

314-55.5 INDUSTRIAL HEMP CULTIVATION LAND USE REGULATION FOR THE INLAND AREA OF THE COUNTY OF HUMBOLDT

55.5.1 AUTHORITY AND TITLE

This Section regulates the cultivation of industrial hemp within the Inland Area of the County of Humboldt.

55.5.2 PURPOSE AND INTENT

The purpose of this Section is to establish an Industrial Hemp Management Zone (Management Zone) and land use regulations outside of the Management Zone for the purposes of industrial hemp cultivation within the County of Humboldt in order to encourage safe, reasonable and responsible growth that reduces negative impacts on our community and environment, increases public awareness, and community health and safety while creating a clear and attainable path for cultivators to follow.

These regulations are intended to ensure the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in industrial hemp activities to protect the environment from harm resulting from industrial hemp activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; and to ensure the security of state-regulated hemp cultivation. To this end, these regulations identify where in the County Industrial Hemp activities can occur and specify the application process, what type of permit is required, the registration process and the approval criteria that will apply.

55.5.3 APPLICABILITY AND INTERPRETATION

55.5.3.1 All facilities and activities involved in Industrial Hemp Cultivation and other Industrial Hemp activities within the jurisdiction of the County of Humboldt outside of the Coastal Zone shall be controlled by the provisions of this Section.

55.5.3.2 Nothing in this Section is intended, nor shall it be construed, to exempt Industrial Hemp Cultivation and all other Industrial Hemp activities from compliance with all other applicable Humboldt County zoning, land use, grading, and streamside management area regulations as well as other applicable provisions of the County Code.

55.5.3.3 Nothing in this Section is intended, nor shall it be construed, to exempt Industrial Hemp Cultivation and all other Industrial Hemp activities from any and all applicable local and state construction, electrical, plumbing, water rights, waste water discharge, water quality, streambed alteration, endangered species, or any other environmental, building or land use standards or permitting requirements.

55.5.3.4 Other than as enumerated in this Section, Industrial Hemp Cultivation and all other Industrial Hemp activities are prohibited in any zoning district other than those zoning districts where it is expressly permitted.

55.5.3.5 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.

55.5.4 DEFINITIONS

“Approved Seed Cultivars” An Industrial Hemp seed or cultivar included on the most recently approved list of seeds or cultivars of Industrial Hemp provided by the California Department of Food and Agriculture pursuant to Section 81002 of the Food and Agricultural Code.

“Full Sun Outdoor Cultivation” Outdoor cultivation of Industrial Hemp, in native soil, using no artificial light nor greenhouse or other protective structures.

“Hemp Breeder” An individual or a public or private institution or organization that is registered with the Agricultural Commissioner to develop cultivars of Industrial Hemp intended for sale or research.

“Indoor” Cultivation within a structure primarily or exclusively using artificial lighting.

“Industrial Hemp Cultivation Area” The sum of the area(s) used for Industrial Hemp cultivation, calculated in square feet and measured using clearly identifiable boundaries around the perimeter of all area (s) that will contain plants at any point in time, including all the space within the boundary as shown on the approved plot plan. The Industrial Hemp Cultivation Area shall include the maximum anticipated extent of all vegetative growth of Hemp plants to be grown to maturity.

“Industrial Hemp” A crop agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa Linnaeus* and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol (THC) concentration of no more than 0.3 percent on a dry weight basis.

“Industrial Hemp Management Zone” The mapped area where Industrial Hemp cultivation is allowed without discretionary or ministerial permits. Refer to Figure 55.5.x.

“Industrial Hemp Premises” The area specified in the Registration and/or application that is owned, leased, or otherwise held under the control of the applicant and/or licensee where Industrial Hemp is cultivated.

“Mixed-Light” Cultivation using a combination of natural and supplemental artificial lighting.

“Pre-Harvest Notification” Documentation submitted by the Registrant to the Agricultural Commissioner at least 30 days prior to harvest of Industrial Hemp initiating Sampling Procedures.

“Registrant” A grower of Industrial Hemp for commercial purposes with an approved Registration.

