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NEVADA COUNTY

**COMMERCIAL CANNABIS CULTIVATION ORDINANCE**

MITIGATION MONITORING AND REPORTING PROGRAM

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ORD18-2  
EIR18-001  
SCH No. 2018082023



*Prepared for:*

**County of Nevada  
Community Development Agency  
Planning Department  
950 Maidu Avenue  
Nevada City, California 95959  
Contact: Brian Foss, Planning Director**

*Prepared by:*

**Kimley»»Horn**

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## **INTRODUCTION**

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Nevada County Commercial Cannabis Program Ordinance project. This MMRP has been prepared pursuant to Section 21081.6 of the California Public Resources Code which requires public agencies to “adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment.” An MMRP is required for the proposed project because the Environmental Impact Report (EIR) has identified significant adverse impacts, and measures have been identified to mitigate those impacts.

The numbering of the individual mitigation measures follows the numbering sequence as found in the EIR. All revisions to mitigation measures that were necessary as a result of responding to public comments and incorporating staff-initiated revisions have been incorporated into this MMRP.

## **MITIGATION MONITORING AND REPORTING PROGRAM**

The MMRP, as outlined in the following table, describes mitigation timing, monitoring responsibilities, and compliance verification responsibility for all mitigation measures identified in the Draft EIR as well as any measures that were revised as part of the Final EIR.

The MMRP is presented in tabular form on the following pages. The components of the MMRP are described briefly below:

- **Mitigation Measures:** The mitigation measures are taken verbatim from the Draft EIR, as well as any measures which were revised as part of the Final EIR, in the same order that they appear in the Draft EIR.
- **Monitoring Responsibility:** Identifies the department within the County, project applicant, or consultant responsible for mitigation monitoring.
- **Mitigation Timing:** Identifies at which stage of the project mitigation must be completed.
- **Compliance Verification Responsibility:** Identifies the department of the County or other State agency responsible for verifying compliance with the mitigation.

**MITIGATION MONITORING AND REPORTING PROGRAM TABLE**

Proposed Mitigation	Mitigation Measure	Monitoring Responsibility	Timing	Verification (Date and Initials)
<b>Aesthetics</b>				
MM AES-1	<b>MM AES-1: Protected Tree Avoidance.</b> Amend the NCCO to require all commercial cannabis applications to show on project site plans any landmark trees, landmark groves, and heritage trees and groves that exist on the project site. If such trees exist, the applicant shall indicate that the proposed cultivation sites and any proposed ancillary structures would not require removal of any of the listed trees and that all cannabis cultivation and accessory structures are outside the existing drip line of all trees. If any cultivation or accessory structure would require removal or encroach in the drip line of any trees and the project plans shall be revised to avoid the trees. If any trees or groves are dead, dying, or a public safety hazard as determined by a qualified professional, no further action is required.	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	
MM AES-2	<b>MM AES-2: Lighting Control Plan.</b> Amend the NCCO to require commercial cannabis cultivation applicants with exterior light fixtures (including mixed light applications) to submit a light control plan that would demonstrate how light used for cultivation purposes would be controlled. Light control measures may include but not be limited to means such as using blackout tarps to completely cover all greenhouses and hoop-houses or restricting the use of lighting between sunset and sunrise.	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	
<b>Agricultural Resources</b>				
MM AG-1	<b>MM AG-1: Farmland Resources.</b> Amend the proposed NCCO, to require all commercial cannabis applications to	County of Nevada	Prior to issuance of CCP or ADP permits for	

