

**A Resolution of the Board of Supervisors of the County of Humboldt
Making Findings Pursuant to Humboldt County Code Section 312-50
Concerning Adoption of Zoning Ordinance Amendments Not in the Coastal Zone**

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

RESOLUTION NO. 18-42

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING FINDINGS PURSUANT TO HUMBOLDT COUNTY CODE SECTION 312-50 – CONCERNING ADOPTION OF ZONING ORDINANCE AMENDMENTS NOT IN THE COASTAL ZONE.

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 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.
- 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.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors, by the 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.
2. The changes to the Zoning Regulations for areas outside the coastal zone (Ordinance No. 2599) will become effective 30 days from the date of adoption.

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.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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Adopted May 8, 2018

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

AYES: Supervisors: Bass, Fennell, Sundberg, Bohn

NAYS: Supervisors: Wilson

ABSENT: Supervisors: --

ABSTAIN: Supervisors: --



RYAN SUNDBERG, 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: May 8, 2018

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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EXHIBIT A - REQUIRED 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.*

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.

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 2017 General Plan.

Applicable Requirements	Evidence Supporting Finding
<p><i>The proposed zoning change is consistent with the 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> <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 314-55.4.12.7 of the proposed 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</p>

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

Applicable Requirements	Evidence Supporting Finding
	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>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>
<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. </p>	<p>See above response to WR-P1.</p>



BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

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<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. 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. 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>
<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</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>

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018


Applicable Requirements	Evidence Supporting Finding
<p>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>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-September). A forbearance agreement prohibiting water withdrawals during low-flow season shall be included as a performance standard for the project. </p>	<p>Section 314-55.4.12.7 of the proposed 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 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>

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

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<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. [SEP]</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 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. [SEP]</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>

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
 Certified copy of portion of proceedings; meeting on May 8, 2018

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<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>

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 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>