

ORDINANCE No. _____

An ordinance amending Title III of the Humboldt County Code relating to the commercial cultivation 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 of Cannabis for Medical Use Coastal Zone Land Use Regulation

55.4.1 Authority and Title

This Section provides for the regulation of commercial cultivation of cannabis for medical use (“CCCMU”), 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 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). 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 cultivation operations 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 of cannabis for medical use in zoning districts within which such use is authorized, as specified under Section 313-55.4.8.2 of this Code.

55.4.3.2 The commercial cultivation of cannabis for medical use within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Section, regardless of whether the cultivation existed or occurred prior to the adoption of this Section.

55.4.3.3 All commercial cultivation of cannabis for medical use, as defined herein, regardless of whether the use was previously approved by any agency or department of the County of Humboldt, the Humboldt County Planning Commission, or the Humboldt County Board of Supervisors, shall come into full compliance with these regulations within one (1) year of the adoption of the ordinance establishing this Section.

55.4.3.4 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation 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.

55.4.3.5 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation 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.

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

55.4.3.7 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.

55.4.3.8 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., the commercial cultivation of cannabis for medical use shall not be allowed as a principal permitted use under the General Agriculture use type classification applicable within the County of Humboldt, unless a conditional zoning clearance, conditional special permit, or conditional 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.

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, special permit, or conditional use permit and coastal development permit approved for the commercial cultivation 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 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 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.

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

“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 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 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.

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

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

“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.

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

55.4.8 General Provisions

This section applies to all commercial cultivation of cannabis for medical use facilities and activities, as defined in this Section.

55.4.8.1 All commercial cultivation 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 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, special permit, or conditional use permit and coastal development permit, issued pursuant to Sections 312-2.1 or 312-3.1 of the Humboldt County Code. Zoning districts where the commercial cultivation of cannabis for medical use may be located are RA-1, RA-2, RA-2.5, RA-5, RA-10, RA-20, RA-40, AG, AE-20, AE-40, AE-60, AE-160, AE-600, FR, TC, TPZ, and U (provided that in U-zoned parcels, general agriculture is an appropriate use in consideration of parcel size and the compatibility of surrounding uses as determined by the Zoning Administrator), subject to the conditions and limitations set forth in this Section.

The commercial cultivation of cannabis for medical use in any other zoning district in the County of Humboldt is prohibited.

- a) No use permits shall be issued for commercial cannabis cultivation for medical use for cultivation areas in excess of 10,000 square feet except on parcels over 5 acres in AG Use districts with Class I or II soils, on slopes of 15% or less, and with documented current water right or other non-diversionary source of water for irrigation, in full compliance with all applicable County and state laws and regulations. Existing cultivation in areas not meeting these criteria must reduce cultivation area to less than 10,000 square feet (in compliance with this Section), or show that existing cultivation practices and conditions comply with all applicable state and local standards. Where compliance with all applicable state and local standards is found, the established area of cultivation may not be increased beyond that existing on September 1, 2015, unless the additional area will also be in full compliance with all applicable state and local standards.
- b) In FR, TC, and TPZ districts, a conditional use permit for the commercial cultivation of cannabis for medical use may only be issued for cannabis cultivation sites in existence as of September 1, 2015, but only when possible to bring them into compliance with all applicable standards set forth in this Section and to eliminate existing violations. No use permits shall be issued for new cannabis cultivation in the FR, TC or TPZ zones.

55.4.8.3 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a coastal development permit and a zoning clearance, special permit, or

conditional use permit from the County of Humboldt to engage in the commercial cultivation of cannabis for medical use within the jurisdiction of the County.

55.4.8.4 The commercial cultivation of cannabis for medical use shall at all times be operated in such a way 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.

55.4.9 Permit Types

The type of zoning clearance certificate, special permit, or conditional 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 State Cultivation License Types and Humboldt County Permit Tiers

State License Type	Canopy Size	Zone	Permit Tier	Cultivated Area Size
1 Specialty Outdoor	less than 5,000 sq ft or 50 or fewer non-contiguous plants	RA-1, RA-2, RA-2.5, RA-5. No cultivation area larger than 500 sq ft allowed in parcels less than 5 acres	I - Zoning Clearance Certificate	less than 500 sq ft
		RA-5 (parcels > 5 acres) RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	II - Special Permit	500 - 2,000 sq ft
		RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	2,000 - 5,000 sq ft
1A Specialty Indoor	less than 5,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	II - Special Permit	500 - 2,000 sq ft
		RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	2,000 - 5,000 sq ft
1B Specialty Mixed	less than 5,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	II - Special Permit	500 - 2,000 sq ft
		RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	2,000 - 5,000 sq ft
2 Small Outdoor	5,000 - 10,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	5,000 - 10,000 sq ft
2A Small Indoor	5,000 - 10,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	5,000 - 10,000 sq ft
2B Small Mixed Light	5,000 - 10,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	5,000 - 10,000 sq ft
3 Outdoor	10,001 - 43,560 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	10,001 - 43,560 sq ft.
3A Indoor	10,001 - 22,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	10,001 - 22,000 sq ft.
3B Mixed	10,001 - 22,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	10,001 - 22,000 sq ft.
4 - Nursery	NA	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	any
1 - 4 Inclusive	any	TC, TPZ or Williamson Act Parcel	III - CUP**	any

