

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on November 13, 2018

RESOLUTION NO. 18-117

A CORRECTED VERSION OF RESOLUTION #18-41 MAKING FINDINGS PURSUANT TO HUMBOLDT COUNTY CODE SECTION 312-50 – CONCERNING ADOPTION OF ZONING ORDINANCE AMENDMENTS FOR THE COASTAL ZONE AND TITLE 14 §13551 OF THE ADMINISTRATIVE CODE AND PUBLIC RESOURCES CODE, §30200 (COASTAL ACT) AND TRANSMITTING THE COASTAL ZONING ORDINANCE AMENDMENTS, 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 30514.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, 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 April 11, 2017 the Board of Supervisors considered a set of regulatory objectives for the proposed Commercial Cannabis Land Use Ordinance (CCLUO); and

WHEREAS, on June 7, 2017 the Board of Supervisors considered policy areas for the proposed ordinance amendments which specified the zoning districts where cannabis activities would be allowed and the general standards that would be applied; and

WHEREAS, the Humboldt County Planning Commission held a public hearing on the proposed ordinance amendments on November 16, 2017, December 7, 2017, December 14, 2017, January 11, 2018, and January 18, 2018 to receive a report on the draft ordinance amendments, as well as evidence and public testimony; and

WHEREAS, the Planning Commission reviewed and considered the report, the Final Environmental Impact Report (FEIR) prepared for the project, evidence, and other testimony presented to the Commission; and

WHEREAS, at their January 18, 2018 meeting, the Humboldt County Planning Commission approved Resolution # 18-24 making all the required findings and recommending that the Board of Supervisors of the County of Humboldt:

- Hold a public hearing in the manner prescribed by law;
- Adopt the findings that the proposed ordinance is consistent with the applicable provisions of the Humboldt County Code and General Plan;
- Adopt a resolution certifying the Final Environmental Impact Report prepared for the ordinance amendments;
- By ordinance, approve the zoning ordinance amendments;
- Direct the Planning and Building Department to prepare and file a Notice of Determination pursuant to CEQA for the project;

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- Direct the Clerk of the Board to publish a post approval summary in a newspaper of general circulation, and give notice of the decision to interested parties; and
- Adopt a Resolution transmitting the Amendment package, 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 30514.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors, based on Planning and Building Department – Planning Division staff reports and all attachments thereto, supplemental reports, testimony presented at public hearings, and having considered testimony from the Planning Commission, that:

1. The Board makes the findings for approval of the amendments to the Zoning Regulations (Case No.: OR-17-002) in Exhibit A of this Resolution which is fully incorporated herein by reference, and finds that the proposed amendments to the Coastal Zoning Regulations conform to the policies contained in 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. The Board of Supervisors finds the proposed amendments to the Coastal Zoning Regulations are in conformity with and appropriately carry out the policies of each of the Humboldt County's six Coastal Plans and certifies its intent to carry out the Coastal Plans in a manner fully consistent with the California Coastal Act.
3. The changes to the Coastal Zoning Regulations (Ordinance No. 2615) will become effective only upon certification by the Coastal Commission.
4. The Board of Supervisors provides notice to the California Coastal Commission and its staff that this amendment modifies the County's previously submitted Local Coastal Program Amendment (LCPA) Application LCP-1-HUM-16-0075-2 in the following ways:
 - Section 313-55.4 of Chapter 3 of Division 1 of Title III of the Humboldt County Code is withdrawn from the application (the Commercial Medical Marijuana Land Use Ordinance);
 - Section 313-55.3.11.7 of Chapter 3 of Division 1 of Title of the Humboldt County Code, with respect to on-site consumption of medical cannabis in Medical Cannabis Dispensaries is withdrawn from the application; and
 - Sections 313-55.3.7 and 313-55.3.15 of Chapter 3 of Division I of Title III of the Humboldt County Code, with respect to Medical Cannabis Testing and Research Laboratories is withdrawn from the application.

These sections are withdrawn because the current ordinance being transmitted to the Coastal Commission for certification (the "Cannabis 2.0 Ordinance") supersedes them. For clarity and tracking purposes, the following paragraphs describe the coastal zoning ordinance amendments regarding cannabis activities that have been approved by the Board of Supervisors since 2014:

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- Section 1 of Ordinance No. 2523 (October 28, 2014) makes minor amendments to Section 1 of Ordinance No. 2468, adopted 12-13-11, pertaining to indoor cultivation of medical marijuana for personal use in the Coastal Zone (Humboldt County Code (“H.C.C.”) Section 313-55.1) that was certified by the Commission, concurring in the determination by the Executive Director that that Ordinance No. 2468 constitutes only a minor amendment to the LCP on March 9, 2012.
- Section 2 of Ordinance No. 2523 adds H.C.C. Section 313-55.2 pertaining to outdoor cultivation of medical marijuana for personal use on parcels five acres or less, that has not previously been considered by the Commission.
- Ordinance No. 2598 includes the addition of H.C.C. Section 313-55.4.3.7, which reads: “Wherever the terms ‘medical marijuana,’ ‘medical cannabis,’ ‘marijuana for medical use,’ or ‘cannabis for medical use,’ may appear in regulations in the H.C.C., the regulations shall also apply equally to the adult use of cannabis by persons 21 years of age or older.”

