2) years of date of issuance of a provisional clearance or permit. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. Once the violations are cured, the permit will no longer be provisional. The violations subject to a compliance agreement pursuant to this paragraph shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings and sites that are used for commercial cannabis activity and shall not extend to personal residences or other structures that are not used for commercial cannabis activity. The terms of the compliance agreement may be appealed pursuant to section 55.4.13 below, except the Planning Commission, and not the Zoning Administrator, shall act as Hearing Officer, and shall make a determination within thirty (30) days of the conclusion of the hearing.

- b) Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder.
- c) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.
- d) The area of cannabis cultivation shall be located as shown on the application site plan, set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, Public Park, or Tribal Cultural Resources. The minimum setback required from property lines or adjacent uses may be waived or reduced with the express consent of the adjacent property owner and occupant. Cannabis cultivation is declared to be development, subject to compliance with the Humboldt County Streamside Management Area Ordinance (section 314-61.1 et seq.). For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to 314-61.1.
- e) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
- f) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023, is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.
- g) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- h) Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE).
- i) Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
- j) Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, that administers the Hazardous Materials program as one of the Certified Unified Program Agencies

(CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA).

- k) Pay all applicable application and annual inspection fees.
- l) Where surface water diversion provides any part of the water supply for irrigation of cannabis cultivation, the applicant shall either: 1) consent to forebear from any such diversion during the period from May 15<sup>th</sup> to October 31<sup>st</sup> of each year and establish on-site water storage for retention of wet season flows sufficient to provide adequate irrigation water for the size of the area to be cultivated, or 2) submit a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar qualified professional, that establishes minimum water storage and forbearance period, if required, based upon local site conditions, or 3) obtain approval from the RWQCB through enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan.
- m) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, “emergency” is defined as: “a sudden, unexpected occurrence demanding immediate action.”
- n) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any Special Permit or Use Permit.

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

- o) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall “provide a statement declaring the applicant is an ‘agricultural employer,’ as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.”
- p) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
- q) Cultivators engaged in processing shall comply with the following Processing Practices:
  - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.

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

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

- t) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- u) The light source should comply with the International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Should the Humboldt County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.
- v) The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.
- w) Storage of Fuel. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.

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

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

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

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

#### 55.4.13 Appeal of Inspection Determination

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

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

#### 55.4.14 Cap on Total Number of Permits

There shall be no cap on the number of permits issued pursuant to this Ordinance, but this provision shall be reviewed every three months by the Planning Commission to evaluate the possibility of implementation of a cap.

#### 55.4.15 Retirement, Remediation, and Relocation (RRR)

The county shall develop a program to incentivize, promote, and encourage the retirement, remediation and relocation of existing cannabis cultivation occurring in inappropriate or marginal sites to relocate to environmentally superior sites.

#### 55.4.16 Humboldt Artisanal Branding

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

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

#### 55.4.17 Disclosure

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