* See Section 55.4.8.2 a)

** See Section 55.4.8.2 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.

55.4.10. Application Requirements for All CCCMU Clearances or Permits

- a) The name and business and residential 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, the location and area for cultivation on the parcel, with dimensions of the area for cultivation and setbacks from property lines. 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 Traditional Native American Cultural site, 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) Photographs of any current cultivation activities existing on the parcel as of September 1, 2015, including:
 - i. ground level views of the cultivation activities from at least three different vantage points, and
 - ii. the most recent available aerial views from Google Earth, Bing Maps, Terraserver, the County of Humboldt GIS mapping program, or other comparable service.
- e) 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, and schedule of activities during each month of the growing and harvesting season.
- f) Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.
- g) Description of legal water source, irrigation plan, and projected water usage.
- h) 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.

- i) 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.
- j) If the source of water is a well, a copy of the well permit.
- k) If the parcel is zoned TC or TPZ, a copy of permit or plan allowing agricultural cultivation of any kind, approved by CalFire (formerly Dept. of Forestry and Fire Protection).
- l) 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.
- m) For indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes.
- n) Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located will not support diversions for irrigation.

55.4.11 Standard Conditions of Approval for all CCCMU Operations

- a) 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 remediation plan 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 one (1) year of date of issuance of the clearance or permit.
- 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, including the statement 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 Traditional Native

American Cultural Site. The minimum property line setback required may be waived in the event that adjacent property owners consent to the establishment of cultivation areas immediately adjacent to that on the adjoining property.

- 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 of approval for enrollment set forth in that Order.
- g) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- h) Comply with the terms of any applicable permit or plan allowing agricultural cultivation in a TPZ zone, approved by CalFire (formerly Dept. of Forestry and Fire Protection).
- 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 fertilizer, pesticide, fungicide, rodenticide, or herbicide.
- 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, consent to forebear from any such diversion during the period from March 1 to October 30 of each year. Establish on-site water storage for retention of wet season flows or imported water deliveries sufficient to provide adequate irrigation water for the size of the area to be cultivated.
- m) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any special or conditional use permit.

55.4.12 Term of Commercial Cannabis Cultivation Zoning Clearance or Permit.

55.4.12.1 Any Commercial Cannabis Cultivation Zoning Clearance, 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.

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

313-55.4 Commercial Cultivation of Cannabis for Medical Use Inland Land Use Regulation

55.4.1 Authority and Title

This section provides for the regulation of commercial cultivation of cannabis for medical use (“CCCMU”), as defined in this Section, located outside of 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 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). It is intended to address the County of Humboldt’s prerogative to license, permit, and control commercial cultivation 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 cultivation operations 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 of cannabis for medical use in zoning districts within which such use is authorized, as specified under Section 55.4.8.2 of this Section.

55.4.3.2 The commercial cultivation of cannabis for medical use within the jurisdiction of the County of Humboldt shall be controlled by the provisions of this Section, regardless of whether the cultivation existed or occurred prior to the adoption of this Section.

55.4.3.3 All commercial cultivation of cannabis for medical use, as defined herein, regardless of whether the use was previously approved by any agency or department of the County of Humboldt, the Humboldt County Planning Commission, or the Humboldt County Board of Supervisors, shall come into full compliance with these regulations within one (1) year of the adoption of the ordinance establishing this Section.

55.4.3.4 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation 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.

55.4.3.5 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation 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.

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

55.4.3.7 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.

55.4.3.8 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., the commercial cultivation of cannabis for medical use shall not be allowed as a principal permitted use under the General Agriculture use type classification applicable within the County of Humboldt, unless a conditional zoning clearance, conditional special permit, or conditional 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.

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, special permit, or conditional use permit and coastal development permit approved for the commercial cultivation 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 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 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 for violations of this Section.

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

“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 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.

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“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.

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55.4.8 General Provisions

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The commercial cultivation of cannabis for medical use in any other zoning district in the County of Humboldt is prohibited.

In FR, TC, and TPZ districts, a conditional use permit for the commercial cultivation of cannabis for medical use may only be issued for cannabis cultivation sites in existence as of September 1, 2015, but only when possible to bring them into compliance with all applicable standards set forth in this Section and to eliminate existing violations. No use permits shall be issued for new cannabis cultivation in the FR, TC or TPZ zones.

No use permits shall be issued for commercial cannabis cultivation for medical use for cultivation areas in excess of 10,000 square feet except on parcels over 5 acres in AG Use districts with Class I or II soils, on slopes of 15% or less, and with documented current water right or other non-diversionary source of water for irrigation, in full compliance with all applicable County laws and regulations. Existing cultivation in areas not meeting these criteria must reduce cultivation area to less than 10,000 square feet (in compliance with this Section), or show that existing cultivation practices and conditions comply with all applicable state and local standards. Where compliance with all applicable state and local standards is found, the established area of cultivation may not be increased beyond that existing on September 1, 2015, unless the additional area will also be in full compliance with all applicable state and local standards.

55.4.8.3 The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a coastal development permit and a zoning clearance, special permit, or conditional use permit from the County of Humboldt to engage in the commercial cultivation of cannabis for medical use within the jurisdiction of the County.

55.4.8.4 The commercial cultivation of cannabis for medical use shall at all times be operated in such a way 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.

55.4.9 Permit Types

The type of zoning clearance certificate, special permit, or conditional 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 State Cultivation License Types and Humboldt County Permit Tiers

State License Type	Canopy Size	Zone	Permit Tier	Cultivated Area Size
1 Specialty Outdoor	less than 5,000 sq ft or 50 or fewer non-contiguous plants	RA-1, RA-2, RA-2.5, RA-5. No cultivation area larger than 500 sq ft allowed in parcels less than 5 acres	I - Zoning Clearance Certificate	less than 500 sq ft
		RA-5 (parcels > 5 acres) RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	II - Special Permit	500 - 2,000 sq ft
		RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	2,000 - 5,000 sq ft
1A Specialty Indoor	less than 5,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	II - Special Permit	500 - 2,000 sq ft
		RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	2,000 - 5,000 sq ft
1B Specialty Mixed	less than 5,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	II - Special Permit	500 - 2,000 sq ft
		RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	2,000 - 5,000 sq ft
2 Small Outdoor	5,000 - 10,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	5,000 - 10,000 sq ft
2A Small Indoor	5,000 - 10,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	5,000 - 10,000 sq ft
2B Small Mixed Light	5,000 - 10,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP	5,000 - 10,000 sq ft
3 Outdoor	10,001 - 43,560 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	10,001 - 43,560 sq ft.
3A Indoor	10,001 - 22,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	10,001 - 22,000 sq ft.
3B Mixed	10,001 - 22,000 sq ft	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	10,001 - 22,000 sq ft.
4 - Nursery	NA	RA-10, RA-20, RA-40, any AE or U zone parcels > 5 acres	III - CUP *	any
1 - 4 Inclusive	any	TC, TPZ or Williamson Act Parcel	III - CUP**	any

* See Section 55.4.8.2 a)

** See Section 55.4.8.2 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.

55.4.10. Application Requirements for All CCCMU Clearances or Permits

- a) The name and business and residential 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, the location and area for cultivation on the parcel, with dimensions of the area for cultivation and setbacks from property lines. 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 Traditional Native American Cultural site, 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) Photographs of any current cultivation activities existing on the parcel as of September 1, 2015, including:
 - a. ground level views of the cultivation activities from at least three different vantage points, and
 - b. the most recent available aerial views from Google Earth, Bing Maps, Terraserver, the County of Humboldt GIS mapping program, or other comparable service.
- e) 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, and schedule of activities during each month of the growing and harvesting season.
- f) Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.
- g) Description of legal water source, irrigation plan, and projected water usage.
- h) 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.

- i) 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.
- j) If the source of water is a well, a copy of the well permit.
- k) If the parcel is zoned TC or TPZ, a copy of permit or plan allowing agricultural cultivation of any kind, approved by CalFire (formerly Dept. of Forestry and Fire Protection).
- l) 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.
- m) For indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes
- n) Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed will not support diversions for irrigation.

55.4.11 Standard Conditions of Approval for all CCCMU Operations

- a) 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 remediation plan 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 one (1) year of date of issuance of the clearance or permit.
- 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, including the statement 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 Traditional Native American Cultural Site. The minimum property line setback required may be waived in

the event that adjacent property owners consent to the establishment of cultivation areas immediately adjacent to that on the adjoining property.

- 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 of approval for enrollment set forth in that Order.
- g) Comply with the terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- h) Comply with the terms of any applicable permit or plan allowing agricultural cultivation in a TPZ zone, approved by CalFire (formerly Dept. of Forestry and Fire Protection).
- 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 fertilizer, pesticide, fungicide, rodenticide, or herbicide.
- 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, consent to forebear from any such diversion during the period from March 1 to October 30 of each year. Establish on-site water storage for retention of wet season flows or imported water deliveries sufficient to provide adequate irrigation water for the size of the area to be cultivated.
- m) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of any special or conditional use permit.

55.4.12 Term of Commercial Cannabis Cultivation Zoning Clearance or Permit.

55.4.12.1 Any Commercial Cannabis Cultivation Zoning Clearance, 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.