

Attachment 2

Ordinance No. 2581 amending Ordinance No. 2555

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of August 19, 2017

ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT AMENDING TITLE III, DIVISION 1, CHAPTER 3, SECTION A, PART 1, SECTION 313-3.4; TITLE III, DIVISION 1, CHAPTER 3, SECTION B: REGULATIONS IN ALL OR SEVERAL ZONES, PART 3: DEVELOPMENT STANDARDS INDEX OF THE HUMBOLDT COUNTY CODE/COASTAL IMPLEMENTATION PLAN; AND TITLE III, DIVISION 1, CHAPTER 3, SECTION B, PART 3, SECTION 313-104.1 ET SEQ., OF THE HUMBOLDT COUNTY CODE/COASTAL IMPLEMENTATION PLAN

ORDINANCE NO. 2581

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

SECTION 1. COASTAL ZONING REGULATIONS AMENDMENT. Title III, Division 1, Chapter 3, Section A, Part 1, Section 313-3.4 is hereby amended by adding interim conditionally permitted uses (California Coastal Commission suggested modifications B as included in Appendix B of the Coastal Commission staff report dated July 28, 2017, are shown in double strikethrough for deletions, and double underlined for additions. Single strikethrough and single underlined text indicates County staff suggested corrections to ordinance language adopted by the Board on July 19, 2016.):

| 313-3.4 | MC: Industrial/Coastal-Dependent |
|---------------------------|---|
| Use Type | Principal Permitted Use |
| Civic Use Types | Minor Utilities |
| Industrial Use Types* | Coastal-Dependent; subject to the Coastal-Dependent Industrial Development Regulations |
| | Aquaculture; subject to the Coastal-Dependent Industrial Regulations |
| Use Type | Conditionally Permitted Use |
| Residential Use Types | Caretaker's Residence |
| Civic Use Types | Solid Waste Disposal; subject to the Solid Waste Disposal Regulations |
| | Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations |
| | Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations |
| Commercial Use Types | Coastal-Dependent Recreation |
| Industrial Use Type* | Coastal-Related; subject to the Coastal-Dependent Industrial Regulations |
| | Heavy Industrial, limited to alteration, improvement, and relocation of existing facilities |
| Extractive Use Type | Surface Mining - 1; subject to Surface Mining Regulations |
| | Surface Mining - 2; subject to Surface Mining Regulations |
| | Oil and Gas Drilling Processing; subject to Oil and Gas Drilling and Processing Regulations |
| Natural Resource Use Type | Coastal Access Facilities |
| Use Type | Interim Conditionally Permitted Use |
| | Certain uses Principally and Conditionally permitted in Section 313-3.2 |
| | ML: Light Industrial and Section 313-3.3 MG: Industrial General not listed above; subject to the Interim Uses in the Coastal-Dependent Industrial Zone Performance Standards contained in Section 313-104.1. Pursuant to Section 313-104.1, certain uses included in the following use types would not be allowed due to their inability to be removed or relocated in a feasible manner. |
| Civic Use Types | Extensive Impact Civic Uses |

| | |
|--------------------------------------|---|
| <u>Commercial Use Types</u> | Minor Generation and Distribution Facilities Heavy Commercial Retail Sales Retail Service Warehousing, Storage and Distribution |
| <u>Industrial Use Types</u> | Heavy Industrial Research/Light Industrial Timber Product Processing |
| <u>Agricultural Use Type</u> | General Agriculture |
| Use Types Not Listed in This Table** | Any use not specifically enumerated in this Division if it is similar to and compatible with the uses, <u>excepting Interim Conditionally Permitted Uses</u> , permitted in the MC zone. The determination of uses similar to Interim Conditionally Permitted Uses shall be made by the Planning Director in consultation with Coastal Commission staff. |

*See, Industrial Performance Standards, Section 313-103.1.

**See, "Classifying Uses Not Specifically Mentioned in Use Type Descriptions," Section 313-165.

SECTION 2. COASTAL ZONING REGULATIONS AMENDMENT. Title III, Division 1, Chapter 3, Section B, Part 3, is hereby amended by correcting the name of the MC zone district. (Single strikethrough and single underlined text indicates County staff suggested corrections to ordinance language adopted by the Board on July 19, 2016.):

Section B: Regulations That Apply In All Or Several Zones Part 3: Development Standards

| | | |
|-----------|---|-----|
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| | <i>313-100-102: Sections Reserved for Future Use</i> | |
| 313-103.1 | Industrial Performance Standards | 145 |
| 313-104.1 | Interim Uses in the <u>Coastal-Dependent</u> Industrial/ <u>Coastal-Dependent</u> Zone (MC) Performance Standards | |
| | <i>313-104-105: Sections Reserved for Future Use</i> | |
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SECTION 3. COASTAL ZONING REGULATIONS AMENDMENT. Title III, Division 1, Chapter 3, Section B, Part 3, Section 313-104.1 et seq., Interim Uses in the Industrial/Coastal-Dependent Zone Performance Standards is hereby amended. (California Coastal Commission suggested modification C as included in Appendix B of the Coastal Commission staff report dated July 28, 2017, is shown in double strikethrough for deletions, and double underlined for additions. Single strikethrough and single underlined text indicates County staff suggested corrections to ordinance language adopted by the Board on July 19, 2016.):

313-104.1 INTERIM USES IN THE ~~COASTAL-DEPENDENT INDUSTRIAL/COASTAL-DEPENDENT~~ ZONE PERFORMANCE STANDARDS

104.1.1 **Purpose.** There is a substantial inventory of vacant and underutilized land zoned MC: Coastal-Dependent Industrial around Humboldt Bay. Until such time as there is a higher demand for the use of MC zoned land for its designated purpose of supporting coastal-dependent industrial uses, defined as uses which require a maintained navigable channel to function, it is desirable and beneficial to generate revenues that can be used to maintain and improve infrastructure for future coastal-dependent industrial use. This is accomplished by increasing the variety of conditionally permitted uses in the MC zone district by allowing noncoastal-dependent interim uses, thereby increasing the potential for the use of vacant and underutilized MC zoned land.

The purpose of these regulations is to establish minimum standards for interim noncoastal-dependent development in the MC zone district while simultaneously protecting the current and long term use of MC zoned land for coastal-dependent industrial use as defined in 104.1.3.1 below, and other priority uses conditionally permitted in the MC zone district including coastal-dependent recreation, coastal-related, and coastal access facilities as defined in Section D: Use Types, Part 2: Glossary of Use Types, of the Coastal Zoning Regulations (hereinafter "other priority use" or "other priority uses"). To allow greater use of underutilized MC zoned lands, certain uses allowed in the ML-Light Industrial and MG-Industrial General zone districts not otherwise allowed in the MC zone district may be allowed in the MC district as conditionally permitted interim uses ("interim uses") subject to the following performance standards which avoid detrimental impacts to the long term coastal-dependent industrial use, or other priority use, of MC zoned lands.

104.1.2 **Applicability.** The provisions of this section shall apply to all qualified interim uses in the MC zone district. Certain uses included under the various Interim Conditionally Permitted Use Types in Section 313-3.4 of the Coastal Zoning Regulations would not qualify as allowable interim uses at the outset due to their inability to be removed or relocated in a feasible manner. Uses that ~~could~~ would not plausibly qualify as interim uses include, but are not limited to, most of the Extensive Impact Civic Uses with the possible exception (where structures that may be needed are either existing or removable) of helistops, publicly operated parking garages, bus depots, and sites for storage, repair and processing of materials and equipment and vehicles operated by governmental entities; and automobile gas or filling stations under Retail Service Uses.

104.1.3 Performance Standards.

104.1.3.1 In order to avoid detrimental impacts to coastal-dependent industrial uses, including public docks; water-borne carrier import and export operations; ship building and boat repair; commercial fishing facilities, including storage and work areas, berthing and fish receiving, and fish processing for human consumption; marine oil terminals; Outer Continental Shelf service or supply bases; ocean intake, outfall or discharge pipelines and pipelines serving offshore facilities; and aquaculture and aquaculture support facilities; and in order to avoid detrimental impacts to other priority uses, interim uses shall do all of the following:

104.1.3.1.1 be compatible with, and not interfere with, the operation of existing onsite and offsite coastal-dependent industrial uses or other priority uses;

104.1.3.1.2 allow the site where they are located to be converted back to a coastal-dependent industrial use ~~or other priority use~~ when the site is needed for such use;

104.1.3.1.3 use existing improvements where feasible;

104.1.3.1.4 in addition to complying with subsection 104.1.3.3, be located in the areas least likely to be required by a future coastal-dependent industrial use or other priority use on a particular site to the extent feasible;

104.1.3.1.5 only provide those site improvements that are nonpermanent, and removable or relocatable in a feasible manner, or such improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial use ~~or other priority use~~, if new improvements are required; and

104.1.3.1.6 not inhibit the eventual use of MC zoned land for coastal-dependent industrial use or other priority use.