“Registration” The procedures used by the Agricultural Commissioner to determine eligibility to cultivate Industrial Hemp for commercial purposes.

“Sampling Procedures” Testing by the Agricultural Commissioner (or a Third-Party sampler designated by the Commissioner) of each cultivar to determine THC content in each Industrial

Hemp sample taken from an approved Industrial Hemp Cultivation Area the registered land area and all areas and facilities used for cultivation, and testing to ensure the Industrial Hemp sample does not contain microbials or pesticides.

55.5.5 GENERAL PROVISIONS APPLICABLE TO INDUSTRIAL HEMP ACTIVITY LAND USE PERMITS

55.5.5.1 Cultivation of Industrial Hemp for the purposes of fiber or seed production intended to produce seed cake or seed oil, is prohibited.

55.5.5.2 Cultivation of Industrial Hemp and all other Industrial Hemp activities for the purposes of cannabinoid derivatives production is permitted subject to the requirements in this Section.

55.5.6 REGISTRATION AND APPLICATION REQUIREMENTS

55.5.6.1 Cultivation Within the Industrial Hemp Management Zone

Full Sun Outdoor Cultivation or Industrial Hemp Cultivation within existing greenhouses using only clones or feminized seeds by Registrants including Hemp Breeders is allowed within the Industrial Hemp Management Zone with a Registration issued by the Agricultural Commissioner.

Changes to the location of the Industrial Hemp Cultivation Area and/or cultivars used shall require separate Registration and may only be issued to replace an approved Registration.

55.5.6.2 Cultivation Outside the Industrial Hemp Management Zone

Registrations for cultivation of Industrial Hemp outside the Industrial Hemp Management Zone by Registrants including Hemp Breeders shall be referred to the Planning and Building Department for a determination of requirements for additional clearances or permits.

Applications for clearances or permits for Industrial Hemp Cultivation outside the Industrial Hemp Management Zone are required to include all items required for Registrations and may be required to include any or all of the following additional information, depending on permit activities and location: Site Plan; Security Plan; Cultivation Plan, Processing Plan; Operations Plan; Irrigation Plan; Materials Management Plans; Hazardous Materials Site Assessments and Contingency Plans; Surveys for Biological Resources and Sensitive Habitat; Surveys for Archaeological, Tribal Cultural Resources, and Historical Resources; Assessments of project-related noise sources; Road System Assessments and Improvement Plans; Timberland Conversion Assessments; documentation of water use, source, and storage; will-serve letters from applicable providers of water and wastewater services; information concerning previously secured state and local permits for cannabis related infrastructure or activities; restoration and remediation plans where appropriate; plans for energy use; and documentation of conformance with the requirements of programs applicable to Industrial Hemp Cultivation Activities administered by the State Water Resources Control Board and Regional Water Quality Control Board.

The County may request additional information prior to application intake, or during application processing, where deemed necessary to perform environmental review pursuant to the California Environmental Quality Act (CEQA). All required plans and reports shall be designed to demonstrate compliance with relevant eligibility and siting requirements, and applicable performance standards, while conforming to relevant checklists and guidance documents maintained and supplied by the County. All Technical Reports and Plans are subject to final review and approval by the County.

55.5.7 CULTIVATION OF INDUSTRIAL HEMP ON SITES APPROVED FOR COMMERCIAL CANNABIS CULTIVATION THROUGH THE COMMERCIAL CANNABIS LAND USE ORDINANCE (CCLUO).

55.5.7.1 Cultivation of Industrial Hemp instead of Commercial Cannabis under a permit or permits approved through the CCLUO may be allowed with a Zoning Clearance Certificate if an application is received between January 1 and April 1 of each year. All of the permit requirements for the approved Commercial Cannabis cultivation shall apply to the Industrial Hemp cultivation.

55.5.7.1.1 CCLUO permit holders for Pre-Existing Cannabis Cultivation may be allowed to cultivate Industrial Hemp instead of Commercial Cannabis within the approved cannabis cultivation area.

55.5.7.1.2 CCLUO permit holders for new Cannabis Cultivation that meet all Eligibility and Siting Criteria and Performance Standards for Accessory Use Industrial Hemp Cultivation specified in Section 55.5.8 may be allowed to cultivate Industrial Hemp instead of Commercial Cannabis up to the maximum area allowed by the CCLUO permit type or up to 3,500 square feet above the approved Cultivation Area, whichever is less.

55.5.8 ACCESSORY USE INDUSTRIAL HEMP CULTIVATION

On properties with a dwelling occupied by the applicant outside the Industrial Hemp Management Zone Full Sun Outdoor Cultivation may be allowed as an Accessory Use outside of Community Planning Areas with a Zoning Clearance Certificate when meeting all the following Eligibility and Siting Criteria and Performance Standards, except when otherwise specified.

55.5.8.1 Eligibility Criteria – Accessory Use Industrial Hemp Cultivation

55.5.8.1.1 Zoning and Minimum Parcel Size

AE, AG, FR, RA, and U when accompanied by a Residential Agriculture (RA) General Plan land use designation.

55.5.8.1.2 Allowed Industrial Hemp Cultivation Area

Up to 5,000 sq. ft. of Industrial Hemp Cultivation Area.

55.5.8.1.3 Cultivation Type

Industrial Hemp Cultivation Area(s) shall be grown exclusively as Full Sun, Outdoor. Use of greenhouses, protective covers, or supplemental lighting is prohibited.

55.5.8.1.4 Water Source

Irrigation shall exclusively utilize Non-Diversiory Sources or water from a Public or Private Water Supplier.

55.5.8.1.5 Imported Soil Prohibited

Planting shall occur exclusively in native soils. Adding amendments to the native soil is allowed. Planting within imported soils is prohibited.

55.5.8.1.6 Slope

The Industrial Hemp Cultivation Area must be confined to areas of the Parcel where the Slope is 10 percent or less. Grading of more than 50 cubic yards of soil is prohibited.

55.5.8.1.7 Timberland Conversion Limited

The Industrial Hemp Cultivation Area shall be within the same non-forested contiguous building envelope containing the primary residence. Conversion of timberland for Industrial Hemp cultivation is prohibited.

55.5.8.1.8 Setbacks

The Industrial Hemp Cultivation Area must observe all of the following setbacks:

- a) Property Lines - Thirty (30') feet from any property line;
- b) Residences and undeveloped parcels - Three hundred feet (300') from any residence on an adjacent separately owned parcel, and two hundred seventy feet (270') from any adjacent undeveloped separately owned parcel;
- c) The setback required from associated property lines or residence(s) on an adjacent privately-owned property may be waived or reduced with the express written consent of the owner(s) of the subject property; and
- d) The Industrial Hemp Cultivation Area shall be outside of Streamside Management Areas (SMAs), as identified and described under Section 314-61.1.

55.5.8.2 Performance Standards – Accessory Use Industrial Hemp Cultivation

Accessory Use Industrial Hemp Cultivation Registrants and operators shall conduct all Industrial Hemp Cultivation activities in compliance with the following performance standards. Failure to comply shall be grounds for permit revocation and injunction, abatement or any other administrative, civil, or criminal remedy available to the County under the applicable state and county laws, specifically including those set forth in Title III, Division 5, Chapter 1 of the Humboldt County Code:

- 55.5.8.2.1 Maintain compliance with all applicable state laws and County ordinances.
- 55.5.8.2.2 Maintain a current, valid business license at all times, if applicable.

55.5.8.2.3 Conform to all requirements of the issued Registration.

55.5.9 PRIMARY USE INDUSTRIAL HEMP CULTIVATION, INDOOR CULTIVATION, MANUFACTURING, RETAIL SALES, AND CULTIVATION SUPPORT FACILITIES

Applications for new Primary Use Industrial Hemp Cultivation may be accepted through the CCLUO allowances in Section 314-55.4.6 (Outdoor and Mixed Light) and Section 314-55.4.8.1 (Indoor) where cultivation of Industrial Hemp occurs instead of Commercial Cannabis. All the Eligibility Criteria and Performance Standards that apply to Commercial Cannabis Cultivation shall equally apply to Industrial Hemp Cultivation.