This has the effect of making the regulations regarding cultivation of cannabis for personal use indoors in Section 313-55.1 or outdoors on parcels of five acres or less in Section 313-55.2 as adopted in Sections 1 and 2 of Ordinance No. 2523 equally applicable to medical marijuana or cannabis for adult use by persons 21 years of age or older. It also has the effect of making the regulations regarding medical cannabis dispensaries in Ordinance No. 2554, equally applicable to retail outlets for cannabis for adult use.

Humboldt County is requesting simultaneous consideration of all of Humboldt County’s cannabis land use ordinances subsequent to Ordinance No. 2468 in one package, consisting of Sections 1 and 2 of Ordinance No. 2523 (Part A); Section 1 (H.C.C. Section 313-56) and Section 3 (H.C.C. Section 313-55.3, et seq.) of Ordinance No. 2554, adopted July 19, 2016 pertaining to Medical Cannabis Dispensaries in the Coastal Zone (Part B); and Ordinance No. 2598, adopted May 8, 2018 and transmitted to the Coastal Commission on June 8, 2018, enacting a comprehensive Commercial Cannabis Land Use Ordinance, modifying in part code provisions of the previously approved cannabis regulations and establishing H.C.C. Section 313-55.4, et seq. (Part C).

5. The Board of Supervisors 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.

BE IT FURTHER RESOLVED by the Humboldt County Board of Supervisors that upon adoption of the Ordinances:

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 Ordinances within fifteen (15) days after its passage.

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3. Planning and Building Department staff are hereby directed to transmit the coastal zoning ordinance, 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 30514

Dated: November 13, 2018



Ryan Sundberg, Chair
Humboldt County Board of Supervisors

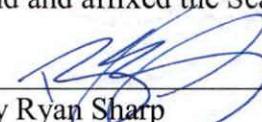
Adopted on motion by Supervisor Wilson, seconded by Supervisor Bass, and the following vote:

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

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

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EXHIBIT A

**FINDINGS FOR ADOPTION OF ZONING TEXT AMENDMENTS
IN THE COASTAL ZONE**

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 2017 General Plan and Coastal Plans.*
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.*

Title 14, Section 13551 of the Coastal Commission's Administrative Regulations, Public Resources Code, Section 30200, and Section 312-50.3.3 HCC requires proposed amendments to the Coastal Zoning Regulations to conform to the policies contained in Chapter 3 of the Coastal Act, which sets forth policies regarding the following issues:

4. *Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access).*
5. *Recreation (including protection of water-oriented activities, ocean-front land protection for recreational uses, aquaculture uses, and priority of development purposes).*
6. *Marine Resources (including protecting biological productivity, preventing hazardous waste spills, diking, filling, dredging, fishing, revetments and breakwaters, and water supply and flood control).*
7. *Land Resources (including protection of environmentally sensitive habitats, agricultural lands, timberlands, and archaeological or paleontological resources).*
8. *Development (including placing new development within or close to existing developed areas, protection of scenic resources, maintenance of public access by encouraging public transit, providing for recreational opportunities within new development, protection of public safety, expansion of public works facilities and priority of coastal dependent developments).*
9. *Industrial Development (including location or expansion of coastal-dependent industrial facilities, Use and design of tanker facilities, oil and gas development, refineries or petrochemical facilities, thermal electric generating plants, offshore oil transportation and refining).*

In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:

- a) is categorically or statutorily exempt; or
- b) has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or

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- c) has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the State CEQA Guidelines have been made.

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 |
|--|--|
| <i>The proposed zoning change is in the public interest.</i> | The CCLUO is in the public interest because it is designed to protect the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, end users of medicinal or adult use cannabis; the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; 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. |

2. General Plan Consistency: The following table identifies the evidence which supports finding that the proposed Zoning Ordinance Amendments are consistent the 2017 General Plan and the North Coast Area, Trinidad Area, McKinleyville Area, Humboldt Bay Area, Eel River Area and South Coast Area Coastal Plans.

| Applicable Requirements | Evidence Supporting Finding |
|---|--|
| <p><i>The proposed zoning change is consistent with the 2017 General Plan.</i></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.</p> | <p>The purpose of the ordinance amendments is to establish land use regulations concerning the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt.</p> <p>The General Plan policy was finalized prior to California State approval of recreational cannabis, and thus this policy should be understood to apply to both medical and recreational 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 accomplishes that objective.</p> |
| <p>The General Plan includes goals to protect water supplies for beneficial uses, which include both irrigation and fisheries:</p> | |

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| Applicable Requirements | Evidence Supporting Finding |
|---|---|
| <p>WR-G1. Water Supply, Quality, and Beneficial Uses. High quality and abundant surface and groundwater water resources that satisfy the water quality objectives and beneficial uses identified in the Water Quality Control Basin Plan for the North Coast Region.</p> | <p>The ordinance includes measures to protect water resources for beneficial uses consistent with the water supply and water quality protection goals, policies, standards and implementation measures of the General Plan. Section 313-55.4.12.7 of the ordinance requires a discretionary permit for any cultivation site using irrigation from a diversionary source. This section creates performance standards to minimize the impacts associated with the use of diverted water. The section establishes the requirement for a cultivator to submit a plan detailing how much water is needed for irrigation where it will come from and specifies that forbearance and storage of water for use during low flow periods will be required. This section also requires metering and reporting use of irrigation water.</p> <p>In Section 314-55.4.5.10 Restriction of Water Use Under Special Circumstance, the ordinance provides that the County reserves the right to reduce the extent of any Commercial Cannabis Activity, including but not limited to the area of cultivation, allowed under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources.</p> |
| <p>WR-G2. Water Resource Habitat. River and stream habitat supporting the recovery and continued viability of wild, native salmonid and other abundant coldwater fish populations supporting a thriving commercial, sport and tribal fishery.</p> | <p>In addition to the requirements to regulate water use as specified above (findings for WR-G1), the ordinance in section 55.4.12.1.8(c) requires that roads be improved and maintained to protect water quality in accordance with identified performance standards, and section 55.4.12.1.12 establishes a requirement for a Storm water Management plan to be developed to maintain pre-project drainage conditions.</p> |
| <p>WR-G9. Restored Water Quality and Watersheds. All water bodies de-listed and watersheds restored, providing high quality habitat and a full range of beneficial uses and ecosystem services. ☐</p> | <p>See the performance criteria established above (findings for WR-G1 and WR-G2).</p> |


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| Applicable Requirements | Evidence Supporting Finding |
|---|---|
| <p>The above goals are meant to be achieved through the application of policies standards and implementation measures related to land use, including all the following:</p> | |
| <p>Water Resources and Land Use WR-P1. Sustainable Management. Ensure that land use decisions conserve, enhance, and manage water resources on a sustainable basis to assure sufficient clean water for beneficial uses and future generations.</p> | <p>As noted above (findings for WR-G1), each application, whether it is a discretionary project or a ministerial action is required to demonstrate that it has sufficient water. If the water is from a diversionary source, the project will require a discretionary permit.</p> |
| <p>WR-P2. Protection for Surface and Groundwater Uses. Impacts on Basin Plan beneficial water uses shall be considered and mitigated during discretionary review of land use permits that are not served by municipal water supplies. L SEP</p> | <p>See above response to WR-P1.</p> |
| <p>WR-P3. Proactive Protections. Focus regulatory attention and educational efforts in specified watersheds where limited water supply or threats to water quality have potentially significant cumulative effects on the availability of water for municipal or residential water uses or the aquatic environment. L SEP</p> | <p>See Ordinance sections 314-55.4.12.7 and 314-55.4.5.10 which address water availability, and sections 314-55.4.12.1.8(c) and 314-55.4.12.1.12 for protection of water quality as discussed above.</p> |
| <p>WR-P4. Critical Municipal Water Supply Areas. The Board of Supervisors shall designate all or portions of watersheds as “Critical Water Supply Areas” if cumulative impacts from land uses within the area have the potential to significantly impact the quality or quantity of municipal water supplies. Water resources within Critical Water Supply Areas shall be protected by the application of specific standards for such areas. L SEP</p> | <p>These areas have not been identified as part of the General Plan Implementation, but areas where municipalities obtain water will be evaluated as part of future permit analysis.</p> |



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| Applicable Requirements | Evidence Supporting Finding |
|---|--|
| <p>WR-P5. Critical Watershed Areas. The Board of Supervisors shall designate all or portions of watersheds as “Critical Watersheds” if cumulative impacts from existing or planned land and water resource uses within the area have the potential to create significant environmental impacts to threatened or endangered species; including Chinook salmon, coho salmon or steelhead. Land and water resources within Critical Watersheds shall be protected by the application of specific standards for such areas to avoid the take of threatened or endangered species.</p> | <p>In consultation with the California Department of Fish and Wildlife, critical watersheds have been identified which will not support new cannabis cultivation activities. The Board of Supervisors has established a cap on the number of cultivation permits which can be obtained in each watershed, and those identified as having either been significantly degraded or are watersheds which are important for maintaining salmon or steelhead fisheries are not allocated new cultivation permits.</p> |
| <p>WR-P6. Subdivision Water Supply. Any subdivision of land shall be conditioned to require evidence of sufficient water supply during normal and drought conditions to meet the projected demand associated with the proposed subdivision. Sufficient water supply shall include the requirements of the proposed subdivision and existing and planned future uses. Written service letters from a public water system written in conformance with this policy is sufficient evidence. Subdivisions to be served through on-site water supplies or private water systems must provide evidence of sufficient water supply to the County Department of Environmental Health. </p> | <p>This is a policy applying to the subdivision of land which is not applicable to the issuance of permits for cannabis activities. The ordinance does address providing evidence of sufficient water in sections 314-55.4.12.7 and 314-55.4.5.10.</p> |
| <p>WR-P8. Requirements for Water Storage in Flow Impaired Watersheds. New development not served by a public water system that seeks to rely upon surface water shall install water storage capable of providing 100 percent of the necessary water storage volume for the summer low-flow season (e.g. July-August-</p> | <p>Section 313-55.4.12.7 of the ordinance requires a discretionary permit for any cultivation site using irrigation from a diversionary source. This section creates performance standards to minimize the impacts associated with the use of diverted water. The section establishes the requirement for a cultivator to submit a plan detailing how much water is needed and where it</p> |



