




AGENDA ITEM NO.
F2

COUNTY OF HUMBOLDT

Hearing Date: February 27, 2017

To: Board of Supervisors

From: John Ford, Director of Planning and Building 

Subject: **Zoning Ordinance Amendments**
Commercial Cannabis Land Use Ordinance Interim Permitting
Case Number OR-18-001

RECOMMENDATIONS

1. Introduce the proposed Ordinance amending Section 314-55.4.8.11 of Chapter 4 of Division 1 of Title III of the County Code [Attachment B]; and
2. Open the public hearing, receive and consider the staff report and determination that no further environmental review is required pursuant to the California Environmental Quality Act (CEQA), accept public comment, and close the public hearing; and
3. Deliberate on the proposed Ordinance; and
4. Adopt Resolution No. 18-12 [Attachment A] A Resolution of the Board of Supervisors of the County of Humboldt making findings pursuant to the California Environmental Quality Act (CEQA), Humboldt County Code Section 312-50 – concerning adoption of zoning ordinance amendments; and

Prepared by Michael Richardson CAO Approval Edna Hep
Michael Richardson, Supervising Planner

REVIEW:
Auditor _____ County Counsel NRO Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

- Consent
 Departmental
 Public Hearing
 Other

PREVIOUS ACTION/REFERRAL:


NOV 14, 2017 ITEM J-2

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell
Seconded by Supervisor Wilson

Ayes Bass, Fennell, Sundberg, Bohn, Wilson
Nays _____
Abstain _____
Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: 2/27/18
By: 
Kathy Hayes, Clerk of the Board

5. Adopt Ordinance No. 2593 [Attachment B] approving the proposed Zoning Ordinance changes. The proposed amendments to Chapter 4 of the Zoning Regulations will become effective 30 days from the date of their adoption; and
6. Direct the Clerk of the Board to publish a Summary of the Ordinance within 15 days after adoption by the Board, along with the names of those Supervisors voting for and against the ordinance [Attachment C] and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the ordinance; and
7. Direct the Clerk of the Board to record in the action summary of the Board meeting that the ordinance has been duly published and posted, and to give notice of the decision to any interested parties.

SOURCE OF FUNDING:

The contractual and salary funding for this work is included in the General Fund contribution to the Long Range Planning unit, 1100-282.

DISCUSSION:

This item involves amendments to Section 314-55.4.8.11 of the Zoning Regulations that allows issuance of interim permits to lawful pre-existing cultivation sites where a land use permit is being sought. Provisions for an initial round of interim permitting of pre-existing sites were approved by the Board of Supervisors on November 14, 2017 (Ordinance #2588). The proposed amendments would allow issuance of an additional and final round of interim permits to applicants seeking permits for eligible pre-existing cultivation sites whose applications are accepted or deemed complete after July 14, 2017 (the cutoff date for eligibility in Ordinance #2588).

The proposed ordinance amendments will allow interim permitting of existing cultivation sites with permit applications that have been determined complete for processing, removing the requirement that the application was complete as of July 14, 2017. Allowing additional interim permits is important for two main reasons. First, it enables those with pre-existing cultivation operations to continue cultivation and participate in the legal cannabis regulatory program while final processing of their applications is completed. Interim permitting provides financial benefits for those individuals and for the County which will receive increased tax revenues from those operations. Second, issuance of interim permits reduces the immediate pressure on the County to finalize processing of the applications received because the operations can continue while the permits are being finalized.

Interim permits enable those existing cultivators who are working diligently toward local permitting to apply for and receive state temporary licenses. Since operators of existing cultivation sites have been allowed to continue cultivating while in the permit process, the proposed amendments would not enable any new activity not already currently authorized.

The proposed new interim permitting provisions have a sunset date of January 1, 2019 for applicants to complete their local permit process. Issuance of interim permits does not occur

unless the Department has been able to independently verify that the area of pre-existing cultivation (for which a permit is being sought) can be corroborated using aerial or satellite imagery or similar “substantial evidence”. Permit issuance is tied to execution of a written compliance agreement with notarized signatures of owners and applicants, stipulating the terms and conditions of continued operation, and consequences for violation of the agreement. The terms of these agreements include completing the permit process in a timely manner, confining continued operation to existing areas only, and notice that violations of the agreement would result in the loss of ability to obtain a Zoning Clearance Certificate, Special Permit, or Conditional Use Permit.