Proposed Mitigation	Mitigation Measure	Monitoring Responsibility	Timing	Verification (Date and Initials)
	show on project site plans any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance based on the most recent available mapping provided by the California Department of Conservation (CDOC) Farmland Mapping & Monitoring Program (FMMP) that exist on the project site. If such lands exist, the applicant shall show on the site plan(s) that any proposed accessory structure and related improvements (e.g., driveways, staging areas, etc.) have been located on the property in which impacts to mapped farmlands are reduced to the maximum extent practicable.		commercial cannabis cultivation.	
<b>Air Quality</b>				
MM AIR-1	<b>MM AIR-1: Conformance to NSAQMD Rules and Regulations.</b> Amend the NCCO to require all commercial cannabis applications to include language in project cultivation plans and on project site plans when applicable, that the grading or building permit for the proposed project shall comply with applicable state and federal air pollution control laws and regulations, and with applicable rules and regulations of the NSAQMD during any construction and during operations of cannabis facilities. Compliance with NSAQMD Rule 226 Dust Control Plan shall be required, and all construction equipment (75 horsepower and greater) shall not be less than Tier 3, less than Tier 4 Interim if construction starts after 2025, and Tier 4 Final if construction starts after 2030. Written documentation that the cannabis facility is in compliance with the NSAQMD shall be provided to the Nevada County Planning Department.	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	

**MITIGATION MONITORING AND REPORTING PROGRAM**

<b>Proposed Mitigation</b>	<b>Mitigation Measure</b>	<b>Monitoring Responsibility</b>	<b>Timing</b>	<b>Verification (Date and Initials)</b>
MM AIR-2	<p><b>MM AIR-2: Prohibit Burning of Cannabis and Other Vegetation.</b> Amend the NCCO to prohibit all commercial and non-remuneration operations to from burning any cannabis or other vegetative materials. The following language shall be added to the proposed NCCO: “The burning of any part of the cannabis plant or plant materials that is considered excess or waste is prohibited from being burned.”</p> <p>Commercial cannabis cultivation would generate objectionable odors despite a required 100-foot setback from property lines (unless a variance is issued pursuant to the requirements of Sec. L-II 5.7 of the Nevada County Land Use and Development Code).</p>	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	
<b>Biological Resources</b>				
MM BIO-1	<p><b>MM BIO-1: Generator Noise.</b> The proposed NCCO shall be amended to require all projects under either a CCP or an ADP to keep all generators in containment sheds whiles in use to reduce generator noise to no greater than 50dB as measured at 100 feet from any sensitive habitat or known sensitive species. This would be an annual requirement and verified yearly when the ACP is renewed. If conformance is not shown, the permit shall be denied or the held in abeyance until the project infraction is brought into conformance with the NCCO.</p>	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	
MM BIO-2	<p><b>MM BIO-2: Biological Resources Pre-Screening.</b> The proposed NCCO shall be amended to require all applicants to submit biological pre-screening materials of all project sites for both CCP and ADP applications. The materials</p>	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	



Proposed Mitigation	Mitigation Measure	Monitoring Responsibility	Timing	Verification (Date and Initials)
	<p>shall include adequate information to define site constraints and show potentially sensitive biological resource areas. Materials shall include, at a minimum, project location (site address and parcel numbers); site aerials, photographs of proposed areas of disturbance (includes canopy area, accessory structures, and any related improvements [e.g., driveways, staging areas, etc.]), photographs of vegetative cover, a thorough project description describing all phases of construction, all proposed structures and cultivation areas, location of any streams, rivers, or other water bodies, limits and depth of grading, any grading cut or fill in a stream, river, or other water body, any water diversions and/or description of the source of water, water storage locations, and source of electricity (if applicable).</p> <p>The applicant shall provide site plan(s) showing all areas of disturbance, multiple site plans may be used to clearly show the following; site aerials showing vegetation patterns and habitats (without snow cover), location of any water courses including ephemeral drainages and any other water bodies, all existing or proposed cultivation areas and structures, location of electric generators (if applicable), and grading plans with areas of cut and fill (if applicable).</p> <p>If the pre-screening materials identify habitats known to support sensitive or special status plant or animal species, then avoidance of the sensitive or special status species shall be required. If avoidance of a special status species cannot be achieved, then a Biological Inventory shall be prepared. The Biological Inventory shall be prepared by a</p>			

