

The people of the County of Humboldt ordain as follows:

Section 1: Findings and Purpose

The People of the County of Humboldt find:

(a) Governmental policies and actions should promote sustainable agricultural and commercial activities that protect the environment and preserve the rural character of the county by stimulating value-added businesses and industries that will bring long-term prosperity to the residents of Humboldt County through sustainable, ecologically responsible, and economically viable timber and agricultural industries, the encouragement of conservation and prevention of unchecked deforestation in Humboldt County, which policies and actions are served by providing for high value compatible mixed uses such as cannabis cultivation within reasonable and environmentally conscious limitations.

(b) The geography, climate, and micro-climates found in Humboldt County, California make it an excellent place to farm cannabis. There is an abundance of experienced and knowledgeable growers in the county, the majority whom favor sustainable farming techniques and practices that do not principally rely on petro-chemical fertilizers, pesticides and harmful chemicals. Humboldt growers consistently produce Humboldt grown cannabis that is widely acknowledged as among the highest quality cannabis available anywhere in the world.

(c) The experience of the People of Humboldt County under California's Proposition 215 and Medical Marijuana Program Act suggests that encouraging the development, preservation and safe access to high quality and diverse cannabis strains is in the public interest.

(d) With the precipitous decline of the fishing and timber industries, cannabis cultivation became, and today remains, a significant influence on the economy of Humboldt County. The extent of the county's dependence on a single, high value agricultural commodity, and its associated support systems, activities and businesses is unique among the 52 counties in California.

(e) Humboldt County is at a crossroads as California and the nation envision an end to 80 years of cannabis prohibition. It is widely anticipated that legalization of cannabis for adult recreational use will be on the ballot for the November 2016 general election. Lawful and responsibly regulated cannabis cultivation presents a tremendous opportunity to preserve Humboldt County's rural character, protect agricultural, timber production and open space as primary land uses in the County, and provide lawful residents and property owners who so choose the ability to prosper as small and medium-scale cannabis farmers.

(f) This initiative ordinance is intended to provide the legal framework for clear rules and regulations that reward voluntary compliance and provide effective and efficient enforcement mechanisms to identify and stop irresponsible growers culpable

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for most of the violent crimes, “trespass grows,” illegal water diversion, pollution and other environmental harms and criminal activity sometimes associated with cannabis cultivation in the county.

(g) This initiative preserves local control over land uses through general plan updates and zoning regulations, and ensures compliance with all applicable state and local requirements for cannabis cultivation through a program administered by the County Agricultural Commissioner that allows for on-site inspection, laboratory testing of crop harvests, registration and certification of compliant cultivators and gardens, and implementation of best management practices based on collection of data permitting evaluation of Cumulative Watershed Impacts.

(h) Responsibility for administering existing laws and regulations that are implicated by cultivation activities, such as building permits, fire inspections, property tax assessment, law enforcement, water, planning approval, etc., remain with the various state, county and regional agencies having jurisdiction and enforcement responsibility over those subjects.

(i) The ordinance is not intended to and does not authorize cannabis cultivation or other cannabis-related activities at any time or in any manner for uses or purposes that violate California law. If, at any time from and after the effective date of this initiative ordinance, state laws prohibiting cannabis cultivation and cannabis-related activities of possession, distribution, transportation, manufacture, extraction or processing of concentrated cannabis, sales, or knowingly using or making available a building for such purposes, and conspiracy or attempt to commit such acts, are repealed, suspended or otherwise cease to operate to prohibit the activity, whether by act of the Legislature, vote of the electors, or judicial decision, then such activity shall be deemed to be included within the definition of “lawful cultivation of cannabis” set forth herein.

(j) This ordinance is intended to authorize outdoor cannabis cultivation only if and only to the extent such cultivation is for uses lawful under California law applicable at the time. The zoning and land use restrictions contained in this ordinance are intended to operate as restrictions on the location and maximum area that may be cultivated based on parcel size. If a California statute preempts and is more restrictive than the size limits, set back requirements, location restrictions, class or characteristics of persons eligible to cultivate, nature of the activity, or other qualification, measure, limitation or condition precedent, all County Departments, Officers, employees, agents, and representatives exercising ministerial or discretionary authority in regard to any permit, license, registration, approval, certification or other official duty, act or deed for the implementation and administration of this ordinance shall be bound by the most restrictive provision applicable thereto.

(k) All cultivation of cannabis shall be subject to the County’s compliance and oversight program requiring on-site inspections, laboratory testing, registration of cultivators and cultivation sites, and presentation of documentation or other proof satisfactory to the Agricultural Commissioner that all permits, licenses and approvals

required by all governmental agencies having jurisdiction over the person, property, use, activity, or other matter or thing required by law as a condition precedent to commencement or recommencement of cannabis cultivation or related activities at the site have been obtained and are current and valid.

