

ORDINANCE NO. 374-2019



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL REPEALING CHAPTERS 5.35 AND 5.40 OF THE RIO DELL MUNICIPAL CODE (RDMC) AND AMENDING THE CITY'S COMMERCIAL CANNABIS REGULATIONS TO (1) ALLOW RETAIL SALES IN THE TOWN CENTER (TC) DESIGNATION WITH A CONDITIONAL USE PERMIT; (2) ALLOW TESTING LABORATORIES IN THE TOWN CENTER (TC), COMMUNITY COMMERCIAL (CC) AND NEIGHBORHOOD CENTER (NC) DESIGNATIONS WITH A CONDITIONAL USE PERMIT; (3) ALLOW DISTRIBUTION FACILITIES IN THE COMMUNITY COMMERCIAL (CC) DESIGNATION AND THE INDUSTRIAL COMMERCIAL (IC) DESIGNATION IN THE EEOA AVENUE NEIGHBORHOOD WITH A CONDITIONAL USE PERMIT; (4) ALLOW CULTIVATION ON THE DINSMORE PLATEAU WITH A CONDITIONAL USE PERMIT; (5) MODIFYING THE CULTIVATION STANDARDS TO ELIMINATE CANOPY SIZES BASED ON PARCEL SIZES FOR GREENHOUSE CULTIVATION AND (6) TO INCORPORATE A NUMBER OF STATE REGULATIONS REGARDING RETAIL SALES AND INCLUDING ADDITIONAL DEFINITIONS AND SECURITY MEASURES.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties and cities to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on October 9, 2015 Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, SB 643, AB 243, and AB 266, providing for comprehensive, concurrent regulation and licensing by state and local governments of medical marijuana as an agricultural product, including its cultivation, processing, testing, manufacture, distribution, transportation, dispensing, and delivery; and

WHEREAS, pursuant to Section 11362.777, subsection (c)(3), "A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the Department of Food and Agriculture's state licensing requirements"; and

WHEREAS, the state statutes establishing a regulated, legitimate basis for commercial cannabis economic activities under the authorization of state law provide an opportunity to bring unregulated activities into compliance with existing law and ameliorate adverse environmental impacts, while bringing it out of the shadows of an underground, black-market economy into a legitimate agricultural and commercial contributor to the local and state economy; and

WHEREAS, the City of Rio Dell has previously adopted a land use ordinance governing commercial cannabis activities consistent with the Medicinal and Adult-Use Cannabis Regulations and Safety Act (MAUCRSA); and

WHEREAS the City has reviewed and processed the proposed text amendments in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City Council finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Rio Dell finds that:

1. The proposed amendments are in the public interest; and
2. The proposed amendments are consistent with the General Plan and any applicable specific plan; and
3. The proposed amendments are Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

BE IT FURTHER RESOLVED, that the City Council of the City of Rio Dell does hereby ordain as follows:

Section 1

Chapters 5.35 and 5.40 of the Rio Dell Municipal Code (RDMC) are hereby repealed.

Section 2

Section 17.30.195 Commercial Cannabis Land Use Regulations is hereby amended as follows.

(1) Authority and Title

This Section shall be known as the Commercial Cannabis Land Use Ordinance (CCLUO), which provides for the regulation of Commercial Cultivation, Retail Sales, Processing, Manufacturing Distribution and testing of cannabis, as defined in this Code, located within the City of Rio Dell.

(2) Purpose and Intent

The City of Rio Dell is focused on the development of the medical cannabis industry in an effort to better understand the effects of the plant and its constituent elements on various diseases. We encourage the businesses within the industry to focus their efforts towards the medical market and actively seek businesses that conduct medical research as associated with the cannabis industry. The efforts of the City to better understand the medical benefits of this plant will provide an environment in which research oriented businesses will thrive and encourage new and innovative researchers to locate in Rio Dell. In this light, the City of Rio Dell envisions a future for the Humboldt Rio Dell Business Park as a research center for the cannabis industry.

The purpose of this Section is to establish land use regulations concerning the commercial cultivation, retail sales, processing, manufacturing, distribution and testing of cannabis for medicinal or adult use in order to limit and control such activity.

These regulations are intended to ensure the public health, safety and welfare of residents of the City of Rio Dell, visitors to the City, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, and end users of medicinal or adult use cannabis; to protect the environment from harm resulting from cannabis activities, including but not limited to residential neighborhoods, schools, commercial areas; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law. To this end, these regulations identify where in the City the various types of

commercial cannabis activities can occur, and specify what type of permit is required, the application process and the approval criteria that will apply.

This Section is not intended to supersede the provisions of Section 17.30.190 of this Code concerning cultivation of medical marijuana for personal use by patients or caregivers, or contravene Section 17.30.235 of this code or the provisions of Health and Safety Code section 11357, 11358, 11362.1, 11362.2, or 11362.5 with respect to the possession or cultivation of limited amounts of cannabis for personal use by qualified patients or persons 21 years of age or older.

(3) Applicability and Interpretation

- (a) These regulations shall apply to the location and permitting of commercial cultivation, retail sales, processing, manufacturing, distribution and testing of cannabis in zoning districts within which such use is authorized, as specified in this Section.
- (b) The commercial cultivation, retail sales, processing, manufacturing, distribution and testing of cannabis within the jurisdiction of the City of Rio Dell shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
- (c) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, retail sales, processing, manufacturing, distribution and testing of cannabis from compliance with all other applicable zoning, and land use regulations, as well as compliance with any applicable state laws.
- (d) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, retail sales, processing, manufacturing, distribution and testing of cannabis 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.
- (e) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, retail sales, processing, manufacturing, distribution and testing of cannabis on private property.
- (f) The definitions in this Section are intended to apply solely to the regulations in this section.

- (g) Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that cannabis is an agricultural product for purposes of that Section and the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), Business and Professions Code Section 19300, et. seq., the commercial cultivation of cannabis is a highly regulated specialty crop and cultivation and processing of that specialty crop shall not be allowed as a principal permitted use unless a Conditional Use Permit is first obtained from the City of Rio Dell, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.
- (h) With the exception of testing laboratories, all cannabis operators/licensees are required to hold a Medical or “M” type State license. Cannabis operators/licensees may hold an Adult or “A” type State license as well.

(4) Release of Liability and Hold Harmless

As a condition of approval for any Conditional Use Permit approved for the commercial cultivation, processing, manufacturing, testing, or distribution of cannabis as defined herein, the owner or permittee shall indemnify and hold harmless the City of Rio Dell 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, processing, manufacturing, testing or distribution of cannabis 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, processing, manufacturing, testing or distribution of cannabis.