The proposed changes to the zoning regulations would not affect the December 31, 2016 application deadline included in the CMMLUO. No new applications will be accepted for commercial cannabis activities (cultivation, manufacturing, processing, and distribution) prior to the certification of the programmatic Environmental Impact Report (PEIR) and adoption of the Commercial Cannabis Land Use Ordinance (CCLUO).

Planning Commission Recommendations

The Planning Commission unanimously recommended approval of the interim ordinance at their meeting on February 15, 2018. Public comment was generally in favor of the ordinance, but one person objected to the ordinance saying it would delay restoration of existing cultivation sites and would detract from the Department’s ability to process the permit applications already submitted.

CEQA Compliance

A Mitigated Negative Declaration (SCH# 2015102005) was previously adopted for the Commercial Medical Marijuana Land Use Ordinance, which evaluated and addressed the potential environmental impacts from the regulation of commercial cannabis activities. The proposed ordinance amendments would not allow any activity not already authorized, thus there are not any previously unidentified impacts, and no additional review is required pursuant to section 15162 of the CEQA Guidelines.

FINANCIAL IMPACT:

The cost of preparing the proposed ordinance is less than \$1,000, which is being paid by the General Fund contribution to the Planning and Building Department, Long Range Planning Unit's FY 2017-18 budget. Staff costs for review of interim permits will be borne by the applicants.

The proposed ordinance is consistent with the Boards 2017 Strategic Framework as it will help enforce laws and regulations to protect residents, encourage new local enterprise, support business, workforce development and creation of private-sector jobs.

OTHER AGENCY INVOLVEMENT:

The County Counsel's office was involved in the preparation of this staff report.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Alternative 1: Modify

The Board may choose to modify the proposed ordinance amendments. This could include changes to the provisions and eligibility requirements for interim permitting, or the length the ordinance would remain in effect. If substantial revisions are suggested or contemplated, staff requests that this matter be continued to a future meeting to provide sufficient time to perform the requested changes.

Alternative 2: Not adopt

The Board may choose not to adopt the proposed interim amendments to the Zoning regulations. In this event, the existing regulations would remain unchanged. However, this is not recommended since it would not allow some applicants with pre-existing cultivation operations to continue cultivation and participate in the legal cannabis regulatory program while final processing of their applications is completed.

Alternative 3: Continue

The Board may also choose to continue this matter to a future meeting to provide for the receipt of additional public comment. The Board may also wish to direct staff to respond to public comments received. However, this is not recommended since it would delay some applicants with pre-existing cultivation operations participation in the legal cannabis regulatory program while final processing of their applications is completed.

ATTACHMENTS:

Attachment A: Resolution No. ~~18-12~~ A Resolution of the Board of Supervisors of the County of Humboldt Making Findings for Adoption of Zoning Text Amendments

Attachment B: Ordinance No. ~~2593~~ adding Section 313-54 of the Humboldt County Zoning Regulations (Chapter 3 of Division 1 of Title III of the Humboldt County Code).

Attachment C: Post-Adoption Summary of Ordinance

ATTACHMENT A

**A Resolution of the Board of Supervisors of the County of Humboldt
Making Findings Pursuant to the California Environmental Quality Act (CEQA),
Humboldt County Code Section 312-50 – Concerning Adoption of Zoning Ordinance
Amendments**

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of February 27, 2018

RESOLUTION NO. 18-12

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), HUMBOLDT COUNTY CODE SECTION 312-50 – CONCERNING ADOPTION OF ZONING ORDINANCE AMENDMENTS.

WHEREAS, in 2016 the County of Humboldt adopted comprehensive ordinances, Ordinance Nos. 2554 and 2559, to regulate land use with respect to the commercial cultivation, processing, manufacturing, distribution, testing and sale of medical cannabis, as authorized by the Medical Cannabis Regulation and Safety Act (MCRSA); and,

WHEREAS, an application for a State temporary license must include a copy of a valid license, permit, or other authorization, issued by a local jurisdiction, enabling the applicant to conduct commercial cannabis activity at the location requested for the temporary license.

WHEREAS, the County of Humboldt has accepted and is processing approximately 2,300 applications to conduct commercial cannabis activities for medical and adult use in accordance with Ordinance 2559, many of which are for pre-existing cultivation; and,

WHEREAS, on November 14, 2017 the County of Humboldt adopted Ordinance #2588 adding Section 314-55.4.8.11 to the Zoning Regulations which allowed an initial round of interim permits to be issued for lawful pre-existing cultivation sites where a land use permit is being sought. The ordinance included a requirement that the application was complete as of July 14, 2017; and,

WHEREAS, the proposed amendments would allow issuance of an additional and final round of interim permits to applicants seeking permits for eligible pre-existing cultivation sites whose applications are accepted or deemed complete after July 14, 2017 (the cutoff date for eligibility in Ordinance #2588); and,

WHEREAS, it is in the best interest of the County of Humboldt for all cannabis that is cultivated in the County of Humboldt to be part of a well-regulated, environmentally responsible, and economically sustainable legal cannabis marketplace; and

WHEREAS, it is in the best interest of the County of Humboldt to provide for the issuance of an interim permit so that those Humboldt County cultivators who have elected to participate in the legal California marketplace may apply for temporary state licenses; and,

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors, based on the Planning & Building Department's staff report, testimony and evidence presented at the public hearing that the Board finds as follows:

1. A Mitigated Negative Declaration (SCH# 2015102005) was previously prepared and adopted together with the Commercial Medical Marijuana Land Use Ordinance, which evaluated and addressed the potential environmental impacts from the regulation of commercial cannabis activities. No additional review is required under section 15162 of the CEQA Guidelines because

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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RESOLUTION NO. 18-12

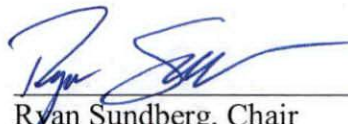
the proposed amendments to Humboldt County Code, Title III, Division 1, Chapter 4, section 314-55.4 will not cause new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No substantial changes in the circumstances under which the amendments are being undertaken that will require major revisions of the previous mitigated negative declaration. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time that the previous mitigated negative declaration was adopted that shows that the amendments will have any significant effects not discussed in the previous mitigated negative declaration, or that the significant effects previously examined will be substantially more severe than shown in the previous mitigated negative declaration.

2. Makes the findings for approval of the amendments to the Zoning Regulations (Case No.: OR 18-001) based on the evidence submitted as more fully set forth in Exhibit 1 attached hereto.

BE IT FURTHER RESOLVED by the Humboldt County Board of Supervisors that upon adoption of the Interim Ordinance Amendments:

1. The Clerk of the Board is hereby directed to give notice of the decision to any interested party; and
2. The Clerk of the Board is hereby directed to publish the Post-Adoption Summary of the Ordinance within fifteen (15) days after its passage.

Dated: February 27, 2018



Ryan Sundberg, Chair
Humboldt County Board of Supervisors

Adopted on motion by Supervisor Fennell, seconded by Supervisor Wilson, and the following vote:

| | | |
|----------|-------------|---------------------------------------|
| AYES: | Supervisors | Bohn, Fennell, Sundberg, Bass, Wilson |
| NAYS: | Supervisors | -- |
| ABSENT: | Supervisors | -- |
| ABSTAIN: | Supervisors | -- |


BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of February 27, 2018

RESOLUTION NO. 18-12

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By Ryan Sharp
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings; meeting on February 27, 2018

EXHIBIT 1

Findings for Adoption of Zoning Text Amendments

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
 Certified copy of portion of proceedings; meeting on February 27, 2018

ADMINISTRATIVE PROCEDURES ZONING TEXT AMENDMENT

Findings:

Section 312-50 of the Humboldt County Code specifies the findings that must be made in order to approve an amendment to the Zoning Regulations. The required findings are as follows:

1. *The proposed change is in the public interest.*
2. *The proposed change is consistent with the General Plan.*
3. *The proposed amendment does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.*

Public Interest and General Plan, and Housing Element Consistency.