[NOTE: Text added to the Humboldt County Code by this initiative ordinance is shown in Underlined, Italicized 14-Point Times New Roman Font; text deleted from the code by this initiative ordinance is shown in ~~Strikethrough 12-Point Arial Font~~; text of the code sections amended by this initiative ordinance that remains unchanged by these amendments is shown in Arial 12-Point Font.]

Section 2. Amendments to Chapter 4 of Division 1 of Title III of the Humboldt County Code.

(a) Sections 314-___ through 314-___ are added to the Humboldt County Code Zoning Regulations to define and regulate the “lawful cultivation of cannabis” within the unincorporated areas of Humboldt County, as follows:

“Section 314-___ . Definition. “Lawful cultivation of cannabis” means the cultivation of cannabis for uses authorized under the laws of the State of California, as such laws may be amended, supplemented or superseded from time to time, and in a manner that complies with all state and county laws, administrative rules and regulations, and court decisions applicable to cultivation and cultivation-related activities within the unincorporated areas of Humboldt County, including without limitation, and as appropriate under the particular circumstances, those related to the following subjects: land use, property development, subdivision of land, and county zoning controls; water rights, water use, water storage, transportation and distribution of water, water conservation, water agreements and sales, water treatment and water quality, development, maintenance and operation of water systems, and related monitoring, testing and reporting; environmental protection and resource management, including watershed protection and restoration, wildlife and habitat protection, air quality and water quality, noise, erosion control, vegetation management and fire hazards; labor conditions and occupational safety; agricultural operations; business licensing, registration and inspection of cannabis farms; and, other activities and uses accessory, incidental or related to the cultivation, processing, storage, drying, packaging, transportation, distribution and taxation of cannabis and cannabis sales, and related business activities within the State of California.

Section 314-___ . Cannabis Cultivation; Effect of Future Changes in State Law; Regulations and Limits.

(a) Lawful cultivation of cannabis within the unincorporated areas of Humboldt county shall be a limited intensity agricultural land use subject to the restrictions based on parcel size set forth herein, registration of cannabis producing farms by the Agricultural Commissioner and compliance with rules and regulations promulgated by the Agricultural Commissioner for implementation and operation of the Humboldt County Cannabis Cultivation Compliance Program set forth in Chapter 9 of Division 4 of Title II of the Humboldt County Code.

(b) If, at any time from and after the effective date of the initiative ordinance adding section 314-_____ to define “lawful cultivation of cannabis,” California statutes prohibiting cannabis cultivation for non-medical purposes and cannabis-related activities of possession, distribution, transportation, manufacture, extraction or processing of concentrated cannabis, sales, or knowingly using or making available a building, room, space or enclosure for such purposes, and conspiracy or attempt to commit such acts, are repealed, suspended or otherwise cease to operate to prohibit the activity, whether by act of the Legislature, vote of the electors, or judicial decision, then such activity shall be deemed to be included within the definition of “lawful cultivation of cannabis” set forth in Section 314-_____.

[NOTE: THE FOLLOWING OPTIONS FOR CANOPY LIMITS IN SUBSECTION (c) ASSUME NO CHANGE TO OUTDOOR CULTIVATION FOR SMALL PARCELS 5 ACRES AND LESS.]

[OPTION A: MAXIMUM PLANT CANOPY LIMITED TO ONE PERCENT (1%) OF PARCEL SIZE FOR PARCELS OVER 5 ACRES, NOT TO EXCEED ONE (1) ACRE, UNLESS CONDITIONAL USE AUTHORIZATION IS FIRST OBTAINED FROM THE PLANNING COMMISSION. THIS IS THE RECOMMENDED OPTION TO ELIMINATE PROBLEMS WITH DISPARATE TREATMENT OF FARMS AT THE MARGINS OF THE PARCEL SIZE RANGES IN OPTIONS B-1 THROUGH B-6.]

(c) The area used for the lawful cultivation of cannabis on any parcel over five (5) acres for which general agriculture is a permitted use shall not exceed one percent (1%) of the total area of the parcel, or 1 acre, whichever is less, unless the Planning Commission has given conditional use authorization to exceed such limit.

[OPTIONS B1 TO B6: MAXIMUM PLANT CANOPY BASED ON PARCEL SIZE (Ranges: >5 to <10, 10 to <20, 20 to <40, and over 40 acres):]

(c) The area used for the lawful cultivation of cannabis on parcels over five (5) acres shall be limited as set forth below, unless a conditional

use permit authorizing cultivation in excess of such limit is approved by the Planning Commission.