104.1.3.2 Compliance with Section 104.1.3.1 shall be determined considering at a minimum all of the following factors:

104.1.3.2.1 the amount of area required for an interim use;

104.1.3.2.2 the type, intensity and location of the interim use;

104.1.3.2.3 maintenance of priority access to roads, bay frontage and infrastructure for existing coastal-dependent industrial uses or other priority uses.

104.1.3.2.4 the priority rating of the site for coastal dependent industrial development pursuant to section 3.14.B.3.a. of the Humboldt Bay Area Plan;

104.1.3.2.5 the current and projected level of demand for coastal- dependent industrial uses, and the land and infrastructure available to accommodate the demand, as determined in consultation with appropriate public and private agencies or organizations, and appropriate publications;

104.1.3.2.6 the cost and amortization period of investments associated with the proposed use; and

104.1.3.2.7 the lead time necessary to return the site to coastal-dependent industrial use ~~or other priority use.~~

104.1.3.3 Interim uses do not have the priority status of coastal-dependent industrial uses or other priority uses, shall be located in upland areas, shall not be allowed to fill wetlands or coastal waters, shall be located at least 100 feet from environmentally sensitive habitat areas, and shall not be located on any dock or within 100 feet of a dock as measured from the center of the dock at the point where the dock joins the shore.

104.1.3.4 Interim uses shall require both a use permit and coastal development permit, the terms of which shall coincide, and shall be subject to the following standards:

~~104.1.3.4.1 If interim uses occupy seventy-five (75) percent or more of the total land area zoned MC within the Humboldt Bay Area Plan planning area that either currently supports or has supported coastal-dependent industrial development as determined by the Planning Director, no additional permits for interim uses shall be issued.~~

104.1.3.4.21 The Hearing Officer shall set the term for the permits, which shall normally be between one (1) and seven (7) years. The permit term shall be set in consideration of the factors listed in section 104.1.3.2 so as to provide a viable time frame for an interim use while avoiding impacts to long term coastal-dependent industrial uses and other priority uses.

104.1.3.4.3.2 ~~If interim uses occupy fifty (50) percent or more of the total land area zoned MC within the Humboldt Bay Area Plan planning area that either currently supports or has supported coastal-dependent industrial development as determined by the Planning Director, the permit term for any subsequent interim use shall be limited to no more than two (2) years.~~ The permit term for interim uses shall be limited to two (2) years if any of the following occur: (a) if 340 acres of MC-zoned land is occupied by interim uses authorized by County-issued coastal development permits, the permit term for any subsequent interim use authorized by a County-issued coastal development permit on such lands shall be no more than two years; or (b) if 170 acres of MC-zoned land that either currently supports or has supported coastal-dependent industrial development is occupied by interim uses authorized by County-issued coastal development permits, the permit term for any subsequent interim use authorized by a County-issued coastal development permit on such lands shall be no more than two years.

104.1.3.4.4.3 A term of between one (1) and three (3) additional years above the maximum seven (7) years (for a total term not to exceed ten (10) years) may be considered under limited circumstances, but shall not be considered for interim uses subject to the permit term established by 104.1.3.4.32. In addition to the factors provided in section 104.1.3.2, the longer term may be considered for:

104.1.3.4.3.1 interim uses that can coexist with existing or future coastal-dependent industrial uses and other priority uses.

104.1.3.4.3.2 interim uses that provide structural repair, maintenance or upgrades of existing infrastructure, or install new infrastructure, that supports coastal-dependent industrial uses.

104.1.3.4.5 The existence of a use permit and coastal development permit for an interim use shall not prevent the application for and approval of any required land use permits for a non-interim principally or conditionally permitted use in the MC zone district for the same parcel, even if for the same location on the parcel, subject to the condition that the permits for any non-interim use that would conflict with an interim use shall not become effective until the expiration of the interim use permit term set by the Hearing Officer, the abandonment of the interim use during the permit term of the interim use, or the rescission of the lease for the interim use and the removal or relocation of the interim use in accordance with Section 104.1.3.10.

104.1.3.5 An interim use permit and coastal development permit shall not confer any land use entitlement or property right to the holder of the permits beyond the permit expiration date set forth in the use permit and coastal development permit. Interim permits shall expire at the end of the term set by the Hearing Officer, at which time they become null and void. Interim uses shall cease operation and all permitted development not authorized to remain by permit shall be removed by the permit expiration date. Approval Issuance of a new use permit and coastal development permit prior to the expiration date of the existing use permit and coastal development permit authorizing the interim use shall be required in order to continue an interim use uninterrupted beyond the expiration date of the existing permit.