1. Public Interest: The following table identifies the evidence which supports finding that the proposed Zoning Ordinance amendments are in the public interest.

| Applicable Requirements | Evidence Supporting the Finding |
|---|--|
| Government Code Section 65356.1 <i>The General Plan Amendment must be in the public interest.</i> | The proposed amendments to the Zoning Ordinance are in the public interest because they allow those with pre-existing cultivation operations to continue to cultivate legally while processing of their applications is completed. Interim permitting has financial benefits for those individuals and for the County which will receive increased tax revenues from those operations, giving Humboldt County growers the earliest possible participation in the legal California cannabis market. The proposed amendments reduces the pressure on the County to finalize processing of the complete applications received because the operations can continue legally while the permits are being finalized. Allowing for interim permits also facilitates the transition to fully regulated commercial cannabis activities for Humboldt County residents, and helps maintain Humboldt County's leading role in the regulated cannabis marketplace. |

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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2. General Plan Consistency: The following table identifies the evidence which supports finding that the proposed Zoning Ordinance Amendments are consistent the General Plan Volume 1 (Framework Plan).

| Applicable Requirements | Evidence Supporting Finding |
|--|--|
| <p>§312-50 of the Zoning Ordinance The Zoning Ordinance amendment is consistent with the General Plan.</p> | <p>The proposed amendments will enable issuance of additional interim permits to applicants seeking permits for eligible pre-existing cultivation sites. The ordinance amendments establish land use regulations for the commercial cultivation of cannabis for medicinal or adult use within the County of Humboldt.</p> <p>Policy UL-P21 of the 2017 Humboldt County General Plan states: "Cultivation of medical cannabis shall be regulated by ordinance to provide for the health, safety, and welfare of the community, but shall not interfere with the patient's right to medical cannabis." The General Plan policy was finalized prior to California State approval of recreational cannabis, and now applies to both medical and adult use cannabis regulations. This policy states the clear intent of the county that cannabis activities shall be regulated in order to protect the public, health safety and welfare. This ordinance further accomplishes that objective.</p> |

3. IMPACT ON RESIDENTIAL DENSITY TARGET: The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

| § 312-17.1.5 Housing Element Densities | |
|---|--|
| Applicable Requirements | Evidence Supporting Finding |
| <p>The amendment does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid-point of the density range specified in the plan designation).</p> | <p>The proposed Zoning Ordinance amendments do not apply to single or multifamily residential zones. The proposed commercial cannabis activity ordinance amendments will have no effect on the local housing inventory or sites identified in the Housing Element to help accommodate the County's share of the regional housing need.</p> |

ATTACHMENT B

Ordinance No. 2593

Amending Section 314-55.4.8.11 of the Humboldt County Zoning Regulations
(Chapter 4 of Division 1 of Title III of the Humboldt County Code)

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR MEDICINAL OR ADULT USE

ORDINANCE NO. 2593

The Board of Supervisors of the County of Humboldt do ordain as follows:

WHEREAS, the County of Humboldt has adopted comprehensive ordinances, Ordinance Nos. 2554, 2559, and 2588 to regulate land use with respect to the commercial cultivation, processing, manufacturing, distribution, testing and sale of medical cannabis, as authorized by state law; and,

WHEREAS, in accordance with Ordinance 2559, the County of Humboldt has accepted and is processing approximately 2,300 applications to conduct commercial cannabis activities for the Medicinal and Adult use marketplace, and additional applications for conditional use permits for medical cannabis dispensaries in accordance with Ordinance 2554; and,

WHEREAS, in accordance with Ordinance 2588, the County of Humboldt has issued more than 350 Interim Permits for lawful pre-existing cultivation sites where a land use permit is being sought; and,

WHEREAS, Ordinance 2588 included a cutoff date of July 14, 2017 for completed applications that could be eligible for an Interim Permit; and,

WHEREAS, since July 14, 2017 additional applications have been deemed complete which would be eligible for Interim Permits under the proposed Ordinance; and

WHEREAS, the County of Humboldt is currently preparing a comprehensive update to the existing commercial cannabis land use regulations known as the Commercial Cannabis Land Use Ordinance (CCLUO), with uniform provisions applicable to both medicinal and adult use commercial cannabis activities, which will not be finalized and effective until after February 27, 2018; and,

