

## **ATTACHMENT 2**

A Resolution of the Board of Supervisors of the County of Humboldt Making Findings the Coastal Financial Security Ordinance Amendments are Exempt from Environmental Review Pursuant to CEQA per Sections 15050(c)(2) and 15060(c)(3), Making All the Required Findings for Consistency with the General Plan, Zoning Ordinance and the Coastal Act, and Transmitting the Coastal Financial Security Ordinance Amendments to the California Coastal Commission for their Review and Certification.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_ - \_\_\_\_\_ of the Board of Supervisors of the County of Humboldt MAKING FINDINGS THE COASTAL FINANCIAL SECURITY ORDINANCE AMENDMENTS ARE EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO CEQA PER SECTIONS 15050(C)(2) AND 15060(C)(3), MAKING ALL THE REQUIRED FINDINGS FOR CONSISTENCY WITH THE GENERAL PLAN, ZONING ORDINANCE AND THE COASTAL ACT, AND TRANSMITTING THE COASTAL FINANCIAL SECURITY ORDINANCE AMENDMENTS TO THE CALIFORNIA COASTAL COMMISSION FOR THEIR REVIEW AND CERTIFICATION

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

**WHEREAS**, the proposed Coastal Financial Securities Amendments to the Zoning Ordinance in Attachment 5B establish standards for Ordinance to establish financial security requirements in the CCLUO and better align the provisions of the CCLUO with the Marijuana Cultivation Tax Ordinance; and

**WHEREAS**, in August 2020 the Planning and Building Department solicited public comments to get public input on what should be included in the proposed Personal Use Amendments; and

**WHEREAS**, the proposed Financial Securities Amendments have been reviewed by appropriate county departments, state agencies and local tribes and their input has been collected and considered; and

**WHEREAS**, comments were received and those comments are provided herein for the Planning Commission's review and consideration; and

**WHEREAS**, on September 3<sup>rd</sup>, 2020, the Planning Commission held a public hearing on the proposed Financial Securities Amendments in Attachment 5, reviewed and considered the staff report, the alternatives, the analysis for CEQA exemption, evidence, and other testimony presented to the Commission; and

**WHEREAS**, the Planning Commission, in response to public comments and as a result of its review recommended the Board of Supervisors approve the Coastal Financial Security Amendments to the Zoning Ordinance and transmit them to the Coastal Commission for certification; and

**WHEREAS**, on October 6, 2020 the Board of Supervisors held a public hearing on the proposed Coastal Ordinance Amendments in Attachment 5B, and received public comments, reviewed and considered all public testimony and evidence and presented at the hearing;

**Now, THEREFORE BE IT RESOLVED**, that the Board of Supervisors makes all the following findings:

**CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

1. **FINDING:** The proposed Coastal Financial Security Ordinance Amendments are exempt from environmental review.
- EVIDENCE:** a) Public Resources Code Section 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and review of a Local Coastal Program, and therefore the County adoption of the Coastal Financial Security Ordinance Amendments is statutorily exempt from environmental review. Approval of the Coastal Financial Security Ordinance Amendments by the California Coastal Commission is the functional equivalent of the environmental review process required by CEQA.

**CONSISTENCY WITH THE ZONING ORDINANCES.**

2. **FINDING:** Section 312-50.3.1 of the Zoning Ordinance requires changes to the Zoning Ordinance to be in the public interest. The proposed Financial Security Ordinance Amendments are in the public interest.
- EVIDENCE:** a) The proposed Coastal Financial Security Amendments are in the public interest because they clarify the relationship between the cannabis cultivation area permitted in the CCLUO and the cannabis cultivation tax requirements in the Marijuana Tax Ordinance. With the proposed amendments requiring demonstrated financial security for taxes that will become due on the permitted cannabis cultivation area, the tax obligations of permitted cannabis farmers will be shared more fairly by all permit holders whether they are the owners of the property underlying the cultivation site or they rent/lease the property.
3. **FINDING:** Section 312-50.3.2 of the Zoning Ordinance requires changes to the Zoning Ordinance to be consistent with the General Plan. The proposed Coastal Financial Security Ordinance Amendments are consistent with the General Plan.
- EVIDENCE:** a) The proposed Coastal Financial Security Amendments are intended to “clean up” the existing cannabis ordinances by creating a better linkage between the allowances for commercial cannabis cultivation in the zoning ordinance and the Marijuana Tax Ordinance in the Revenue and Taxation code. These proposed amendments are consistent with Infrastructure

Element Goal IS-G2, Sustainable Funding, which supports adequate and sustainable revenue sources for capital improvements and maintenance of infrastructure and services.

