



# COUNTY OF HUMBOLDT

For the meeting of: 11/19/2019

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File #: 19-1627

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Time Certain Matter

**SUBJECT:**

2:30 p.m. - Industrial Hemp Land Use Ordinance  
Project # PLN-2019-15590

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Introduce by title and waive further reading of Ordinance No. \_\_\_\_\_ [Attachment 3], adding section 313-55.5 (Industrial Hemp Activities in the Coastal Zone) to Chapter 3 of Division 1 of Title III of the County Code;
2. Introduce by title and waive further reading of Ordinance No. \_\_\_\_\_ [Attachment 4], adding section 314-55.5 (Industrial Hemp Activities in the Non-Coastal Areas) to Chapter 4 of Division 1 of Title III of the County Code;
3. Open the public hearing and receive the staff report and public testimony;
4. Close the public hearing and consider the Planning Commission's recommendations and alternatives for allowing Industrial Hemp activities within the unincorporated areas of Humboldt County; and
5. Adopt the proposed ordinances by taking the following actions:
  - a. Adopt Resolution No. \_\_\_\_\_ [Attachment 1] A Resolution of the Board of Supervisors of the County of Humboldt finding that the project is exempt from environmental review and making findings pursuant to Humboldt County Code Section 312-50 concerning adoption of zoning ordinance amendments and consistency with the Coastal Act to prohibit cultivation, processing, manufacturing and distribution of hemp, and transmitting 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; and
  - b. Adopt Resolution No. \_\_\_\_\_ [Attachment 2] A Resolution of the Board of Supervisors of the County of Humboldt finding that the project is exempt from environmental review and making findings pursuant to Humboldt County Code Section 312-50 concerning adoption of zoning ordinance amendments to prohibit cultivation, processing, manufacturing and distribution of hemp outside the coastal zone.

- c. Adopt Ordinance No. \_\_\_\_ [Attachment 3] approving the proposed Coastal Zoning Ordinance changes adding section 313-55.5 (Industrial Hemp Activities in the Coastal Zone) to Chapter 3 of Division 1 of Title III of the County Code; and
- d. Adopt Ordinance No. \_\_\_\_ [Attachment 4] approving the proposed Inland Zoning Ordinance changes adding section 314-55.5 (Industrial Hemp Activities in the Non-Coastal Areas) to Chapter 4 of Division 1 of Title III of the County Code; and
- e. Direct the Clerk of the Board to publish Summaries of the Ordinances within 15 days after adoption by the Board, along with the names of those Supervisors voting for and against each ordinance [Attachments 7 and 8] and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of each adopted ordinance along with the names of those Supervisors voting for and against the ordinance; and
- f. Direct Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

SOURCE OF FUNDING:

Budget: Planning and Building Department - Long Range Planning Division (1100-282)

DISCUSSION:

This item before the Board is a public hearing to consider adopting regulations for Industrial Hemp activities in Humboldt County.

The Planning Commission is recommending that the Board of Supervisors prohibit all Industrial Hemp activities to minimize the risks of Industrial Hemp inadvertently damaging cannabis grown at permitted cultivation sites through pollen drift, introduction of pathogens and pests and other ways. If the Board adopts the ordinance recommended by the Commission, the Zoning Ordinance would be modified to prohibit all activities associated with post-cultivation and sale of Industrial Hemp in the County.

***Background***

Passage of the Agriculture Improvement Act in the 2018 Farm Bill created a legal pathway for industrial hemp to be grown by persons interested in the commercial production of industrial hemp. There is considerable public interest for the County to allow cultivation and other industrial hemp activities to capitalize on an emerging market for industrial hemp as a potential source for cannabidiol (CBD) extract production for medicinal uses. Industrial hemp cultivation and other activities are viewed as having potentially significant economic development potential similar to the commercial cannabis industry. At the same time, there is also concern about the potential impacts of industrial hemp on the cannabis industry through the application of pesticides, introduction of pests and the drift of pollen from new hemp cultivation sites to existing cannabis cultivation sites which could adversely impact the productivity of the cannabis crop.

To provide time to develop appropriate rules and guidelines the Board of Supervisors imposed a temporary moratorium on industrial hemp activities in June of this year which extends to December

16. Regulation of Industrial Hemp at the federal and state level is still evolving. It is complicated by the fact the federal and state laws allowing hemp cultivation do not take into account that hemp products used in food and applied cosmetically are still regulated by the U.S. Food and Drug Administration (FDA) and the California Department of Public Health which have not developed any guidance for those uses.

Staff developed a draft Industrial Hemp Ordinance for the Planning Commission's consideration in September (the "Workshop Draft"). It included several pathways for Industrial Hemp cultivation and other activities informed by the County's Commercial Cannabis Land Use Ordinance (CCLUO) and public input received at a series of initial public workshops during the summer of 2019.

### ***Planning Commission Review***

On October 3, 2019, the Planning Commission held a workshop to discuss and receive public comments on the proposed Industrial Hemp ordinance. At the workshop, the Commission heard directly that many were not in support of the ordinance drafted by staff. This was the same message given by most attending the two public workshops held by staff in September. Based on the public testimony presented at public workshops in September, a Planning Commission public workshop on October 3, 2019 and a public hearing on October 17, 2019,

In summary, the Planning Commission heard that Industrial Hemp cultivation could adversely affect cannabis crops. Many of those attending the meetings expressed their views that Industrial Hemp cultivation cannot coexist with commercial cannabis. They pointed to the recent experience of areas in Oregon where cannabis farms were forced to relocate because of the pollen drift from nearby Industrial Hemp cultivation. Another factor that was stated is whether industrial hemp in Humboldt County has the potential for economic benefit. Many speculated that it is a false hope given number of current news stories indicating that overproduction of hemp is causing the market to crash. This is compounded in Humboldt County where agricultural land is far more limited than in other areas where great expanses of land exist such as in the Central Valley of California.

Based on this more recent public testimony, staff revised the proposed ordinance to take a far more cautionary approach for the Planning Commission meeting on October 17 (the "Planning Commission Draft"). In this version all allowances for cultivation of Industrial Hemp were stricken and all that remained were allowances for manufacturing, processing, sale, distribution and testing of Industrial Hemp. The Planning Commission chose an even more cautionary approach, recommending the Board of Supervisors prohibit all Industrial Hemp activities to minimize the risks of Industrial Hemp inadvertently damaging the cannabis grown at permitted cultivation sites. The ordinances presented in Attachments 3 and 4 reflect the direction of the Commission expressed in their approved resolution (Attachment 5).

### ***California Coastal Commission Review***

Staff sent the Workshop Draft ordinance to the North Coast District Coastal Commission staff in September. They commented that Humboldt County was the first jurisdiction in the state to develop regulations. Before they otherwise commented on the Workshop Draft ordinance, staff provided them with the Planning Commission Draft ordinance which disallowed cultivation and regulated other

Industrial Hemp activities the same as cannabis activities under the Commercial Cannabis Land Use Ordinance (CCLUO). Staff was not expecting any concerns from the Coastal Commission staff on this newer version of the ordinance because it mirrored the CCLUO which the Coastal Commission certified in August of this year. Staff is also not expecting any concerns from the Coastal Commission staff on the Planning Commission recommended ordinance because there is no potential for its prohibition of Industrial Hemp activities to affect coastal resources.

### ***Analysis of Environmental Impacts***

An Addendum to the certified Program Environmental Impact Report (PEIR) for the 2017 Commercial Cannabis Land Use Ordinance (CCLUO) (SCH # 2017042022) was prepared for the Workshop Draft ordinance. It was considered by the Planning Commission during their review of the Workshop Draft and Planning Commission Draft ordinances (Attachment 5). The Planning Commission recommendation to prohibit all Industrial Hemp activities by ordinance is exempt from environmental review per California Environmental Quality Act (CEQA) Guidelines, sections 15308 which exempts actions by regulatory agencies for protection of the environment and is affirmed by 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment).

### **FINANCIAL IMPACT:**

Staff costs for preparation and review of this ordinance are approximately \$75,000. These costs are supported by the General Fund contribution to the Planning and Building Department, Long Range Planning Unit's included in the FY 2019-20 Adopted Budget.

### **STRATEGIC FRAMEWORK:**

This action supports your Board's Strategic Framework by enforcing laws and regulations to protect residents .

### **OTHER AGENCY INVOLVEMENT:**

Agricultural Commissioner, County Counsel, and the California Department of Food and Agriculture

### **ALTERNATIVES TO STAFF RECOMMENDATIONS:**

The Board may choose to direct staff to;

1. Develop a tightly controlled pilot program for Industrial Hemp activities to inform future regulations that would ensure protection of the local cannabis industry.
2. Determine that there is no difference between Industrial Hemp grown for medicinal purposes and cannabis and develop an ordinance that regulates Industrial Hemp in the same manner as cannabis.

During the June public workshops, some commenters expressed optimism and support for allowing small "mom and pop" Industrial Hemp cultivation sites because the cost of entry into the Industrial Hemp market could be far less expensive than cannabis cultivation. In response to these comments, a third alternative for the Board's consideration is:

3. Examine the CCLUO to determine if there are regulatory barriers which preclude small farmers from entry into the legal market place.

ATTACHMENTS:

1. Resolution No. \_\_\_\_\_. A Resolution of the Board of Supervisors of the County of Humboldt finding that the project is exempt from environmental review and making findings pursuant to Humboldt County Code Section 312-50 concerning adoption of zoning ordinance amendments and consistency with the Coastal Act, and transmitting 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.
2. Resolution No. \_\_\_\_\_. A Resolution of the Board of Supervisors of the County of Humboldt finding that the project is exempt from environmental review and making findings pursuant to Humboldt County Code Section 312-50 concerning adoption of zoning ordinance amendments outside the coastal zone
3. Ordinance No. \_\_\_\_ [Attachment 3] approving the proposed Coastal Zoning Ordinance changes adding section 313-55.5 (Industrial Hemp Activities in the Coastal Zone) to Chapter 3 of Division 1 of Title III of the County Code.
4. Ordinance No. \_\_\_\_ [Attachment 4] approving the proposed Inland Zoning Ordinance changes adding section 314-55.5 (Industrial Hemp Activities in the Non-Coastal Areas) to Chapter 4 of Division 1 of Title III of the County Code.
5. Planning Commission Approved Resolution and Staff Reports
6. Post-Adoption Summaries
7. Public Comments

PREVIOUS ACTION/REFERRAL:

Board Order No.: F-2

Meeting of: June 25, 2019

File No.: 19-993