(5) Violations, 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 Rio Dell Municipal Code, State law, including without limitation the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), and applicable federal law.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing the required Conditional Use 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 City under the applicable state and City laws, including those set forth in Section 17.40.020 of the Rio Dell Municipal Code and any or all of the following:

- (a) Such person shall be subject to summary or administrative abatement of the nuisance by the City, and be subject to fines, civil penalties, fees and costs, including reasonable attorney fees imposed by the City pursuant to the summary or administrative abatement procedures contained in the City Code or any other provisions of law;
- (b) Such person shall be guilty of a misdemeanor for each day such violation continues, and upon conviction thereof, shall be punished for each violation by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment of not longer than six months, or both for each violation;
- (c) Such person shall be prosecuted in a civil action, criminal action, or both brought by the City. The City Attorney or other authorized legal representative may bring an action in a court of competent jurisdiction to enjoin or prosecute any nuisance violation of this chapter, or violation of any other ordinance of the City;
- (d) Each and every day that any such violation continues to exist shall constitute a continuing and separate offense.

(6) Definitions

“Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act

“Area of Traditional Tribal Cultural Affiliation” means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as shown on the latest mapping prepared by the County of Humboldt Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

“Branded merchandise” means clothing, hats, pencils, pens, key chains, mugs, water bottles, beverage glasses, notepads, lanyards, cannabis accessories, or other types of merchandise approved by the Bureau with the name or logo of a commercial cannabis business licensed pursuant to the Act. Branded merchandise does not include items containing cannabis or any items that are considered food as defined by Health and Safety Code section 109935

“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 exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis 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.

“Cannabis Accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

“Cannabis goods” means cannabis, including dried flower and products containing cannabis.

“Cannabis Testing and Research Laboratories” means a facility, entity, or site that offers or performs tests of cannabis or cannabis products licensed by the State of California pursuant to Business and Professions Code section 26000, et. seq., and businesses and research institutions engaged in the research of cannabis, cannabis products, or devices used for the medicinal or adult use of cannabis products at which no commercial cannabis cultivation or distribution, manufacture, dispensing, or sale of medical cannabis occurs.

“Commercial Cannabis Activity” means any activity involving the cultivation, retail sales, processing, distribution, manufacturing, testing, sale, or related activities, of cannabis for commercial purposes.

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).

“Cultivation Area” the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

“Cultivation License Types” means the following types of State cultivation licenses:

(a) Specialty Cottage:

- (1) "Specialty Cottage Outdoor" is an outdoor cultivation site with up to 25 mature plants.
- (2) "Specialty Cottage Indoor" is an indoor cultivation site with 500 square feet or less of total canopy.
- (3) "Specialty Cottage Mixed-Light Tier 1 and 2" is a mixed-light cultivation site with 2,500 square feet or less of total canopy.

(b) Specialty:

- (1) "Specialty Outdoor" is an outdoor cultivation site with less than or equal to 5,000 square feet of total canopy, or up to 50 mature plants on noncontiguous plots.
- (2) "Specialty Indoor" is an indoor cultivation site between 501 and 5,000 square feet of total canopy.
- (3) "Specialty Mixed-Light Tier 1 and 2" is a mixed-light cultivation site between 2,501 and 5,000 square feet of total canopy.

(c) Small:

- (1) "Small Outdoor" is an outdoor cultivation site between 5,001 and 10,000 square feet of total canopy.
- (2) "Small Indoor" is an indoor cultivation site between 5,001 and 10,000 square feet of total canopy.
- (3) "Small Mixed-Light Tier 1 and 2" is a mixed-light cultivation site between 5,001 and 10,000 square feet of total canopy.

(d) Medium:

- (1) "Medium Outdoor" is an outdoor cultivation site between 10,001 square feet and one acre of total canopy.
- (2) "Medium Indoor" is an indoor cultivation site between 10,001 and 22,000 square feet of total canopy.

- (3) "Medium Mixed-Light Tier 1 and 2" is a mixed-light cultivation site between 10,001 and 22,000 square feet of total canopy.
- (e) "Nursery" is a cultivation site that conducts the cultivation of cannabis solely as a nursery.
- (f) "Processor" is a site that conducts only trimming, drying, curing, grading, packaging or labeling of cannabis and nonmanufactured cannabis products.

"Cultivation site" means the location or a facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

"Dinsmore Plateau Area" is the area (parcels) shown in Figure 6-1, below:

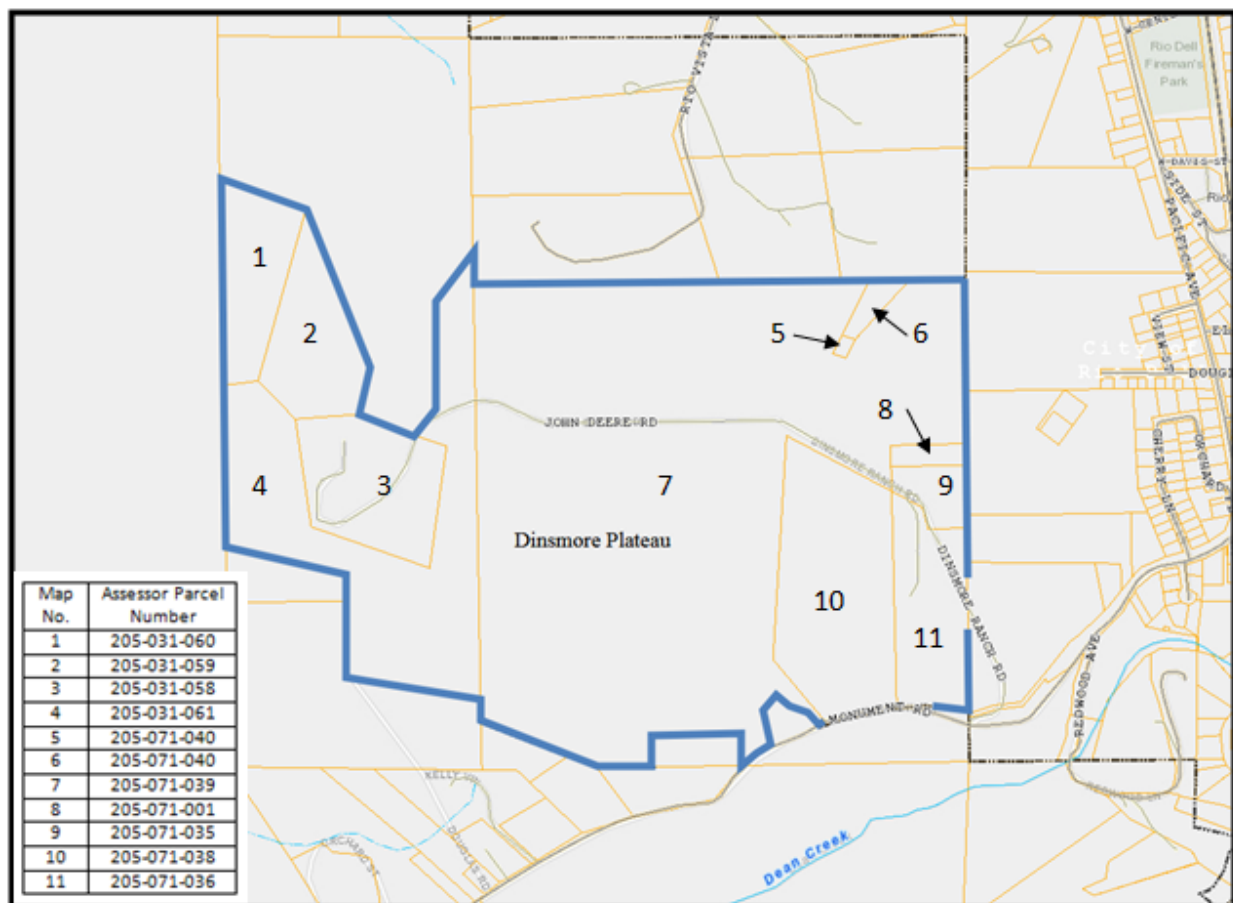


Figure 6-1
Dinsmore Plateau Area

“Distribution Facility” means the location or a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retailers, and performs and coordinates the inspection, quality assurance, batch testing, storage, labeling, packaging and other related processes, as well as transportation to or from other licensees.

“Distributor” means a State recognized Type 11 licensed person or entity that conducts the business of procuring cannabis from licensed cultivators and/or manufacturers for sale to licensed retailers, and performs and coordinates the inspection, quality assurance, batch testing and other related processes as well as transportation to and from other licensees.

“Distributor Transport Only” means a State recognized Type 13 licensed person or entity that conducts the business transportation of cannabis products between licensed cultivators, manufacturers and distributors. Does not transport cannabis goods to a retailer except for immature live plants and seeds being transported from a licensed nursery.

“Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

“Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.

“Greenhouse” means a structure, primarily of glass or clear poly-film or polycarbonate plastic, in which temperature and humidity can be controlled for the cultivation or protection of plants.

“Health and Wellness Center” means an establishment that offers health services for the body and mind, including but not limited to fitness, personal training, nutrition consulting, skin care services, massage, holistic and herbal therapies, therapeutic application of cannabis products including oils, tinctures, sublingual’s, creams, lotions, pills, , cosmetics, etc.

“Immature cannabis plant” or “immature plant” means a plant that is nonflowering and is shorter and narrower than 18 inches. For purposes of this division, this definition is applicable to retail activities.

“Indoor” means indoor cultivation using exclusively artificial lighting or a combination of artificial lighting and natural sunlight in a building with a glass, polycarbonate plastic or similar roof.

“Kief” means the resinous trichomes of cannabis that may accumulate in containers or be sifted from loose, dry cannabis flower with a mesh screen or sieve.

“Licensee” means a person issued a state license under the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) to engage in commercial cannabis activity.

“Limited-access area” means an area in which cannabis goods are stored or held and is only accessible to a licensee and its employees and authorized individuals.

“Manufacturing Facility” means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Manufacturing License Types” means the following license types available from the California Department of Public Health (CDPH):

- (a) “Type P,” for entities that only package or repackage medical cannabis products or label or relabel the cannabis product container. Entities that engage in packaging or labeling of their own product as part of the manufacturing process do not need to hold a separate Type P license. For purposes of section 19328 of the Business and Professions Code, a Type P license shall be subject to the same restrictions as a Type 6 license.
- (b) “Type N,” for manufacturers that produce edible products or topical products using infusion processes, or other types of medical cannabis products other than extracts or concentrates, and that do not conduct extractions. For purposes of section 19328 of the Business and Professions Code, a Type N license shall be subject to the same restrictions as a Type 6 license.
- (c) “Type 6,” for extractions using mechanical methods or nonvolatile solvents as defined by Section 40100 of the California Code of Regulations. A Type 6 licensee may also conduct infusion operations, or packaging and labeling of its own cannabis products on the licensed premises, provided that the infusion method is noted on the application form and that the relevant information pursuant to subsection (b) of Section 40128 of the California Code of Regulations is provided to the Department.
- (d) “Type 7,” for extractions using volatile solvents as defined by Section 40100 of the California Code of Regulations. A Type 7 licensee may also:

(1) Conduct extractions using nonvolatile solvents or mechanical methods on the licensed premises provided that the extraction process is noted on the application form and the relevant information is provided to the Department pursuant to subsection (b) of Section 40128 of the California Code of Regulations.

(2) Conduct infusion operations on the licensed premises, provided that the infusion method is noted on the application form and that the relevant information is provided to the Department pursuant to subsection (b) of Section 40128 of the California Code of Regulations.

(3) Conduct packaging and labeling of its own cannabis products.

“Medicinal cannabis patient” includes both a qualified patient as defined in Health and Safety Code section 11362.7 and a person in possession of a valid identification card issued under Health and Safety Code section 11362.71.

“Microbusiness” means a State recognized Type 12 licensed facility host to several Commercial Cannabis Activities under a single license including cultivation on an area less than 10,000 square feet, distribution, manufacturing without use of volatile solvents, and retail sales.

“Mixed-Light” means cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse or other similar structure using light deprivation and/or one of the artificial lighting models described below:

(1) “Mixed-light Tier 1” the use of artificial light at a rate of six watts per square foot or less;

(2) “Mixed-light Tier 2” the use of artificial light at a rate above six and below of equal to twenty-five watts per square foot.

“Nonmanufactured cannabis product” means flower, shake, kief, leaf and pre-rolls.

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

“Off-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged when conducted at premises separate from the cultivation site where the processed cannabis is grown and harvested.

“On-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, when conducted at the same premises or Parcel which is host to the cultivation site(s) where the cannabis is grown and harvested.

“Outdoor” means outdoor open-field (not in a greenhouse) cultivation using no artificial lighting. Outdoor cultivation as defined herein is not allowed in the City of Rio Dell.

“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.

“Premises” means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor or mixed-light cultivation or processing of cannabis, or space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of cannabis.