# MITIGATION MONITORING AND REPORTING PROGRAM

Proposed Mitigation	Mitigation Measure	Monitoring Responsibility	Timing	Verification (Date and Initials)
	<p>qualified biologist. The Biological Inventory shall contain an environmental setting, a project description, review of CNDDDB database for the project location, a description of potential sensitive habitats existing on site, field survey methodology and findings (if needed), mitigation to reduce impacts (if needed), level of impacts conclusion. Due to the varying nature of biological conditions and variable locations of habitat types and dispersion of sensitive species, additional evaluations such as wetland delineations, protocol level surveys, nesting bird surveys, etc., may be required consistent with the applicable resources standards identified in Sections L-II 4.3 of the Nevada County Land Use and Development Code. If additional avoidance or protection measures are required, a Habitat Management Plan (HMP) consistent with the requirements of Section L-II 4.3.3 of the Nevada County Land Use and Development Code shall be prepared for both CCP and ADP permit applications. The HMPs would be implemented on a project by project basis and included as part of the project-specific approval process. If potential impacts on these biological resources cannot be reduced to less than significant, no permit shall be issued.</p>			
<b>Cultural and Tribal Cultural Resources</b>				
MM CUL-1	<p><b>MM CUL-1: Records Search.</b> Prior to project approval of either a CCP or an ADP, the project applicant, to the satisfaction of the County Planning Department shall submit a Non-Confidential Records Search to NCIC to determine the sensitivity of potential commercial cannabis cultivation site to disturb historic, cultural, or tribal resources. The applicant shall submit the</p>	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	

Proposed Mitigation	Mitigation Measure	Monitoring Responsibility	Timing	Verification (Date and Initials)
	sensitivity letter with the CCP or ADP. Upon receipt, should the County find the NCIC recommends a cultural resource study, the applicant shall retain a qualified professional to conduct a cultural resource study of the project area. No permit shall be issued until the completion of such report, and if needed, until recommended mitigation is implemented, or a plan has been submitted to the County for implementation.			
MM CUL-2	<p><b>MM CUL-2: Cultural Resources Inadvertent Discovery Protocol.</b> The proposed NCCO shall be amended to include a Cultural Resources Inadvertent Discovery Protocol (IDP) for projects that require grading or ground disturbance. The IDP shall include requirements that if subsurface archaeological features or deposits are discovered during construction or ground disturbance all activities within 50-feet of the find shall cease and the County shall be notified immediately. A qualified archeologist shall be retained by the County to assess the find and shall have the authority to prescribe all appropriate protection measures to future work.</p> <p>If buried human remains are discovered during construction or ground disturbance all activities shall cease and the County shall be notified immediately. The County shall notify the coroner to examine the remains. If the remains are determined to be of Native American origin, the Native American Heritage Commission shall be notified, and all sections detailed</p>	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	

**MITIGATION MONITORING AND REPORTING PROGRAM**

<b>Proposed Mitigation</b>	<b>Mitigation Measure</b>	<b>Monitoring Responsibility</b>	<b>Timing</b>	<b>Verification (Date and Initials)</b>
	in Section 5097.98 of the California Public Resources Code shall be followed.  Implement Land Use and Development Code Section L-II 4.3.6 Significant Cultural Resources			
MM CUL-3	<b>MM CUL-3: Paleontological and Unique Geologic Resources Inadvertent Discovery Protocol.</b> The proposed NCCO shall be amended to include a Paleontological and Unique Geologic Resources Inadvertent Discovery Protocol (IDP) for projects that require grading or ground disturbance. The IDP shall include requirements that if subsurface paleontological features or unique geologic features are discovered during construction or ground disturbance all activities within 50-feet of the find shall cease and the County shall be notified immediately. A qualified paleontologist shall be retained by the County to assess the find and shall have the authority to prescribe all appropriate protection measures to future work.	County of Nevada	Prior to issuance of CCP or ADP permits for commercial cannabis cultivation.	

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