

**BOARD OF SUPERVISORS
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

ORDINANCE NO. 2018-013

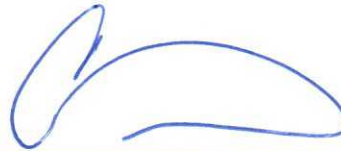
**AN ORDINANCE ESTABLISHING REGULATIONS FOR COMMERCIAL
CANNABIS CULTIVATION**

The following ordinance, consisting of 5 sections, was passed and adopted by the Board of Supervisors of the County of Del Norte, State of California, at a regular meeting of the Board of Supervisors held on the 11th day of December, 2018, by the following vote:

AYES: *Supervisor Cowan, Howard, Hemmingsen, Berkowitz*

NOES: *Supervisor Bitlin*

ABSENT: *None*



Chris Howard, Chair
Del Norte County Board of Supervisors
State of California

ATTEST:



Kylie Goughnour
Clerk of the Board of Supervisors
County of Del Norte County

Approved as to form:



Elizabeth Cable
Del Norte County Counsel

The Board of Supervisors of the County of Del Norte ordains as follows:

SECTION 1: Authority and Purpose

- A. Under Section 7 of Article XI of the California Constitution, a county may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.
- B. The Medicinal and Adult-Use of Cannabis Regulation and Safety Act, Division 10 of the Business and Professions Code (“Division 10”), Section 26000 *et seq.* provides for a comprehensive system to control and regulate the cultivation, distribution, transportation, storage, manufacturing, processing, and sale of both medicinal and adult-use cannabis products.
- C. Business and Professions Code Section 26200 states that Division 10, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.
- D. Business and Professions Code Section 26200 also states that Division 10 shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local zoning and land use requirements, or ordinances to regulate businesses licensed under Division 10, including the authority to completely prohibit the establishment or operation of one or more types of such businesses, within the local jurisdiction.
- E. Therefore, pursuant to the authority granted by the Constitution, and preserved by Division 10, Del Norte County enacts these zoning regulations to provide for the placement of commercial cannabis cultivation within appropriate agriculture and manufacturing zones with the county, such that this activity would be consistent with the health, safety and welfare of the people of Del Norte.

SECTION 2: Definitions

Section 20.67.20 is added to the Del Norte County Code to read as follows:

For the purpose of this chapter, the following words and phrases shall be defined as follows:

- A. “Cannabis” shall have the same meaning as set forth in Health and Safety Code Section 11018.
- B. “Commercial cannabis activity” shall have the same meaning as set forth in Business and Professions Code § 26001.

- C. “Cannabis Cultivator” shall mean a person required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- D. “Cannabis Manufacturer” shall mean a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code
- E. “Cannabis Microbusiness” shall mean a person licensed to conduct multiple commercial cannabis activities, as described in Business and Professions Code Section 26070.
- F. “Cannabis Retailer” shall mean a person required to be licensed as a retailer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- G. “Cultivation” shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- H. “Cultivation area” shall mean the designated area(s) at a licensed premises that will contain flowering plants at any point in time. The area shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point, including all of the space(s) within the boundaries. The area may be noncontiguous but each unique area included in the total cultivation area calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, garden benches, hedgerows, fencing, garden beds or garden plants. If the mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total cultivation area calculation.
- I. “Indoor cultivation” shall mean the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.
- J. “Outdoor cultivation” shall mean the cultivation of cannabis without the use of artificial lighting, or using artificial lighting at a rate below six watts per square foot, regardless of whether a structure is used or required as a condition of a use permit.
- K. “Person” shall include any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, or syndicate.
- L. “School” shall mean any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
- M. “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

SECTION 3: General Cultivation Requirements

Section 20.67.70 is added to the Del Norte County Code to read as follows:

All commercial cannabis cultivation shall be subject to the following minimum requirements:

- A. All cannabis cultivation shall be classified as either “indoor cultivation” or “outdoor cultivation,” as defined by this Chapter, and the classification shall be stated clearly on the use permit. Such designation shall serve as the basis for taxation pursuant to Title 3 of this Code.
- B. A site-specific biological assessment or wetland delineation may be required as part of any use permit application.
- C. A site specific water supply and water management plan shall be included in the permit application to ensure that sufficient water is available to serve the proposed cultivation without adversely affecting the water supplies of nearby users or to the environment. No permit shall be issued for any operation that proposes to source water through surface water diversion.
- D. Cannabis cultivation shall not be a principally permitted use in any zone, and shall be afforded none of the protections provided to, and shall not be included in the definition of, “Agricultural Operations” pursuant to the Right-to-Farm Ordinance of Del Norte County, 7.42.10 *et seq.*
- E. No use permit application for cultivation within the boundary of an Indian Reservation or Rancheria shall be considered complete unless it contains the express, written consent of the tribal government.
- F. All lighting used for cultivation shall be completely shielded from sunset to sunrise.
- G. Instead of the \$15,000 bond required to be included in the permit application by Section 20.67.100(E), every permit application for cannabis cultivation shall require a bond of \$30,000.
- H. All construction, including but not limited to, buildings, fences, security systems, light blocking apparatuses, signs and outdoor lighting fixtures, shall be designed to blend in with the character of the surrounding area.
- I. Every use permit shall specify the public and or private roads or rights of way the permittee intends to use to access the cultivation site. If private roads will be used, a recorded document showing legal right to use the road for the proposed commercial purpose must be provided. In every case, the permit shall be conditioned upon adequate measures to mitigate the negative impacts of cultivation on the roads.
- J. In addition to the findings required by 20.67.40(C), before issuance of a use permit for the cultivation of cannabis, the Planning Commission shall make the following finding, and shall set forth the facts supporting its determination in writing:

The proposed operation plan contains adequate measures to hide, disguise, conceal or otherwise sufficiently minimize the visual or olfactory indicia of cannabis cultivation, such that the use of the property for cannabis cultivation will not be readily apparent to a casual observer from a public space.

Section 20.67.80 is added to the Del Norte County Code to read as follows:

- A. Cannabis Cultivation may be permitted with a use permit in A Districts in accordance with this Section.
1. Up to 2,500 square feet of indoor cultivation may be permitted on parcels 5 acres or larger in size
 2. Indoor cultivation shall be conducted within a permanent structure, properly permitted by the county and in compliance with all building codes. The structure shall be completely enclosed, sufficient to prevent any light from escaping the structure, and be equipped with an odor filtration system sufficient to prevent detectable odors outside the structure.
 3. The structure in which the cultivation occurs shall be set back a minimum of 200 feet from any Residential, Residential and Agriculture, Rural Residential, Planned Community, or Forest Recreation District, and 50 feet from any parcel, regardless of its zoning, which is not under common ownership with the subject parcel. If, after issuance of a permit, a parcel under common ownership is sold, such that the cultivation is no longer in compliance with the setbacks required by this paragraph, the permittee shall immediately notice the Planning Division, and the permit may be subject to revocation.
 4. No cultivation shall be permitted within 1,000 feet of any school or youth center or of any county, state or federal park. This requirement shall not apply to use permit renewals.

Section 20.67.90 is added to the Del Norte County Code to read as follows:

- A. Cannabis Cultivation may be permitted with a use permit in M districts in accordance with this Section.
1. Indoor cultivation of up to 5,000 square feet may be permitted.
 2. Cultivation shall be conducted within a permanent structure, properly permitted by the county and in compliance with all building codes. The permit shall be completely enclosed, sufficient to prevent any light from escaping the structure, and be equipped with an odor filtration system sufficient to prevent detectable odors outside the structure.
 3. No cultivation shall be permitted within 1,000 feet of any school or youth center or of any county, state or federal park. This requirement shall not apply to use permit renewals.

Section 20.67.100 of the Del Norte County Code is amended to read as follows:

All applications for a use permit for a commercial cannabis activity shall be filed with the Community Development Department – Planning Division. In all cases the application shall contain, without limitation, the following documentation:

- A. Notarized, written authorization from all persons and entities having a right, title or interest in the property that is the subject of the application consenting to the application and the operation of the proposed commercial cannabis activity on the subject property.