“Pre-roll” means nonmanufactured cannabis products(s) rolled in paper.

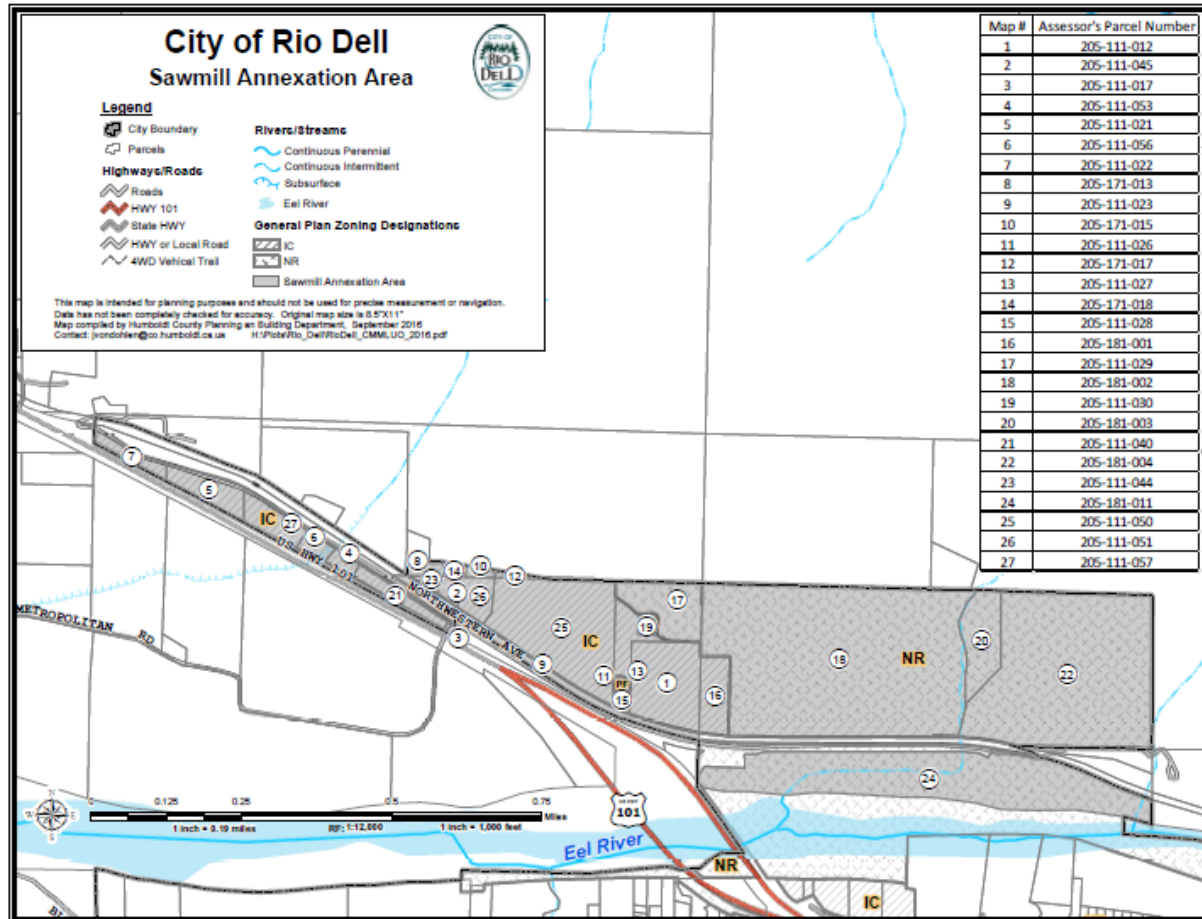
“Process”, “Processing”, and “Processes” means all activities associated with drying, curing, grading, trimming, storing, packaging and labeling of cannabis products.

“Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged.

“Propagation” means cultivation of immature, non-flowering cannabis plants.

“Retail area” means a building, room or other area that is open to the public, upon the licensed retailer or licensed Microbusiness premises authorized to engage in retail sales in which cannabis goods are sold or displayed.

“Sawmill Annexation Area” means the area north of the Eel River annexed into the City in 2008/2009, which area is shown on Figure 6-2, below.



**Figure 6.2
Sawmill Annexation Area**

“Renewable Energy Source” means electrical power provided by a renewable energy system and/or Grid Power, supplied from 100% renewable source.

“Renewable Energy System” means equipment for generating and supplying power without use of petroleum or other fossil fuels, and instead using appropriate technology including but not limited to: wind turbines, photovoltaic panels, and hydroelectric systems, in concert with private devices and systems for energy storage and distribution including batteries, grid inter-tie, or other means.

“Retailer” means a State recognized Type 10 licensed facility for the retail sale and delivery of cannabis to the public, whether for medicinal or adult use.

“Retailer Non-Storefront” means a State recognized Type 9 license for the retail sale and delivery of cannabis from a licensed premises that is not open to the public, whether for medicinal or adult use.

“State license” means a state license issued pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).

“Testing Laboratory” means a State recognized Type 8 licensed facility, entity, or site in the state that offers or performs tests of cannabis or cannabis products with an ISO/IEC 17025 accreditation or equivalent recognized by the state.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

(7) General Provisions

This section applies to all cannabis related facilities and activities involved in the Commercial Cultivation, Retail Sales, Processing, Manufacturing, Health and Wellness Centers, Testing or Distribution of cannabis as defined in this Section.

- (a) All cannabis related facilities and activities, including commercial cultivation, retail sales, processing, manufacturing, Health and Wellness Centers, testing, or distribution of cannabis shall operate in compliance with this Section, as well as all applicable state and local laws and conditions as deemed appropriate by the Planning Commission and/or the City Council.
- (b) All retail, manufacturing, processing, testing and distribution cannabis activities shall not be located closer than 600 feet from a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time of application. The distance shall be measured in the same manner as provided in subsection (c) of section 11362.768 of the Health and Safety Code unless otherwise provided by law.
- (c) Greenhouse and Mixed-Light commercial cultivation of cannabis shall be conducted entirely within a fully enclosed, secure and lockable greenhouse and shall be conditionally permitted in the Industrial Commercial (IC) and Natural Resources (NR) designations located in the

Sawmill Annexation area and the Rural (R) designation located on the Dinsmore Plateau area pursuant to the “Greenhouse” and “Mixed-Light” cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.

- (d) Indoor commercial cultivation of cannabis shall be conditionally permitted in the Industrial Commercial (IC) and Natural Resources (NR) designations located in the Sawmill Annexation area and the Rural (R) designation located on the Dinsmore Plateau area pursuant to the “Indoor” cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (e) Processing Facilities accessory and appurtenant to on site cultivation for commercial cannabis shall be a conditionally permitted use in the Industrial Commercial (IC) and Natural Resources (NR) designations located in the Sawmill Annexation area and the Rural (R) designation located on the Dinsmore Plateau area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (f) Stand alone, independent Processing Facilities for commercial cannabis shall be a conditionally permitted use in the Industrial Commercial (IC) designation zoning district located in the Sawmill Annexation area, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (g) Extraction manufacturing of commercial cannabis concentrates shall be a conditionally permitted use in the Industrial Commercial (IC) designation located in the Sawmill Annexation area, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (h) Manufacturing of edibles (commercial kitchens) shall be a conditionally permitted use in the Industrial Commercial (IC), designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (i) Wholesale Distribution Facilities for commercial cannabis shall be a conditionally permitted use in the Industrial Commercial (IC) designation located in the Sawmill Annexation area,

the Industrial Commercial (IC) designation in the Eeloa Avenue area and the Community Commercial (CC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council. The City Council may at any time limit the number of distribution facilities in the Community Commercial (CC) designation.

- (j) Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale, bulk wholesale sale or to supply retail nursery outlets shall be a conditionally permitted use in the Industrial Commercial (IC) and Natural Resources (NR) designation located in the Sawmill Annexation area and the Rural Residential (R) designation located on the Dinsmore Plateau area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (k) Testing laboratories as herein defined shall be conditionally permitted in the Industrial Commercial (IC) designation located in the Sawmill Annexation area the Town Center (TC), Neighborhood Center (NC) and the Community Commercial (CC) zones subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (l) Other than as enumerated in this Section, the commercial cultivation, processing, manufacturing, testing or distribution and retail sales of cannabis in any other zoning district in the City of Rio Dell is prohibited.
- (m) Health and Wellness Centers as herein defined are allowed in the Industrial Commercial (IC) designation located in the Sawmill Annexation area and the Town Center (TC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (n) Retail areas as herein defined may be allowed in the Industrial Commercial (IC) designation located in the Sawmill Annexation area and the Town Center (TC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council. No more than three (3) retail establishments may be allowed in the Town Center (TC) designation. The City Council shall solicit proposals through a "Request For Proposal" process. The proposals will be evaluated at a minimum on the following elements:

- Experience
- Financial Capital
- Interior and Exterior Design
- Business Model/Plan of Operation

(o) 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 Conditional Use Permit from the City of Rio Dell to engage in the commercial cultivation, processing, manufacturing, testing or distribution of cannabis within the jurisdiction of the City.

(p) Every person engaged in any commercial cannabis activity within the City of Rio Dell that applies for and is issued a State license type marked “A” for adult use under Section 26050(b) of the California Business and Professions Code shall also apply for and obtain, prior to engaging in activity permitted under the “A” type State license, a State license type marked “M” for medicinal use for the same type of commercial cannabis activity within the City. Any such person shall comply with Section 5025 of Title 16 of the California Code of Regulations. This provision shall not apply to persons possessing a State testing laboratory license

(q) A Video Surveillance System as required by Section 5044 of the California Code of Regulations shall be installed in Manufacturing, Processing, Distribution, Testing and Retail facilities. The system shall comply with the following standards:

(i) Each licensed premises shall have a digital video surveillance system with a minimum camera resolution of 1280 × 720 pixels.

(ii) The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance.

(iii) Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the licensed premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection (iv) of this section.

(iv) Areas that shall be recorded on the video surveillance system include the following:

- (1) Areas where cannabis goods are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises;
- (2) Limited-access areas;
- (3) Security rooms;
- (4) Areas storing a surveillance-system storage device with at least one camera

- recording the access points to the secured surveillance recording area; and
- (5) Entrances and exits to the licensed premises, which shall be recorded from both indoor and outdoor vantage points.

(v) Licensed retailers authorized to engage in retail sales shall also record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.

(vi) Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).

(vii) The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft.

(viii) Surveillance recordings shall be kept for a minimum of 90 calendar days.

(ix) Surveillance recordings are subject to inspection by the City, and shall be kept in a manner that allows the City to view and obtain copies of the recordings at the licensed premises immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the City upon request within the time specified by the City.

(x) Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the standards issued by the United States National Institute of Standards and Technology.

(xi) The video surveillance system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance-system storage device.

(xii) If multiple licensed premises are contained within the same building, a single video surveillance system covering the entire building may be used by all of the licensees under the following conditions:

- (1) Each applicant or licensee shall disclose on their premises diagram where the surveillance recordings are stored.
- (2) Each applicant or licensee shall include in their security operating procedures, submitted with the application an explanation of how the video surveillance system will be shared, including who is responsible for monitoring the video footage and storing any video recordings.
- (3) All licensees shall have immediate access to the surveillance recordings to produce them pursuant to subsection (i) of this section.
- (4) All licensees shall be held responsible and subject to discipline for any violations of the video surveillance requirements.

- (r) Limited-Access areas as defined herein shall comply with the following standards:
- (i) Licensees shall ensure that only employees of the licensee and other authorized individuals access the limited-access areas of the licensed premises.
 - (ii) For the purpose of this section, authorized individuals include outside vendors, contractors, or other individuals conducting business that requires access to the limited-access areas.
 - (iii) An individual who enters the limited-access area and is not employed by the licensee shall be escorted by an employee of the licensee at all times while within the limited-access area.
 - (iv) A licensee shall maintain a record of all authorized individuals who are not employees of the licensee who enter the limited-access areas. The record shall include the name of the individual, the company the individual works for, the reason the individual entered the limited-access area, the date, and the times the individual entered and exited the limited-access area. These records shall be made available to the Bureau immediately upon request.
 - (v) A licensee shall not receive consideration or compensation for permitting an individual to enter the limited-access areas.
- (s) Entrances to all limited-access areas shall have a solid door and a lock meeting the requirements of section 5046 of this division. The door shall remain closed when not in use during regular business hours. A licensee shall ensure that the limited-access areas described in section 5042 of this division can be securely locked using commercial-grade, nonresidential door locks. A licensee shall also use commercial-grade, nonresidential door locks on all points of entry and exit to the licensed premises.
- (t) An Alarm System as required by Section 5047 of the California Code of Regulations shall be installed in Manufacturing, Processing, Distribution, Testing and Retail facilities. The system shall comply with the following standards:
- (i) A licensee shall maintain an alarm system as defined in Business and Professions Code section 7590.1(n) at the licensed premises.
 - (ii) A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system.
 - (iii) Upon request, a licensee shall make available to the City all information related to the alarm system, monitoring, and alarm activity.
 - (iv) If multiple licensed premises are contained within the same building, a single

alarm system covering the entire building may be used by all of the licensees under the following conditions:

- (1) Each licensee shall include in their security operating procedures, submitted with the application an explanation of how the alarm system will be shared, including who is responsible for contracting with the alarm company.
 - (2) All licensees shall have access to and be able to provide the information under subsection (iii) of this section.
 - (3) All licensees shall be held responsible and subject to discipline for any violations of the alarm system requirements.
- (u) Employee Badge Requirement: All agents, officers, or other persons acting for or employed by a licensee shall display a laminated or plastic-coated identification badge issued by the licensee at all times while engaging in commercial cannabis activity. The identification badge shall, at a minimum, include the licensee's "doing business as" name and license number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height.

(8) Cultivation, Locations and Allowable Canopies

The commercial cultivation of cannabis within the City shall be located in the Sawmill Annexation area and the Rural (R) designation located on the Dinsmore Plateau area in accordance with the following table:

Table 8.1
Greenhouse & Mixed-Light Cultivation
Industrial Commercial (IC) and Natural Resources (NR) Designations

State License Type	Allowable Canopy
"Specialty Cottage"	2,500 sq. ft.
"Specialty"	5,000 sq. ft.
"Small"	10,000 sq. ft.
"Medium"	22,000 sq. ft.

Note: There are no limits on canopy size. Limits are based on State requirements. Currently applicants are allowed one "Medium" license which must be backfilled with smaller licenses for canopies over 22,000 square feet.

Indoor Cultivation

Industrial Commercial (IC), Natural Resources (NR) and Rural (R) Designations

State License Type	Allowable Canopy
"Specialty Cottage"	500 sq. ft.
"Specialty Indoor"	5,000 sq. ft.
"Small Indoor"	10,000 sq. ft.
"Medium Indoor"	22,000 sq. ft.

Note: There are no limits on canopy size. Limits are based on State requirements. Currently applicants are allowed one "Medium" license which must be backfilled with smaller licenses for canopies over 22,000 square feet.

Nurseries

Industrial Commercial (IC) Natural Resources (NR) and Rural (R) Designations

State License Type	Parcel Size	Allowable Canopy
Type 4, "Nursery"	N/A	N/A

- (a) Cultivation activities may occur on leased premises for agricultural purposes pursuant to the exclusion from the Subdivision Map Act, Government Code Section 66412(k). The minimum parcel size for leased parcels shall be five (5) acres.
- (b) Processing of cannabis that is cultivated pursuant to these regulations may occur at the cultivation site subject to the Processing Performance Standards and Employee Safety Practices enumerated in Section 17.30.195(10) thru 17.30.195(13) are met.
- (c) Multiple applicants may obtain a Conditional Use Permit for greenhouse cultivation, mixed-light cultivation, or both, on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in Table 8.1, Cultivation Locations and Allowable Canopies.
- (d) A combination of cultivation types may be allowed in the same zone (e.g. greenhouse and, mixed light cultivation, or indoor cultivation and processing).

(9) Application Requirements for All CCLUO Conditional Use Permits:

- (a) A completed standard application form for a Conditional Use Permit with the required fee.

- (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) A **Site Plan** shall be submitted showing the entire parcel with dimensions, easements, existing and proposed buildings, parking and loading facilities, landscaping, trash and recycling facilities, stormwater facilities, including retention/detention facilities and setbacks from property lines. The plan shall be drawn to scale.
- (d) **Floor Plans** shall be submitted for existing and proposed buildings with dimensions and labeling identifying uses within the building(s). The plans shall be drawn to scale.
- (e) A **Plan of Operations** shall be submitted that includes, describes and addresses the following:
 - (i) A complete project description including the proposed use(s), hours and days of operation, number of employees, and the duration (temporary, seasonal or permanent) of the operation.
 - (ii) The number of daily and/or weekly incoming and outgoing deliveries
 - (iii) A Security Plan that addresses the cultivation, sales, storage, processing, manufacturing and testing of any cannabis, including but not limited to video monitoring and commercial alarm systems.
 - (iv) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
 - (v) A description of the storage or use of any solvents, fertilizers, pesticides, fungicides, rodenticide, or herbicides.
 - (vi) A description of any discharge or emissions the operation will generate.
 - (vii) A description of any noise level increase as a result of the operation.
 - (viii) A description of the operation's use of public facilities such as roads, water or sewer systems.

- (ix) A description of any proposed water source, storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection.
- (f) **Tribal Consultation:** For any ground disturbing activities, acknowledge that the City will consult with the local Wiyot Tribe, including their Tribal Historic Preservation Officer (THPO) or other tribal representatives, before the approval of any Conditional Use Permit. During this process, the tribe may request that operations associated with the Conditional Use Permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern.
- (g) **Community Relations:** Each cannabis facility shall provide the City Manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis facility. Each cannabis facility shall also provide the above information to its business neighbors located within 300 feet of the cannabis facility.
- (h) Consent to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.
- (i) The applicant or any of its officers, directors, owners or licensee shall be subject to the background checks related to the qualifications, functions or duties of the business required by the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). The City shall rely on the State in making disqualifying determinations regarding substantially related offenses pursuant to Section 26057 of the Business and Professions Code. (Ord. 365-2018)
- (j) Compliance with the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), all applicable state laws and City ordinances.
- (k) All permittees subject to state licensure shall participate in local and state programs for “Track and Trace”, once available.

- (l) Notification to State Licensing Authorities: The City shall notify the appropriate state licensing authority whenever a Conditional Use Permit has been revoked or terminated following the expiration of any appeal period, or if an appeal has been filed, following the final determination of the appeal.
- (m) The operator of the permitted facility shall maintain valid license(s) issued by the appropriate state licensing authority or authorities as provided in MAUCRSA for the type of activity being conducted, as soon as such licenses become available.
- (n) All operators shall maintain a current, valid business license at all times.

(10) Performance Standards for all CCLUO Cultivation Operations:

- (a) No surface water withdrawals shall be allowed as part of any cultivation operations.
- (b) No Timberland Conversion Permits or Exemptions as approved by the California Department of Forestry and Fire Protection (CAL-FIRE) shall be used to facilitate the cultivation of cannabis.
- (c) The area of greenhouse, mixed-light cannabis cultivation shall be located as shown on the application site plan, set back at least 30 feet from any property line in the Natural Resource (NR) and Rural (R) zones and 300 feet from any residences on an adjacent separately owned parcel and 1000 feet from any school. The setback required from associated property lines or residence(s) on adjacent privately-owned property may be waived or reduced with the express written consent of the owner(s) of the subject property.
- (d) Cannabis cultivation is declared to be development, subject to compliance with Section 17.30.110, Environmentally Sensitive Habitat Area's (ESHA's). For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and the 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 Section 17.30.110.
- (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 City of Rio Dell 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) The storage or use of any fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with the manufacture's recommendations and regulations administered by the State Department of Pesticide Regulation. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, which 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).
- (h) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."
- (i) Carbon filter fans or equivalent superior filters/scrubbers shall be required to eliminate odor discharges to neighboring properties from cultivation and processing facilities.
- (j) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (k) 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. Should the City 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.
- (l) Generators are only allowed as an emergency back-up power source. The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.

(m) 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.

(n) Electricity for Indoor and Mixed Light cultivation activities shall be provided by any combination of the following:

(i) On-grid power with 42 percent renewable source.

(ii) Onsite zero net energy renewable source providing 42 percent of power.

(iii) Purchase of carbon offsets for any portion of power above 58 percent not from renewable sources.

(iv) Demonstration that the equipment to be used would be 42 percent more energy efficient than standard equipment, using 2014 as the baseline year for such standard equipment.

Purchase of carbon offset credits (for grid power procured from non-renewable producers) may only be made from reputable sources, including those found on Offset Project Registries managed the California Air Resources Board, or similar sources and programs determined to provide bona fide offsets recognized by relevant state regulatory agencies.

(o) Comply with all federal, state, and local laws and regulations applicable to California Agricultural Employers, including those governing cultivation and processing activities.

(p) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(11) Performance Standards for Manufacturing Activities:

(a) Compliance with CAL/OSHA, OSHA regulations.

(b) Compliance with State and local building regulations, including the California Building Code (CBC) and the California Fire Code (CFC).

(c) A Security Plan that addresses how the following measures shall be implemented or complied with:

- (i) Entrance to the extraction areas and any cannabis storage areas shall be locked at all times, and under the control of facility staff.
 - (ii) Cannabis shall be stored in buildings that are completely enclosed, and in a locked vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
 - (iii) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.
- (d) If using CO₂ in processing, a professional grade closed-loop CO₂ gas extraction system rated to a minimum of fifteen thousand (15,000) pounds per square inch (PSI) is required for every vessel in the system.
- (e) Extraction processes shall use a commercially manufactured professional grade closed-loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted sound engineering practices, such as (i) The American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) The American Society for Testing and Materials (ASTM).
- (f) Volatile extraction operations shall occur in a spark-proof, explosion-proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.
- (g) Carbon filter fans or equivalent superior filters/scrubbers shall be required to eliminate odor discharges to neighboring properties.
- (h) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (i) Manufacturers of edibles shall comply with the regulations in the California Health and Safety Code, which includes the California Retail Food Code administered by the California Department of Health Services - Food and Drug Branch, California Department of Food and Agriculture and the County Department of Environmental Health.

- (j) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(12) Performance Standards for Testing Laboratories

- (a) Entrance to the lab area and any cannabis storage areas shall be locked at all times, and under the control of facility staff.
- (b) Cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
- (c) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the California Building Code.
- (d) All laboratory testing facilities shall comply with Sections 19341 through 19345 of the California Business and Professions Code.
- (e) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(13) Performance Standards for Retail Sales

- (a) Retail areas as herein defined *may be* allowed in the Industrial Commercial (IC) designation located in the Sawmill Annexation area and the Town Center (TC) designation subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council. In addition to the Conditional Use Permit required findings pursuant to Section 17.35.030 of the Rio Dell Municipal Code (RDMC), the following elements will be considered in reviewing and approving retail operations, including but not limited to:

- Experience
- Interior and Exterior Design
- Financial Capital
- Business Model/Plan of Operation

- (b) Customer access to the licensed premises of a retailer with only an A-designation shall be limited to individuals who are at least 21 years of age.

- (c) Customer access to the licensed premises of a retailer with only an M-designation shall be limited to individuals who are at least 18 years of age and have a valid physician's recommendation for medicinal cannabis, and individuals who are at least 21 years of age.
- (d) Customer access to the licensed premises of a retailer with both an A- designation and an M-designation may include persons identified in subsections (b) and (c) of this section.
- (e) Individuals shall be granted access to the retail area to purchase cannabis goods only after the retailer or an employee of the retailer has confirmed the individual's age and identity.
- (f) The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.
- (g) All sales of cannabis goods must take place within the retail area of the retailer's licensed premises, except for cannabis goods sold through delivery.
- (h) A licensed retailer shall only sell adult-use cannabis goods to individuals who are at least 21 years of age after confirming the customer's age and identity by inspecting a valid form of identification provided by the customer as required by subsection (j) of this section.
- (i) A licensed retailer shall only sell medicinal cannabis goods to individuals who are at least 18 years of age and possesses a valid physician's recommendation after confirming the customer's age, identity, and physician's recommendation as required by subsection (j) of this section.
- (j) Acceptable forms of identification include the following:
 - (i) A document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, height, gender, and photo of the person;
 - (ii) A valid identification card issued to a member of the Armed Forces that includes the person's name, date of birth, and photo; or
 - (iii) A valid passport issued by the United States or by a foreign government.
- (k) A licensed retailer shall sell and deliver cannabis goods only between the hours of 9:00 a.m. Pacific Time and 8:00 p.m. Pacific Time.
- (l) Cannabis goods for inspection and sale shall only be displayed in the retail area.