WHEREAS, it is in the best interest of the County of Humboldt that all cannabis that is cultivated and/or sold in the County of Humboldt be part of a well-regulated, environmentally responsible, and economically sustainable legal cannabis marketplace; and,

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of Humboldt County that Interim Permits be issued to lawful pre-existing cultivation sites where a land use permit is being sought and deemed complete to further the economic viability and stability of existing commercial cannabis industries within the County; and,

WHEREAS, it is in the best interest of the County of Humboldt to provide for the issuance of an Interim Permit so that those Humboldt County cultivators who have elected to participate in the legal California marketplace may apply for temporary state licenses as soon as they become available; and,

WHEREAS, to receive an interim permit, applicants shall be required to execute a written compliance agreement with the County, and agree to complete the remainder of the permit process.

NOW, THEREFORE the Board of Supervisors of the County of Humboldt ordains as follows:

Section 314-55.4.8.11 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended as follows:

55.4.8.11. Where adequate evidence has been submitted demonstrating that a cultivation site existed prior to January 1, 2016, permit applications seeking authorization of commercial cannabis cultivation and ancillary activities at these sites shall be eligible to receive an interim permit, provided the application was filed prior to January 1, 2017 and has been determined to be complete for processing by the Director of the Planning and Building Department. Prior to issuance of any interim permit, the Department shall independently review evidence of prior cultivation and specify the size of pre-existing cultivation area (if any) based upon aerial and satellite imagery, or other substantial evidence.

Approval of the interim permit is conditional and shall occur through issuance of a Zoning Clearance Certificate and written Compliance Agreement on forms provided by the County. Compliance agreements will specify permit restrictions, penalties, and commitments to complete the permit process and confine continued operation to existing areas only. Violation of the compliance agreement shall be grounds for permit cancellation and disqualification of the property from future permitting.

The interim permit authorizes the permittee to seek state licensure and continue operations until completion of the local permit review process and issuance or denial of a County permit, or January 1, 2019, whichever occurs first. The Director may extend this deadline for cause. Refusal of the Director to issue or extend an interim permit shall not entitle the applicant to a hearing or appeal of the decision. Additionally, approval of any interim permit does not obligate the County to approve a non-interim permit or extension of the interim permit. Permit cancellation and disqualification of the property from future permitting shall be decided by the Zoning Administrator or the Planning Commission at a noticed public hearing. Those decisions may be appealed to the Board of Supervisors pursuant to the appeal procedures outlined under 312-13 of these regulations.

PASSED, APPROVED AND ADOPTED this 27th day of February, 2018 on the following vote, to wit:

| | | |
|---------|-------------|---------------------------------------|
| AYES: | Supervisors | Fennell, Bohn, Sundberg, Bass, Wilson |
| NOES: | Supervisors | -- |
| ABSENT: | Supervisors | -- |



Ryan Sundberg, Chair
Board of Supervisors of the County of Humboldt,
State of California

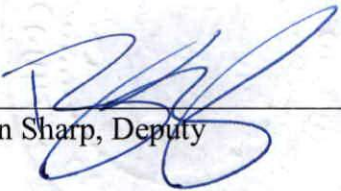
(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____

Ryan Sharp, Deputy



ATTACHMENT C

Post-Adoption Summary of Ordinance

SUMMARY OF ORDINANCE

(To be published within fifteen days after adoption of this ordinance.)

On February 27, 2018 during its regularly scheduled Board meeting, the Humboldt County Board of Supervisors adopted Ordinance No. _____.

The ordinance performs minor changes to the County's existing Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and Dispensary Regulations (Sections 314-55.4 and 314-55.3, respectively, of Division 1 of Title III of the County Code, Chapter 4) to allow issuance of interim permits to lawful pre-existing cultivation sites where a land use permit is being sought. The ordinance amendments apply throughout the unincorporated areas of Humboldt County, outside of the Coastal Zone. The ordinance shall become effective 30 days after adoption.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors, 825 Fifth Street, Room 111, Eureka, California 95501-1153.

The names of the Supervisors voting for and against are as follows:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

A copy of the Ordinance is posted in the office of the Clerk of the Board of Supervisors, Room 111, 825 Fifth Street, Eureka, California, and is available online on the County's website.