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| Applicable Requirements | Evidence Supporting Finding |
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| <p>September). A forbearance agreement prohibiting water withdrawals during low-flow season shall be included as a performance standard for the project.</p> <p></p> | <p>will come from, and the requirement for forbearance and storage of water for use during low flow periods. This section also requires metering and reporting use of irrigation water.</p> |
| <p>WR-S3. Development within Critical Watershed Areas. Ministerial land use development proposed within Critical Watershed Areas shall comply with performance standards adopted by ordinance. Discretionary development shall comply with performance standards and supplemental permit conditions. Standards and permit conditions shall avoid take of endangered or threatened species by reducing cumulative impacts to aquatic habitat to below levels of significance.</p> | <p>In consultation with the California Department of Fish and Wildlife, critical watersheds have been identified which will not support new cannabis cultivation activities. The Board of Supervisors has established a cap on the number of cultivation permits which can be obtained in each watershed, and those identified as having either been significantly degraded or are watersheds which are important for maintaining salmon or steelhead fisheries are not allocated new cultivation permits.</p> |
| <p>WR-S4. Water Withdrawal Permitting. Ministerial and discretionary permits for land use development that include development of new in-stream water sources or other streambed alterations subject to California Fish and Game Code Section 1602 shall provide evidence of, or be conditioned to obtain a Streambed Alteration Agreement from the Department of Fish and Game as well as a Water Right Permit or a small scale domestic use registration from the State Water Board. </p> | <p>Any development within a stream channel subject to California Department of Fish and Wildlife jurisdiction will require a discretionary permit from the County. In addition, the ordinance requires that all cultivation permits comply with requirements of the California Department of Fish and Game and the State Water Board (Section 55.4.12.1).</p> |
| <p>WR-S5. Subdivisions Demonstration of Sufficient Water Supply. Demonstration of sufficient water supply shall include the requirements of the proposed subdivision, existing uses, and planned future uses. Subdivisions for residential development subject to state requirements of SB 610 and SB221 shall make the appropriate demonstrations</p> | <p>This is a policy applying to the subdivision of land which is not applicable to the issuance of permits for cannabis activities. The ordinance does address providing evidence of sufficient water in sections 313-55.4.12.7 and 313-55.4.5.10 of the ordinance.</p> |

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| Applicable Requirements | Evidence Supporting Finding |
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| <p>consistent with regulations (as amended) established by these acts. Written service letters from a public water system written in conformance with this policy is sufficient evidence. Subdivisions to be served through on-site water supplies or private water systems must provide evidence of sufficient water supply to the County Department of Environmental Health. </p> | |
| <p>WR-IM11. Water Supply Evaluation and Monitoring. Within five years after the adoption of the General Plan Update the County shall prepare a watershed analysis to determine whether the long-term surface and groundwater supply is available, including seasonal, average, dry year, and multiple dry year supplies, and preservation of existing beneficial uses of water. The study shall determine an estimate of the quantity of water available for the level of future development described in the Revised Draft EIR for the GPU. Work with water and wastewater related special districts, regulators, and other appropriate organizations to monitor watershed conditions. </p> | <p>This is a study to be undertaken by the County before the end of 2022. This is not a policy that requires projects to be held up until the completion of the study. The imposition of the cap on the number of cultivation permits is consistent with this policy because the cap is intended to allow the Board of Supervisors to measure and monitor the watersheds within the County.</p> |

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| Applicable Requirements | Evidence Supporting Finding |
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| <p><i>The proposed zoning change is consistent with the Development Policies and Standards in each of the Coastal Plans.</i></p> | <p><i>Land Use - Resource Areas:</i> The ordinance is intended to implement and be consistent with the land use development policies of the existing LCPs for resource areas. For example, outdoor cannabis cultivation activities are similar to those of other forms of agricultural crop production. Consequently, the ordinance allows outdoor cannabis cultivation in agricultural zones that are typically associated with agricultural coastal plan designations, such as the AE - Agriculture Exclusive, AEG - Agriculture Exclusive Grazing coastal plan designations (Section 313-55.4.6.1).</p> <p>The ordinance limits outdoor and mixed light cultivation activities to properties that are 20 acres or larger in size and specifies a maximum cultivation area of one acre to avoid conflicts with other agricultural activities in these areas. On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted.</p> <p>The ordinance confines outdoor and mixed light cultivation activities to non-residential structures existing prior to January 1, 2016 in areas with an AEG plan designation to avoid conflicts with the principally permitted grazing use.</p> <p>The ordinance prohibits cultivation in the TC - Coastal Commercial Timberland Zone and TPZ - Timber Production Zone because these zones identify timber production as the principally permitted use, and the ordinance seeks to avoid conflict between cannabis activities and timber production. Section 313-55.4.6.4.2 of the ordinance prohibits conversion of timberland for cannabis cultivation.</p> <p>Section 313-55.4.6.4.3 of the ordinance limits cannabis cultivation activities to less than twenty percent of the area of Prime Agricultural Soil on the parcel to avoid conflicts with other agricultural activities' use of that valuable soil resource.</p> |

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| Applicable Requirements | Evidence Supporting Finding |
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| <p><i>The proposed zoning change is consistent with the Development Policies and Standards in each of the Coastal Plans.</i></p> | <p><i>Land Use - Residential Areas:</i> The ordinance prohibits nearly all cannabis activities in residential areas. The one exception is manufacturing activities involving Infusion, which is allowed as a cottage industry. Infusion involves mixing cannabis products with food or beverages and has similar impacts as other forms of hand manufacturing of goods allowed as cottage industry.</p> <p>Section 313- 55.4.6.4.4 establishes 300-foot setbacks for Open Air Cultivation from existing residences to minimize exposure of nearby residences to the odor impacts from outdoor cultivation. And in more densely populated areas, the setback increases to 600 feet for Open Air cannabis cultivation activities.</p> <p><i>Land Use - Commercial and Industrial Areas:</i> The ordinance is intended to implement and be consistent with the land use development policies of the existing LCPs for commercial and industrial areas. For example, cannabis distribution is a commercial use, and the ordinance allows this type of use in commercial zones that are typically associated with commercial plan designations, such as the CG coastal plan designation.</p> <p>Cannabis activities are only allowed in the MC - Coastal Dependent Industrial Zone as an Interim Use, which protects those areas for future principally permitted coastal dependent industrial uses.</p> <p><i>Land Use - Recreation and Conservation Areas and Public Use Areas:</i> The ordinance prohibits Cannabis activities in the CR - Commercial Recreation designated areas to avoid conflicts with the principally permitted visitor-serving uses allowed in those areas. Similarly, the ordinance prohibits all cannabis activities in the PF1 - Public Facility (Rural), PF2 - Public Facility (Urban), CRD - Coastal-Dependent Commercial Recreation, and NR - Natural Resources zones to avoid conflicts with the principally permitted uses in those areas.</p> |

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| <p><i>The proposed zoning change is consistent with the Development Policies and Standards in each of the Coastal Plans.</i></p> | <p><i>Water Supply:</i> The EIR identifies two municipal water providers in the coastal zone that have limited water supply in the coastal zone - the Big Lagoon Community Services District (CSD) in the North Coast Area Plan and the Trinidad/Westhaven CSD in the Trinidad Area Plan. The ordinance includes a cap or limit on the number of cultivation permits allowed in these two Area Plans in Section 55.4.6.8. The ordinance limits the cultivation permits allowed in the North Coast Area Plan to 4 permits and 1 acre. All of the parcels eligible for cultivation in the North Coast Area Plan occur outside the Big Lagoon CSD service area, so there is no potential for the ordinance to adversely affect the water supply of that CSD. No permits are allowed in the Trinidad Area Plan. So there is no potential for the ordinance to adversely affect the water supply of that CSD either.</p> |

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| Applicable Requirements | Evidence Supporting Finding |
|---|--|
| <p><i>The proposed zoning change is consistent with the Hazard Policies and Standards in each of the Coastal Plans.</i></p> | <p>Cannabis cultivation (outdoor, mixed light, and indoor) as well as manufacturing facilities, distribution facilities, retail nursery, processing facilities, and wholesale nurseries may be permitted in the coastal zone, subject to a coastal development permit.</p> <p>Section 313-55.4.11 of the ordinance requires applications for all cannabis activities include an analysis of how the activity will conform to all applicable Local Coastal Area Plan policies and regulations including those minimizing threats to public health from natural hazards.</p> <p>Review of the submitted cannabis applications will require consistency with each of the hazard policies and standards in the Plan. For example, all applications will be reviewed for conformance with the Hazard Policies in the Coastal Plans that limit new construction within the 100-year flood plain and in areas with significant slope stability problems.</p> <p>Proposed new development will also be required to comply with the County's Fire Safe Ordinance to minimize exposure to potential fire hazards.</p> <p>The Zoning Ordinance also includes standards for new development that ensure protection from natural hazards. The F - Flood Hazard Areas, and G - Alquist-Priolo Fault Hazard Combining zones have standards that will be applied to cannabis activities in areas subject to flood and earthquake hazards. Also, Sections 312-26.1, and 312-38 of the Zoning Ordinance identify supplemental public safety protection findings related to flood hazards and earthquake fault hazards that need to be made to approve any new development including cannabis activities. All applications will be reviewed for conformance with these standards as well. Section 313-55.4.12.1.1 of the CCLUO requires all cannabis activities be in compliance with each section of the County's zoning ordinance, including those that protect from natural hazards.</p> |

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The proposed zoning change is consistent with the Archaeological Resource Protection Policies and Standards in each of the Coastal Plans.

Cannabis activities allowed by the ordinance could result in brush removal, grading, and irrigation to facilitate the cultivation of medical cannabis; construction of buildings for processing and manufacturing activities, as well as smaller sheds for storage of materials. These activities would require various degrees of ground disturbance that could encounter previously undiscovered or unrecorded archaeological sites and materials.

Each of the Coastal Plans include policies for the protection of archaeological resources. For instance, Section 3.18 of the Humboldt Bay Area Plan identifies mitigation for new development that may impact an archaeological resource. Cannabis activities permitted under the ordinance would be required to conform to these mitigation requirements under Section 313-55.4.6.4.4 of the Ordinance.

Section 313-55.4.11 of the ordinance requires applications for all cannabis activities include an analysis of how the activity will conform to all applicable Local Coastal Area Plan policies and regulations including those protecting archaeological resources. In addition, Section 313-55.4.5.1.5 of the Ordinance requires consultation with Native American Tribes during review of applications, and Section 313-55.4.6.4 of the ordinance requires a 1,000-foot setback between cultivation sites and Tribal Ceremonial Sites.

Also, Sections 313-55.4.5.1.5 and 314-55.4.5.1.5 (Inadvertent Discovery of Archaeological and Paleontological Resources) requires all projects include as conditions of approval measures to protect archaeological resources discovered inadvertently.

The Zoning Ordinance also includes standards for new development that ensure protection of archaeological resources. The Archaeological Combining zone requirements of the Zoning Ordinance (Sections 313-16.1.4 through 16.1.5 and 313-16.2.4 through 16.2.5), have standards that will be applied to cannabis activities in areas with archaeological resources. Section 313-55.4.12.1.1 requires all cannabis activities be in compliance with each section of the County's zoning ordinance, including those that protect archaeological resources. All applications will be reviewed for conformance with these standards as well, which will

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|---|---|
| | address potential impacts to archaeological resources resulting from the ordinance. |
| <i>The proposed zoning change is consistent with the Natural Resource Protection Policies and Standards in each of the Coastal Plans.</i> | <p>Each of the Coastal Plans include policies for the protection of natural resources. For instance, Section 3.41 of the McKinleyville Area Plan identifies setback requirements from wetlands. Cannabis activities permitted under the ordinance would be required to conform to these setback requirements under Section 313-55.4.6.4.4 of the Ordinance.</p> <p>Section 313-55.4.5.1 of the CCLUO prohibits cannabis activity within one hundred feet (100') of Environmentally Sensitive Habitat Area (ESHA), as defined in Section 313-143 of the Humboldt County Code ("Habitat Areas, Environmentally Sensitive"), or Wetland, as defined in Section 313-158. It also states Wetland Buffer Regulations set forth in Section 313-125 of the Humboldt County Code shall apply to all Commercial Cannabis Activity.</p> <p>Section 313-55.4.12.7 of the ordinance protects waterbodies in ESHA's by requiring a separate discretionary permit for any cultivation site using irrigation from a diversionary source. This section creates performance standards to minimize the impacts associated with the use of diverted water. The section establishes the requirement for a cultivator to submit a plan detailing how much water is needed for irrigation where it will come from and specifies that forbearance and storage of water for use during low flow periods will be required. This section also requires metering and reporting use of irrigation water.</p> |

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| <p><i>The proposed zoning change is consistent with the Natural Resource Protection Policies and Standards in each of the Coastal Plans.</i></p> | <p>In Section 313-55.4.5.10 Restriction of Water Use Under Special Circumstance, the ordinance provides that the County reserves the right to reduce the extent of any Commercial Cannabis Activity, including but not limited to the area of cultivation, allowed under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources.</p> <p>In addition to the requirements to regulate water use as specified above, the ordinance in section 313-55.4.12.1.8(c) requires that roads be improved and maintained to protect water quality in accordance with identified performance standards. Section 55.4.12.1.12 establishes a requirement for a Stormwater Management plan to be developed to maintain pre-project drainage conditions consistent with Low Impact Development standards. Potential impacts on water quality from cannabis cultivation operations, are further reduced through ordinance requirements in Sections 313-55.4.12.2 for applicants to demonstrate compliance with the State Water Resources Control Board Cannabis Cultivation Policy and associated regulatory programs or any subsequent water quality standards.</p> <p>The ordinance also requires that all cultivation permits comply with requirements of the California Department of Fish and Game and the State Water Board (Section 55.4.12.1).</p> <p>Section 313-55.4.12.1.10 of the ordinance requires projects proposing new development implement mitigation measures from the Final Environmental Impact Report that protect biological resources including waters of the United States, wildlife and plant species and habitat, riparian habitat, old growth habitat, and other sensitive natural communities, and resident or migratory wildlife corridors or native wildlife nursery sites. These measures include biological reconnaissance surveys, establishing protective buffers around significant habitat areas, minimizing noise from generators, and invasive plant species removal and management.</p> <p>In addition to the natural resource protection measures in the Coastal Plans and the CCLUO itself, the Zoning Ordinance includes natural resource protection measures</p> |
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| Applicable Requirements | Evidence Supporting Finding | | | | | | | | | | | | | | |
|--|---|-----------|-------------|----------|-------------------------|----------|-------------------------------|----------|------------------------|----------|--|----------|------------------------------------|----------|--------------------------|
| <p><i>The proposed zoning change is consistent with the Natural Resource Protection Policies and Standards in each of the Coastal Plans.</i></p> | <p>that apply to new development involving cannabis activities. All the following Combining Zones have standards which protect specific mapped natural resource features:</p> <table border="1"> <thead> <tr> <th data-bbox="743 411 938 447">Section #</th> <th data-bbox="938 411 1516 447">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="743 457 938 493">313-17.1</td> <td data-bbox="938 457 1516 493">B: Beach and Dune Areas</td> </tr> <tr> <td data-bbox="743 499 938 535">313-18.1</td> <td data-bbox="938 499 1516 535">C: Coastal Resource Dependent</td> </tr> <tr> <td data-bbox="743 541 938 577">313-20.1</td> <td data-bbox="938 541 1516 577">E: Coastal Elk Habitat</td> </tr> <tr> <td data-bbox="743 583 938 667">313-33.1</td> <td data-bbox="938 583 1516 667">R: Streams and Riparian Corridors Protection</td> </tr> <tr> <td data-bbox="743 674 938 709">313-35.1</td> <td data-bbox="938 674 1516 709">T: Transitional Agricultural Lands</td> </tr> <tr> <td data-bbox="743 716 938 751">313-38.1</td> <td data-bbox="938 716 1516 751">W: Coastal Wetland Areas</td> </tr> </tbody> </table> <p>Also, Section 312-39 of the Zoning Ordinance identifies supplemental natural resource protection findings that need to be made to approve any new development, including development associated with cannabis activities. Section 313-55.4.11 of the CCLUO requires applications for all cannabis activities include an analysis of how the activity will conform to all applicable Local Coastal Area Plan policies and regulations including those protecting ESHA's and wetlands.</p> <p>Section 313-55.4.12.1.1 of the CCLUO requires all cannabis activities be in compliance with each section of the County's Zoning Ordinance, including those that protect natural resources. Review of the submitted cannabis applications will require compliance with the requirements of the, CCLUO and the other requirements of the Zoning Ordinance described above which will minimize potential impacts to natural resources in the Coastal Zone resulting from the CCLUO.</p> | Section # | Description | 313-17.1 | B: Beach and Dune Areas | 313-18.1 | C: Coastal Resource Dependent | 313-20.1 | E: Coastal Elk Habitat | 313-33.1 | R: Streams and Riparian Corridors Protection | 313-35.1 | T: Transitional Agricultural Lands | 313-38.1 | W: Coastal Wetland Areas |
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| 313-17.1 | B: Beach and Dune Areas | | | | | | | | | | | | | | |
| 313-18.1 | C: Coastal Resource Dependent | | | | | | | | | | | | | | |
| 313-20.1 | E: Coastal Elk Habitat | | | | | | | | | | | | | | |
| 313-33.1 | R: Streams and Riparian Corridors Protection | | | | | | | | | | | | | | |
| 313-35.1 | T: Transitional Agricultural Lands | | | | | | | | | | | | | | |
| 313-38.1 | W: Coastal Wetland Areas | | | | | | | | | | | | | | |

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| <p><i>The proposed zoning change is consistent with the Natural Resource Protection Policies and Standards in each of the Coastal Plans.</i></p> | <p>Also, the ordinance contains a cap on the number of applications that may be accepted by the County which will limit the number of sites permitted for commercial cannabis cultivation (Section 313-55.4.6.8). The cap was established by setting the total number of cultivation applications countywide at 3,500, and then distributing those into watersheds, into the coastal zone, and into the coastal plan areas based on the number of parcels eligible for cultivation.</p> <p>The permit cap is the maximum number of permits that can be accepted in a given area. If the number of parcels in that area eligible for cultivation applications is lower than the cap due to site-specific conditions, the permit cap will not be achievable. For example, areas with an AEG - Agricultural Exclusive/Grazing Plan designation in the South Coast Area Plan were all assumed to be eligible for cultivation activities in distributing the permit cap. However, they are only eligible for cannabis cultivation if occupied by a non-residential accessory structure existing prior to January 1, 2016. If no properties with an Agricultural Exclusive/Grazing Plan designation in the South Coast Area Plan have non-residential accessory structure existing prior to January 1, 2016, no permit applications will be accepted on any of those properties so the permit cap may never be achieved in that coastal planning area.</p> |

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| <p><i>The proposed zoning change is consistent with the Visual Resource Protection Policies and Standards in each of the Coastal Plans.</i></p> | <p>Visual impacts resulting from the ordinance are documented in the DEIR beginning on page 3.1-10, including photographs of a typical mixed light cultivation site. On-site features typically include a nursery/greenhouse, hoop houses, water storage tanks and ponds, storage buildings for equipment and materials, solar panels, and employee/caretaker housing. Views of outdoor cannabis crops are frequently screened from public view through the use of solid wood fencing, although the visual quality of cannabis cultivation is not substantially different than that of other row crops or greenhouse cultivation of vegetables or flowers.</p> <p>Implementation of the ordinance also involves the presence of commercial cannabis supporting land uses that include processing, distribution, microbusinesses, nurseries, and testing facilities. The ordinance would require that these uses are placed in areas zoned for commercial, agricultural, or industrial uses. New development resulting from implementation of the CCLUO is expected to complement such existing uses by using similar building styles, and in some cases, use of existing buildings.</p> <p>Additionally, each of the Coastal Plans include policies for the protection of visual resources. For instance, Section 3.42 of the South Coast Area Plan identifies mitigation for new development that may impact visual resources, particularly mapped coastal scenic and coastal view areas. Cannabis activities permitted under the ordinance would be required to conform to these visual resource protection requirements through the review of applications.</p> |

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The proposed zoning change is consistent with the Visual Resource Protection Policies and Standards in each of the Coastal Plans.

The potential visual impacts resulting from new development allowed by the ordinance is further reduced by the requirements of the ordinance limiting the area of a property that can support cannabis cultivation, limiting the number of cultivation permits and the total acreage of those permits, and the ordinance's strict limitation on light pollution. Section 313-55.4.6.8 of the CCLUO allows only one acre of cannabis cultivation to be permitted in the entire Trinidad and North Coast Area Plan areas, which extends approximately 30 miles north from the community of Westhaven all the way to the County line. A total of 37 acres of cultivation could be permitted in the entire coastal zone of Humboldt County outside the service area of the Humboldt Bay Municipal Water District.

In addition to the requirements in the CCLUO, regulations set forth in the Zoning Ordinance would also protect and maintain scenic resources and vistas. For example, Section 313-69.1.5 of the Zoning Ordinance, Permitted Agricultural Accessory Structures, limits the size, coverage, and location of structures in agricultural areas. Development standard 313-103.1, Industrial Performance Standards, provides regulations for lighting and visibility of equipment for operations that have the potential to affect both residential and nonresidential zones. Section 313-125, Wetland Buffer Areas, provides regulations to prevent development permitted in lands adjacent to coastal wetlands from degrading the natural resource value of a given area.

Section 313-10.1 of the Zoning Ordinance requires new development in mapped Coastal View and Coastal Scenic areas to meet certain development standards that protect those visual resources from the impacts of new development.

Section 313-55.4.11 of the CCLUO requires applications for all cannabis activities include an analysis of how the activity will conform to all applicable Local Coastal Area Plan policies and regulations including those protecting visual resources.

Section 313-55.4.12.1.1 requires all cannabis activities be in compliance with each section of the County's zoning ordinance, including those that protect visual resources. Review of the submitted cannabis applications will require compliance with the requirements of the, CCLUO and the other requirements of the zoning ordinance described

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| Applicable Requirements | Evidence Supporting the Finding |
|---|--|
| | above which will minimize potential impacts to visual resources in the Coastal Zone resulting from the CCLUO. |
| <p><i>The proposed zoning change is consistent with the Coastal Access Policies and Standards in each of the Coastal Plans.</i></p> <p><i>The proposed zoning change is consistent with the Coastal Access Policies and Standards in each of the Coastal Plans.</i></p> | <p>Each of the Coastal Plans include policies for the protection of coastal access. For instance, Section 3.50 of the South Coast Area Plan identifies important public access points and establishes standards for new development that ensures the access will continue to be available to the public for use after the development has occurred.</p> <p>Section 313-55.4.11 of the ordinance requires applications for all cannabis activities include an analysis of how the activity will conform to all applicable Local Coastal Area Plan policies and regulations including those protecting coastal public access. Section 312-17.1 of the Zoning Ordinance requires that all new development be in conformance with the County General Plan, which includes the Local Coastal Plans.</p> <p>Review of the submitted cannabis applications will require compliance with the requirements of the CCLUO and the other requirements of the Zoning Ordinance described above which will minimize potential impacts to coastal access facilities in the Coastal Zone resulting from the CCLUO.</p> |

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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.

| Applicable Requirements | Evidence Supporting Finding |
|--|--|
| <p>§ 312-17.1.5 Housing Element Densities <i>The proposed development 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), except where: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.</i></p> | <p>The Zoning Ordinance amendments do not apply to single or multifamily residential zones. The 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> |

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4. - 9. Required Finding for Consistency with the California Coastal Act

The following table identifies the evidence which supports finding that the proposed Coastal Zoning Ordinance Amendments are consistent with the Coastal Act.

| Section(s) | Applicable Requirements |
|--|---|
| <p>Title 14 §13551 of the Administrative Code and Public Resources Code, § 30200 (Coastal Act)</p> | <p>4. Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)</p> <p>5. Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)</p> <p>6. Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)</p> <p>7. Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p> <p>8. Development (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p> <p>9. Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.</p> |
| | <p>Evidence Supporting the Required Findings #4 - 9</p> <p>The zoning ordinance amendments will help protect coastal resources from harm resulting from cannabis activities, including streams, fish, and wildlife and wildlife habitat, ESHA's and Tribal Cultural Resources. Cultivation activities share many similar features with more conventional agricultural uses and are therefore potentially compatible in zoning districts where agriculture is allowed. Commercial cannabis sales, manufacturing, distribution and testing are activities which share many similar features with more conventional retail sales, light manufacturing, distribution and scientific research uses and are therefore potentially compatible in a variety of zoning districts where those uses are allowed.</p> <p>The new policies and performance standards provide guidance and new tools to address land use issues surrounding the siting and operational standards for commercial activities involving the cultivation, manufacturing, processing, and distribution of cannabis for medical use. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial resources are likely to occur.</p> |

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10. Required Finding for Consistency with the California Environmental Quality Act

The following table identifies the evidence which supports finding that the proposed Coastal Zoning Ordinance Amendments are consistent with the California Environmental Quality Act (CEQA).

| Section(s) | Applicable Requirements |
|--------------------------------------|---|
| Section 15250 of the CEQA Guidelines | <p>Section 21080.5 of the Public Resources Code provides that a regulatory program of a state agency shall be certified by the Secretary for Resources as being exempt from the requirements for preparing EIRs, Negative Declarations, and Initial Studies if the Secretary finds that the program meets the criteria contained in that code section. A certified program remains subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible.</p> <p>The regulatory program of the California Coastal Commission under the California Coastal Act of 1976, Division 20 (commencing with Section 30000) of the Public Resources Code is listed as a certified program in Section 15251(c) of the CEQA Guidelines. The proposed CCLUO qualifies as a regulatory program of the California Coastal Commission because approval from that agency is required before the CCLUO becomes effective in the coastal zone.</p> |