Existing Cannabis Manufacturing sites permitted through Section 314-55.4.8.2, Cannabis Retail Sales sites permitted through Section 314-55.4.10.1 and Section 314-55.3, and Cannabis Support Facilities permitted through Section 314-55.4.7 may substitute Industrial Hemp for Commercial Cannabis without additional permit or Registration requirements except those required by state and federal law. The conditions of approval and performance standards of the permitted Commercial Cannabis activities also apply to Industrial Hemp activities.

Applications may be accepted for new Industrial Hemp Manufacturing sites through Section 314-55.4.8.2, Retail Sales sites through Section 314-55.4.10.1 and Section 314-55.3, and Support Facilities through Section 314-55.4.7 where Industrial Hemp is substituted for Commercial Cannabis. All the Eligibility Criteria and Performance Standards that apply to Commercial Cannabis activities shall equally apply to Industrial Hemp activities.

55.5.10 TESTING REQUIREMENTS

All Industrial Hemp Cultivation Registrants shall provide Pre-Harvest Notification to the Agricultural Commissioner which will initiate Sampling Procedures. If the Sampling Procedures determine the Industrial Hemp crop contains more THC than 0.3 percent on a dry weight basis, or the sample contains pesticides or microbials, the Industrial Hemp crop shall be destroyed to the satisfaction of the Agricultural Commissioner.

55.5.11 CAP ON PERMITS

The total number of Industrial Hemp Registrations, Zoning Clearance Certificates and Permits shall be limited to the number of permits and acres of cultivation applicable to Commercial Cannabis Cultivation specified in the Board of Supervisors in Resolution 18-43 or its successors. Each Registration, Zoning Clearance Certificate and Permit for Industrial Hemp cultivation activities outside of the Industrial Hemp Management Zone shall be counted toward the cap the same as each Cannabis Cultivation Permit.

Once the permit cap for a given watershed has been reached, no additional Registrations or permit applications for Industrial Hemp Cultivation activities will be processed until the Planning Commission and Board of Supervisors consider an analysis of the state of the watershed and approves an increase in the cap. The analysis shall include review of water flow data and applicable studies or information prepared by state and local agencies and recommendations from the following state agencies: California Department of Fish & Wildlife,

North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection.

55.5.12 RIGHT TO FARM 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 cultivation of Industrial Hemp.

55.5.13 RELEASE OF LIABILITY, INDEMNIFICATION, AND HOLD HARMLESS

As part of the application for any Zoning Clearance Certificate, Special Permit, or Use Permit for Industrial Hemp activity, the property owner and 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 Industrial Hemp activity and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of these uses.

ALTERNATIVES:

1. Alternatives to expand the areas where cultivation of industrial hemp is allowed.

1a: Allow Accessory Use within selected community plan areas as principally permitted

1b: Allow Accessory Use within selected community plan areas with a discretionary permit

2. Alternatives to reduce the areas where cultivation of industrial hemp is allowed.

2a: No Industrial Hemp Cultivation shall be permitted within six hundred feet (600') of a school.

2b: No Industrial Hemp Activity shall be permitted within Tribal Lands without the express written consent of the Tribe.

3. Alternatives to address other concerns.

3a: Measures to achieve more parity between Cannabis and Industrial Hemp Cultivation Requirements (suggestions?)

Modifications to the Industrial Hemp Ordinance

Modifications to the CCLUO

3b: Site Restoration Requirement

Upon termination or abandonment of a permitted Industrial Hemp Cultivation Area, the operator and/or property owner shall remove all materials, equipment and improvements on the site that were devoted to hemp activities, including but not limited to bags, pots or other containers, tools, fertilizers, pesticides, irrigation pipes, water bladders or tanks, pond liners, fencing, hemp and hemp waste products, imported soil and soil amendments not incorporated into native soil, pumps, and structures not associated with non-hemp permitted use of the site. If any of the above described or related material or equipment is to remain, the operator and/or property owner shall prepare a plan and description of the non-hemp continued use of such material or equipment on the site.

3c. Regulations to control pollen drift

3d. Artisanal branding provisions

3e. Increased testing requirements to ensure clean and safe hemp products