104.1.3.6 An interim use must commence within one (1) year after all applicable appeal periods have lapsed. Extensions of the initial permit vesting period (the period by which the interim use must begin) may be approved in accordance with Section 312-11.3 of the Zoning Ordinance ("Extension of a Permit or Variance").

104.1.3.7 Interim uses shall utilize existing improvements where feasible. If new improvements are required, they shall be nonpermanent, and removable or relocatable in a feasible manner, or shall be improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial use ~~or other priority use~~. A project site shall be restored to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use ~~or other priority use~~, on or before the expiration date of a use permit and coastal development permit for an interim use. An application for a use permit and coastal development permit for interim uses shall include a plan detailing how and when the project site will be restored. A bond in the amount necessary to complete the required restoration may be required at the discretion of the Hearing Officer.

104.1.3.8 Prior to any development occurring that is authorized by an interim use permit and coastal development permit, a Development Plan shall be submitted for review and approval by the Planning Director, and a Notice of Development Plan shall be recorded

on all properties where the interim use permit will be located. The Development Plan shall identify the term and all other applicable development restrictions that apply to the interim use, including the plan for restoring the project site to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use ~~or other priority use~~.

104.1.3.9 Coastal-dependent industrial uses and other priority uses are considered priority uses pursuant to the County's Local Coastal Program and California Coastal Act and as such, shall be given priority over interim uses in evaluating potential land use conflicts between the two uses. Operation of coastal-dependent industrial uses or other priority uses in conformance with all applicable laws and regulations shall not constitute a nuisance pursuant to the Humboldt County Code of Regulations.

104.1.3.10 Any lease for an interim use shall include a provision for rescission of the lease and mandatory relocation or removal of the interim use within six months in the event a coastal-dependent industrial use or other priority use is identified by the property owner for the space occupied by an interim use on terms acceptable to the property owner. A copy of the lease showing compliance with this provision shall be provided to the Planning Division prior to permit issuance. A property owner ~~shall prioritize coastal-dependent industrial uses and other priority uses over interim uses and~~ may exercise the lease rescission provision if a coastal-dependent industrial use or other priority use attempting to occupy the site would be prohibited from doing so due to the existence of one or more interim uses.

104.1.3.11 The Coastal-Dependent Industrial Development regulations contained in Section 313-45.1 of the Coastal Zoning Regulations shall continue to apply to coastal-dependent industrial development in the MC zone district, but shall not apply to noncoastal-dependent industrial interim uses.

104.1.3.12 The Industrial Performance Standards as provided in Section 313-103.1 of the Coastal Zoning Regulations shall apply to all Interim Conditionally Permitted Uses.

104.1.3.13 An interim use must demonstrate the ability to comply with all applicable policies of the Humboldt Bay Area Plan, including, but not limited to, development policies related to adequacy of services and adequacy of facilities for the treatment and disposal of wastewater discharges for both domestic and non-domestic wastewater (Section 3.14-B-1 of the Humboldt Bay Area Plan).

104.1.4 **Findings.** In addition to the required findings for all permits and variances pursuant to Chapter 2, Section 312-17 of the Humboldt County Zoning Regulations, the Hearing Officer may approve or conditionally approve an application for an interim use permit and coastal development permit only if a finding can be made that the interim use does not have a detrimental impact on existing coastal-dependent industrial uses or other priority uses, nor on the future long term use of MC zoned land for coastal-dependent industrial uses or other priority uses.

104.1.5 **Tribal Cultural Resources.** Ground disturbing activities will require review by local Native American tribes and may require a record search, a site visit, and/or an archaeological survey for

Tribal cultural resources during the permitting process. If a likelihood of significant resources is identified, project redesign, mitigation, and/or monitoring during ground disturbing activities may be required for areas considered sensitive.

104.1.6 **Future Applicability.** If the County undertakes a reduction of MC zoned land, the continued applicability of these standards shall be reviewed in conjunction with that LCP amendment ~~and may potentially be modified as may be appropriate.~~

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective immediately upon certification of the proposed amendment to the Local Coastal Program by the California Coastal Commission. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published at least once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

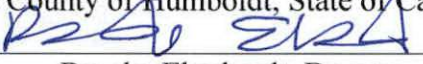
PASSED, APPROVED AND ADOPTED this 3rd day of October, 2017 on the following vote, to wit:

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



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

(SEAL)

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

Brooke Eberhardt, Deputy