- (m) Cannabis goods may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without assistance of retailer personnel. A container must be provided to the customer by the licensed retailer or its employees, who shall remain with the customer at all times that the container is being inspected by the customer.
- (n) Cannabis goods removed from their packaging for display shall not be sold, shall not be consumed, and shall be destroyed pursuant to section 5054 of the California Code of Regulations when the cannabis goods are no longer used for display.
- (o) A licensed retailer shall not make any cannabis goods available for sale or delivery to a customer unless:
 - (i) The cannabis goods were received by the retail licensee from a licensed distributor or licensed microbusiness authorized to engage in distribution;
 - (ii) The licensed retailer has verified that the cannabis goods have not exceeded their best-by, sell-by, or expiration date if one is provided;
 - (iii) In the case of manufactured cannabis products, the product complies with all requirements of Business and Professions Code section 26130 and California Code of Regulations, Title 3, Division 8 and Title 17, Division 1, Chapter 13;
 - (iv) The cannabis goods have undergone laboratory testing as required by the Act;
 - (v) The batch number is labeled on the package of cannabis goods and matches the batch number on the corresponding certificate of analysis for regulatory compliance testing;
 - (vi) The packaging and labeling of the cannabis goods complies with Business and Professions Code Section 26120 and all applicable regulations within the California Code of Regulations, Title 3, Division 8 and Title 17, Division 1, Chapter 13.
- (p) In addition to cannabis goods, a licensed retailer may sell only cannabis accessories as defined by Section 11018.2 of the California Health and Safety Code and licensee's branded merchandise. Licensed retailers may provide customers with promotional materials.
- (q) A licensed retailer shall only sell live, immature cannabis plants and cannabis seeds if all of the following requirements are met:
 - (i) The plant is not flowering;
 - (ii) The plant or seed originated from a nursery that holds a valid license from the Department of Food and Agriculture or a licensed microbusiness authorized to engage in cultivation;
 - (iii) A label is affixed to the plant or package containing any seeds which states "This

product has not been tested pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

- (r) A licensed retailer may not sell any other live plants;
- (s) A licensed retailer shall not apply nor use any pesticide, nor cause any pesticide to be applied nor used, on live plants.
- (t) A licensed retailer shall not sell more than the amounts to a single adult use customer or a single medicinal cannabis patient or to a patient’s primary caregiver purchasing medicinal cannabis on behalf of the patient in a single day than the amounts identified in Section 5409 of the California Code of Regulations.
- (u) A licensed retailer shall only accept customer returns as allowed by Section 5410 of the California Code of Regulations.
- (v) Except as provided by Section 5411(b) *et. seq.* of the California Code of Regulations a licensed retailer shall not provide free cannabis goods to any person and shall not allow individuals who are not employed by the licensed retailer to provide free cannabis goods to any person on the premises.
- (w) A licensed retailer shall not accept, possess or sell cannabis goods that are not packaged as they will be sold at final sale, nor shall a licensed retailer package or label cannabis goods, except as provided by Section 5412(c) of the California Code of Regulations.
- (x) All cannabis goods sold by a licensed retailer shall be in compliance with the packaging and exit packaging requirements found in Section 5413 of the California Code of Regulations.
- (y) All deliveries of cannabis goods shall be in compliance with Sections 5415, 5415.1, 5416, 5417, 5418, 5419, 5420 and 5421 of the California Code of Regulations.
- (z) A licensed retailer shall comply with Section 5422, Receiving Shipments of Inventory, Section 5423, Inventory Documentation, Section 5424, Inventory Reconciliation, Section 5426, Records and Section 5427, Retailer Premises to Retailer Premises Transfer of the California Code of Regulations.

(14) Term of Conditional Use Permit.

Any Conditional 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 the required compliance inspections have been conducted and the permitted site has been found to comply with all conditions of approval and the annual renewal fee submitted.

- (a) Permit Renewal. A Permit renewal application, renewal fee and operating fee must be submitted at least forty-five (45) days before the expiration of the Permit. Failure to submit a renewal application prior to the expiration date of the license will result in the automatic expiration of the Permit on the expiration date. A Permit may not be renewed if any violations of or non-compliance with the Permit or these regulations exists. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure the new standards are met.

(15) Changes to Ownership or Modification to Premises.

A Conditional Use Permit is non-transferable to another location and no transfer to another Owner or modifications to a permitted facility may be made except in accordance with these regulations.

- (a) Transfer of Ownership. A request for change in Permit ownership shall be submitted to the City at least sixty (60) days prior to the anticipated transfer, together with the required fee. Requests submitted less than sixty (60) days before the transfer will be processed only in the City's discretion and may be subject to an expedited processing fee. A new Owner(s) shall meet all requirements for applicants of an initial permit. The request shall include the following information:
 - i. Identify information for the new Owner(s) and management as required by the initial permit application, including names and contact information and Section 17.30.195(i) of the Rio Dell Municipal Code; and
 - ii. The specific date on which the transfer is to occur; and

iii. Acknowledgement of full responsibility for complying with the existing permit and any conditions attached thereto.

- (b) Modifications to the Facility. Prior to making any modifications to a permitted facility, the permittee shall submit to the City, at least thirty (30) days in advance of initiating the modifications, a request for determination of City approvals, together with the appropriate fee. The request shall contain a detailed description to allow the City to determine what, if any permits and/or other approvals are needed.

(16) Inspections

Each permitted activity is subject to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.

If the inspector or other City official determines that the site does not comply with the conditions of approval, the inspector shall serve the 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 noncompliance shall terminate the Conditional Use Permit and License, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

(17) Appeal of Inspection Determination

Within ten (10) business 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 Planning Commission. The appeal shall be made, in writing, on a form provided by the City. The fee for filing the appeal is based on the adopted fee schedule in effect at the time of the appeal.

- (a) The appeal shall be heard by the Planning Commission within thirty (30) days following the filing of the appeal. The Planning Commission shall render a written ruling on the appeal within three (3) business days following the hearing.
- (b) The decision of the Planning Commission may be appealed to the City Council in accordance with Section 17.35.050 of the Rio Dell Municipal Code. If a timely appeal to the City Council is not filed, the ruling by the Planning Commission shall be final.

(18) Revocation by Operation of Law

Any Conditional Use Permit issued under this Section shall be revoked by operation of law, and without prior notice to the permit holder, in the event the permitted activity is made illegal under the laws of the State of California.

The City shall notify any state license authority, as defined by the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), whenever the Conditional Use Permit and License has been revoked or terminated.

(19) Fees, Taxes and Other Charges

The Council may establish fees, taxes or other charges for a commercial cannabis activity permit by resolution or ordinance. The failure to pay all applicable fees, taxes and other charges when due shall be a violation of the Section as contemplated by subsection 17.30.195(5), above.

Section 3. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 4. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 5. CEQA Compliance

The City Council has determined that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA), subject to Section 15061(b)(3) of the CEQA Guidelines. Due to the nature of the proposed code revisions, there is no evidence that

any significant impact to the environment would occur as a result of adoption of the Ordinance.

Section 6. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on March 5, 2019 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the March 19, 2019 by the following vote:

AYES:	Mayor Garnes, Richter, Wilson, Woodall
NOES:	None
ABSENT:	Strahan
ABSTAIN:	None

Debra Garnes

Debra Garnes, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 374-2019 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on March 19, 2019.

Karen Dunham

Karen Dunham, City Clerk, City of Rio Dell