PARCEL SIZE (RANGE)	OPTION B-1 [1/2 of first draft]	OPTION B-2 [same as first draft]	OPTION B-3 [2x first draft]	OPTION B-4 [2x first draft with cap]	OPTION B-5 [3x first draft]	OPTION B-6 [3x first draft with cap]
<u>Over 5 acres but less than 10 acres:</u>	<u>1,750 sq. ft.</u>	<u>2,500 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>7,500 sq. ft.</u>	<u>7,500 sq. ft.</u>
<u>10 acres but less than 20 acres:</u>	<u>2,500 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>10,000 sq. ft.</u>	<u>10,000 sq. ft.</u>	<u>15,000 sq. ft.</u>	<u>15,000 sq. ft.</u>
<u>20 acres but less than 40 acres:</u>	<u>5,000 sq. ft.</u>	<u>10,000 sq. ft.</u>	<u>20,000 sq. ft.</u>	<u>20,000 sq. ft.</u>	<u>30,000 sq. ft.</u>	<u>30,000 sq. ft.</u>
<u>Over 40 acres:</u>	<u>10,000 sq. ft.</u>	<u>20,000 sq. ft.</u>	<u>40,000 sq. ft.</u>	<u>30,000 sq. ft.</u>	<u>60,000 sq. ft.</u>	<u>40,000 sq. ft.</u>

(d) The area under cultivation for purposes of subsection (c) shall be measured by plant canopy. Canopy means the aggregate area of vegetative growth of live cannabis plants on the parcel. Area shall be calculated using the following formula: Diameter of Plant squared, and then multiplied by the conversion factor ($\pi/4$). For example, if the diameter of one (1) Plant is equal to 30 inches (2.5 feet), the canopy would equal 4.9 square feet [$2.5 \text{ feet}^2 \times 0.7854$].

(e) Cannabis shall not be cultivated within 20 feet of a boundary line of the parcel, nor within within 600 feet of any school, school bus stop, public park, place of religious worship, or traditional native american cultural site, provided these uses existed prior to the lawful cultivation of cannabis on the parcel.”

(b) Section 314-7.4 of the Humboldt County Code Zoning Regulations is amended as follows:

“314-7.4 TPZ: TIMBERLAND PRODUCTION ZONE. The Timberland Production or TPZ Zone is intended to provide standards and restrictions for the preservation of timberlands for growing and harvesting timber.

314-7.4 TPZ: TIMBERLAND PRODUCTION
Principal Permitted Uses
Growing and harvesting of timber and accessory uses compatible thereto.
Accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures).
Principal Permitted Uses Compatible with Timber Production
The following accessory uses are deemed to be compatible with the growing and

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harvesting of timber provided they do not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber:
Management for watershed.
Management for fish and wildlife habitat.
A use integrally related to the growing, harvesting and processing of forest products; including but not limited to roads, log landings, and log storage areas (portable chippers and portable sawmills are considered a part of "processing").
The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities.
Grazing and other agricultural uses, <i>including the lawful cultivation of cannabis.</i>
One-family dwelling or manufactured home and normal accessory uses and structures for owner or caretaker subject to the special restrictions of the following subsection, Special Restrictions Regarding Residences.
Temporary labor camps, less than one (1) year in duration, accessory to timber harvesting or planting operations.
Recreational use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing.
Uses Permitted with a Use Permit
Note: Permits authorized under this section cannot be approved if such use will significantly detract from the use of the property for, or inhibit, growing and harvesting of timber.
Timber production processing plants (buildings) for commercial processing of wood and wood products, including but not limited to sawmills, lumber and plywood mills, but not including a pulp mill.
Incidental Camping Area, Tent Camp, Temporary Recreational Vehicle Park, Special Occupancy Parks, and similar recreational uses.
Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the TPZ zone.

(c) Section 314-136 is amended as follows:

“314-136 Definitions (A)

...
Agricultural Operation: "Agricultural Operation" shall mean and include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture, the raising of livestock, fur bearing animals, fish or poultry, and any commercial operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market. This definition shall include both commercial and noncommercial activities in the designated areas or zones defined as "Agricultural Land" in this Chapter. *This definition shall include the lawful cultivation of cannabis.*"

(d) Section 314-170 is amended as follows:
"314-170 AGRICULTURAL USE TYPES

Agricultural use types include the on site production of plant and animal products by agricultural methods. The following are agricultural use types:

170.1 General Agriculture.

The General Agriculture Use Type includes cultivation of food and fiber such as field and tree crops, dairying, pasturage, tree farming, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, but not including feed lots, stock yards, slaughter houses, hog farms, fur farms, turkey farms, frog farms, fertilizer works or plants for the reduction of animal matter. *The General Agriculture Use Type also includes the lawful cultivation of cannabis.*"

Section 3. Division 4 of Title II of the Humboldt County Code is amended by adding sections 249-3 through 249-5, as follows:

249-3. Humboldt County Cannabis Cultivation Compliance Program; Registration; Duties of the County Agricultural Commissioner.

The Agricultural Commissioner shall register persons who apply to the Department of Agriculture to engage in the lawful cultivation of cannabis (as defined in Section 314-) in the unincorporated areas of Humboldt County, and who demonstrate that the applicant or property upon which cannabis cultivation will occur: (i) is located within the territorial boundaries of Humboldt County and is either owned by person or for which the person has lawful right of possession; (ii) has rights to lawful sources of water in amounts adequate for the size and intensity of the intended cultivation, taking into account methods used for irrigation and the water

conservation measures to be employed; (iii) will employ best management practices; (iv) has a cultivation and operations plan approved by the Commissioner and state and county agencies, as appropriate, that meets or exceeds all minimum legal standards for water storage and use, water conservation, drainage, erosion control, runoff, pest control, watershed protection, protection of habitat, proper storage of fertilizers, pesticides, and other products used in connection with cultivation activities, processing, storage and security; (v) the applicant agrees to regular and random on-site inspection; (vi) has paid all applicable fees; (vii) agrees to continue use of best management practices as directed by the Commissioner; (viii) will not use chemical fertilizers, pesticides, fungicides, rodenticides, herbicides or other products not approved by Commissioner; (ix) has registered with the California Employment Development Department and complies with all applicable labor laws and regulations; (x) the area used for cannabis cultivation meets the size restriction for the parcel(s); (xi) has a security plan; (xii) has available on-site secure storage and processing facilities; (xiii) workers have or will receive training on safety procedures and for the proper care and storage of crops to prevent contamination; and (xiv) has agreed to random sample testing of crops for the presence of pesticides, herbicides, fungicides, mold, fungus and other biologic or chemical contaminants that pose risk to human health or demonstrate violations of this code or regulations promulgated by the Commissioner.

249-4. Certifications.

The Commissioner shall issue a certification “Certified Humboldt County Grower” to those applicants who demonstrate compliance with all of the requirements set forth in Section 249-3, which shall be valid for 1 year, and shall be renewed annually thereafter following annual inspection of the registered cultivation site and certification of laboratory test results for the most recent crop produced at a registered cultivation site. For each crop of cannabis produced, a random sample thereof shall be tested at a facility approved by the Commission for the presence of pesticides, herbicides, fungicides, mold, fungus and other biologic or chemical contaminants that pose a risk to human health or demonstrate violations of this code or regulations promulgated by the Commissioner. Following receipt of a laboratory test results report for the crop material showing the crop to be free of such contaminants, the Commissioner shall certify the results and provide a copy of a “Certification of Laboratory Test Results” that

references the test results report, which shall be appropriately indexed and retained for a period of not less than two years.

249-5. Regulations. The Agricultural Commissioner shall promulgate such rules and regulations as may be necessary or appropriate to implement and administer the Cannabis Cultivation Compliance Program, to ensure that cannabis cultivated in Humboldt County is grown to the standards and in a manner that maintains the highest quality standards for the industry, is grown using best management practices, is safe for human consumption, and ensure that all cannabis cultivation in the unincorporated areas of the County is conducted in accordance with the provisions and consistent with the intent and purposes of the initiative ordinance establishing the Program.”

Section 4. Consistency with General Plan. The Board of Supervisors shall amend the General Plan and include in future updates to the General Plan, as appropriate, such provisions as are necessary to ensure that the lawful cultivation of cannabis within the unincorporated areas of Humboldt County, as authorized by this initiative ordinance, is and remains consistent with the General Plan and all laws pertaining thereto.

Section 5. Business Licenses and Provisional Business Licenses. The Humboldt County Treasurer/Tax Collector shall issue a provisional business license for lawful cannabis cultivation to applicants who submit the following: (1) a copy of the collective membership agreement that complies with Health and Safety Code Sections 11362.7 *et seq.* and Attorney General’s *Guidelines for the Non-Diversion of Marijuana Grown for Medical Use*; (2) proof of ownership of the parcel or of a right to possession and use thereof for cannabis cultivation; (3) proof of lawful sources of water; and (4) if applicable, proof that a complete Alternative Owner-Builder permit application has been submitted to the Humboldt County Planning Department.

Section 6. Severability. If any section sentence, clause, phrase or portion of this is for any reason held to be invalid or unconstitutional by the decision of any court, such decisions will not affect the validity of the remaining portions of the ordinance. The people of Humboldt County declare that they would have adopted this ordinance and each sections, clause or phrase and portion thereof, irrespective of the fact that any one or more sections, clause or phrases or portions be declared invalid or unconstitutional.

Section 7. Effective Date. This initiative ordinance shall take effect immediately upon certification of its approval by the voters of Humboldt County at a special or general election.