- 4. FINDING:** Section 312-50.3.4 of the Zoning Ordinance requires changes to the Zoning Ordinance 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 (the mid point of the density range specified in the plan designation). The proposed Coastal Financial Security Ordinance Amendments will not reduce the residential density for any parcel.

**EVIDENCE:** a) None of the proposed ordinance amendments affect residential density, so they 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. The Coastal Financial Security Amendments help ensure the ability to pay cannabis cultivation taxes when they become due.

- 5. FINDING:** Section 312-50.3.3 requires if the proposed changes to the Zoning Ordinance requires a Local Coastal Plan Amendment, the amendment is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act. Chapter 3 of the Coastal Act sets forth policies regarding the following issues:

- i. **Access** (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)
- ii. **Recreation** (including protection of water-oriented activities, ocean-front land protection for recreational uses, aquacultural uses, and priority of development purposes)
- iii. **Marine Resources** (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)
- iv. **Land Resources** (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)
- v. **Development** (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)
- vi. **Industrial Development** (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants).

**EVIDENCE:** a) **Access**  
The proposed ordinance helps ensure the ability to pay cannabis cultivation taxes when they become due. The proposed ordinance will

not affect how land development occurs so it will not affect public access.

b) **Recreation**

The proposed ordinance helps ensure the ability to pay cannabis cultivation taxes when they become due. The proposed ordinance will not affect how land development occurs so it will not overload recreational resources.

c) **Marine Resources**

The proposed ordinance helps ensure the ability to pay cannabis cultivation taxes when they become due. The proposed ordinance will not affect how land development occurs so it will not affect marine biological resources.

**Land Resources**

d) The proposed ordinance helps ensure the ability to pay cannabis cultivation taxes when they become due. The proposed ordinance will not affect how land development occurs so it will not affect land resources.

e) **Development**

The proposed ordinance and plan amendments are consistent with development policies of the Coastal Act because it will not affect how land development occurs.

f) **Industrial Development.**

The proposed ordinance helps ensure the ability to pay cannabis cultivation taxes when they become due. As a result, the ordinance would have no impact to industrial development.

**BE IT FURTHER RESOLVED** that the Board of Supervisors hereby:

1. Finds that the proposed amendments to the Coastal Zoning Regulations conform to and appropriately carry out the policies of each of the Humboldt County's six Coastal Plans and Chapter 3 of the Coastal Act, and further finds that the proposed Zoning Regulations will be carried out in accordance with the Coastal Act;
2. Finds that the changes to the Coastal Zoning Regulations will become effective only upon certification by the Coastal Commission;
3. Directs and hereby provides notice to the California Coastal Commission and its staff that modifications to the proposed amendments to the Zoning Regulations required by the Coastal Commission for certification shall first be brought back to the Board of Supervisors for consideration at a future public hearing prior to certification by the Coastal Commission;

4. Directs the Clerk of the Board to publish the Post-Adoption Summary of the Ordinances within fifteen (15) days after its passage.
5. Directs Planning and Building Department staff to transmit the Coastal Financial Security Amendments in Attachment 5B, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 305143.
6. Directs Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research; and
7. Directs the Clerk of the Board to give notice of the decision to any interested party.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on October 6, 2020 by the following vote:

Adopted on motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_ and the following vote:

AYES: Supervisors:  
 NAYS: Supervisors:  
 ABSENT: Supervisors:  
 ABSTAIN: Supervisors:

\_\_\_\_\_  
 ESTELLE FENNELL, CHAIRPERSON,  
 HUMBOLDT COUNTY BOARD OF SUPERVISORS

(SEAL)  
 ATTEST:  
 Kathy Hayes, Clerk of the Board of Supervisors  
 of the County of Humboldt, State of California

By: \_\_\_\_\_  
 Ryan Sharp, Deputy Clerk

Date: