

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 Resource. 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 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). Any uses of pesticide products shall be in compliance with the State pesticide laws and regulations enforced by the County Agricultural Commissioner’s Office and the California Department of Pesticide Regulation.
- 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 15th to October 31st 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) Water is to be sourced locally (on-site) and trucked water shall not be allowed, 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.
- o) The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary.
- p) 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.

Performance Standards for Cultivation and Processing Activities:

- q) 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.”
- r) 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).
- s) 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.
- t) 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.

- u) 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:

- a) 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.
- b) 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.