- B. The name and address of all persons and entities responsible for the operation of the commercial cannabis activity, including managers, corporate officers, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the commercial cannabis activity, and a complete list of all the valid licenses, including license type and license number which has been issued to each person by the state or any other city or county.
- C. An application fee as prescribed by the current fee schedule resolution of the board of supervisors.
- D. An indemnification agreement on a form provided by the county.
- E. Proof of having obtained a surety bond in an amount not less than \$15,000, payable to the County, issued by a corporate surety approved by the County, which is licensed to transact surety business in the State of California.
- F. A detailed operation plan, which includes:
 - 1. Site plans, floor plans, conceptual improvement plans, and a general description of the nature, size, and type of commercial cannabis activity(ies) being requested.
 - 2. Onsite security measures both physical and operational;
 - 3. Standard operating procedures manual detailing how operations will comply with state and local regulations; how safety and quality of products will be ensured; record keeping procedures for financing, testing, and adverse effect recording; and product recall procedures;
 - 4. Proposed hours of operation;
 - 5. Waste disposal information;
 - 6. A water management plan including the proposed water supply and proposed conservation measures;
 - 7. Product supply chain information including where cultivation occurs, where the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labeling criteria;
 - 8. A record keeping policy;
 - 9. Track and trace measures;
 - 10. Sustainability measures including water efficiency measures, energy efficiency measures, high efficiency mechanical systems, and alternative fuel transportation methods;
 - 11. Odor prevention devices;
 - 12. Size, height, colors, design, location and building materials of any proposed signage and fencing at the site;
 - 13. A parking plan;
 - 14. A storage protocol and hazardous response plan;
 - 15. Information on products used during operation, including liquids, solvents, agents, pesticides, herbicides and processes; and
 - 16. A quality control plan.
- G. Proof of consent if required in section 20.67.70(F).
- H. Such other information as county staff may require.

SECTION 4: Affected Districts: A

Section 20.11.30 of the Del Norte County Code is amended to read as follows:

Uses permitted with a use permit shall be as follows:

- A. A mobile home in lieu of a conventional residential unit or a manufactured home
- B. Airports
- C. Animal hospitals and veterinary clinics
- D. Asphalt and concrete batch plants
- E. Billboards not related to permitted use
- F. Commercial Cannabis Cultivation
- G. Commercial enclosed kennels for dogs and cats
- H. Commercial excavations for rock and gravel and rock aggregate processing plants
- I. Country clubs and golf courses
- J. Guest ranches and public stables
- K. Hog ranch
- L. Home enterprises which are not agricultural in nature
- M. Oil and gas drilling
- N. Public or quasi-public uses
- O. Stockyards, slaughterhouses and tanneries

SECTION 5: Affected Districts: M

Section 20.30.30 of the Del Norte County Code is amended to read as follows:

Uses permitted with a use permit shall be as follows

- A. Airports
- B. Animal hospitals, enclosed kennels, and veterinary clinics
- C. Commercial cannabis cultivation
- D. Commercial excavation of stone or earth materials
- E. Distillation of bones
- F. Drilling for and/or removal of oil or gas
- G. Dumping, disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse
- H. Fat rendering
- I. Hog ranches
- J. Junkyards, wrecking yards, contractor yards, lumber yards and storage yards
- K. Fish or meat processing
- L. Manufacturing of acid, chemicals, cement, explosives, fireworks, fertilizer, gas, glue, gypsum, inflammable fluids or gases
- M. Professional offices
- N. Pulp mills and paper mills

- O. Refining of petroleum and its products
- P. Sawmills and planing mills
- Q. Smelting of copper, iron, tin, zinc, and other ores
- R. Stockyards and slaughterhouses
- S. Tanneries
- T. Other uses which might be objectionable by reason of production or emission of noise, offensive odor, smoke, dust, bright lights, vibration or involving the handling of explosive or dangerous materials.