



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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Hearing Date: October 19, 2017

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Zoning Ordinance Interim Amendments**
Commercial Cannabis Activities for Adult Use & Interim Permitting
Case Number OR 17-007

The attached staff report discussing interim amendments to the Commercial Cannabis Land Use Regulations has been prepared for your consideration at the public hearing on October 19, 2017. The staff report includes the following:

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Please contact Steven Lazar, Senior Planner, at 268-3741, or by email at slazar@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
October 19, 2017	Zoning Ordinance Interim Amendments –Regulation of Commercial Cannabis Activities for Medicinal and Adult Use	Steven Lazar

Project: Humboldt County has existing ordinances regulating commercial medical cannabis activities, including the Commercial Medical Marijuana Land Use Ordinance (Ordinance No. 2544, which was adopted February 26, 2016 and modified on September 13, 2016 (Ordinance 2559). The project would involve amendments to the County's existing Commercial Medical Marijuana Land Use Ordinance and Dispensary Regulations which govern activities involving the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for Medicinal Use (Sections 314-55.4 and 314-55.3 of Chapter 4 of Division 1 of Title III of the County Code, respectively). These regulations would be modified to also apply to commercial cannabis activities for the Adult Use marketplace, as well as authorization of interim permits, in accordance with provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94).

Project Location: The implementing Ordinance would apply to all the unincorporated areas of Humboldt County, outside of the Coastal Zone.

Present Plan Designations: N/A.

Present Zoning: N/A.

Assessor Parcel Number(s): 000-000-000.

Environmental Review: A Mitigated Negative Declaration (SCH# 2015102005) was previously prepared and adopted together with the Commercial Medical Marijuana Land Use Ordinance, which evaluated and addressed the potential environmental impacts from the regulation of commercial cannabis activities. The proposed ordinance amendments would not allow any activity not already authorized, thus there are not any previously unidentified impacts and no additional review is required pursuant to section 15162 of the CEQA Guidelines.

State Appeal Status: Not applicable.

**ORDINANCE PERFORMING AMENDMENTS TO HUMBOLDT COUNTY CODE CONCERNING THE
REGULATION OF COMMERCIAL CANNABIS ACTIVITIES FOR ADULT USE, AND INTERIM PERMITTING**
Case Number OR-17-007

Recommended Commission Action

1. Open the public hearing.
2. Request that staff present the staff report and pertinent evidence.
3. Receive public testimony.
4. Deliberate on the draft ordinance and public input received.
5. Take the following action:

"Move to make all of the required findings, based on evidence in the staff report and public testimony, and recommend the Board of Supervisors adopt the attached resolution and ordinance enacting the Interim Amendments to the Zoning Regulations addressing commercial cannabis activities for Medicinal and Adult Use and authorizing interim permitting"

Executive Summary: This item involves interim amendments to the Zoning Regulations that will require commercial cannabis activities associated with Adult Use be subject to the existing commercial medical marijuana land use ordinance, and will allow issuance of interim permits to applicants who are applying to permit existing cultivation sites and whose applications were complete before July 14, 2017. The interim permit would be subject to execution of a written compliance agreement and allow these cultivators to apply for licenses with the state.

These changes are designed to address changes in state law under the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), enacted in June of this year. In part a response to the authorization of "Adult Use" of cannabis (by persons 21 years of age or older) following passage of Proposition 64 in November of 2016, MAUCRSA integrates provisions for Medicinal and Adult-Use under a single law, and serves to reconcile differences between the multiple prior statutes. MAUCRSA also includes new provisions enabling adoption of emergency regulations by state licensing authorities, and authorizes these agencies to begin accepting and approving applications for temporary licenses. State authorities have announced that they will be adopting emergency regulations in November of 2017. Recent and ongoing conversations with officials from these state agencies indicate that they intend to issue temporary cannabis licenses in cases where local-level regulations are absent or unclear.

These recent changes to state law and rulemaking process create potential vulnerabilities to Humboldt County in two areas:

- (1) Potential State Licensing of Commercial cannabis activities within the Coastal Zone without County permits; and
- (2) Potential State Licensing of Commercial cannabis activities in support of the California Adult Use marketplace (pursuant to passage of Proposition 64 in November of 2016)

The interim amendments are designed to:

- Preserve local control of new Adult-Use commercial cannabis licensing types
- Provide for local-level interim permitting of eligible existing cannabis cultivation sites in conjunction with state temporary licensing
- Enable local permittees the option of seeking Adult-Use state licenses

The proposed interim zoning ordinance amendments are part of a twofold approach to clarify Humboldt County's local land use requirements prior to the onset of temporary licensing. The ordinance is being pursued in tandem with an urgency ordinance prohibiting commercial

cannabis activities within the Coastal Zone. The urgency ordinance will be presented to the Board of Supervisors for adoption during their meeting on October 17, 2017.

These proposed amendments to the Zoning Regulations serve to clarify the applicability of the County's existing commercial cannabis land use regulations to all commercial cannabis activities, regardless of whether operated in support of the *Medicinal* or *Adult Use* California marketplace. The proposed changes to the land use regulations would appear in section 314-55.3 (Ord. #2554 - Dispensary Regulations) and 314-55.4 (Ord. #2559 Commercial Medical Marijuana Land Use Ordinance / CMMLUO). Both of these ordinances were adopted prior to the emergence of "Adult-Use" licensing under Proposition 64 and MAUCRSA.

This ordinance will also allow interim permitting of existing cultivation sites which had complete permit applications as of July 14, 2017. These interim permits would be subject to execution of a written compliance agreement requiring that the applicant complete the remainder of the permit process in a timely manner and confine continued operation to existing areas only. These agreements would also stipulate that violations of the agreement would result in the loss of ability to obtain a Zoning Clearance Certificate, Special Permit, or Conditional Use Permit. This would enable existing cultivators working diligently toward local permitting to be allowed to apply for state licensing on January 1, 2018. Since operators of existing cultivation sites have been allowed to continue cultivating while in the permit process, this would not enable any new activity not already currently authorized. The interim permitting provisions include a sunset date of July 1, 2018 for applicants to complete their local permit process.

The proposed changes to the zoning regulations would not affect the December 31, 2016 application deadline included in the CMMLUO. Other than Dispensaries, no new applications will be accepted for commercial cannabis activities (cultivation, manufacturing, processing, and distribution) prior to the certification of the programmatic Environmental Impact Report (PEIR) and adoption of the Commercial Cannabis Land Use Ordinance (CCLUO).

STAFF RECOMMENDATION

Staff believes the necessary findings can be made for Board adoption of the proposed interim amendments described within the attached resolution and ordinance (Attachments 2 and 3). Staff requests the Commission make a recommendation supporting Board adoption of the draft resolution and ordinance as proposed. A draft resolution for adoption by the Commission is included with this report (Attachment 1).

ATTACHMENT 1

Draft Planning Commission Resolution

A Resolution of the Planning Commission of the County of Humboldt recommending that the Board of Supervisors adopt regulations governing commercial cannabis activities for both Medicinal and Adult-Use, including provisions for interim permitting of lawful existing cultivation sites.

PLANNING COMMISSION, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
meeting on October 19, 2017

Resolution Number 17-__

Case Number OR-17-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF HUMBOLDT RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AMENDMENTS TO TITLE III, CHAPTER 4 OF THE HUMBOLDT COUNTY CODE - REGULATIONS OUTSIDE THE COASTAL ZONE, GOVERNING COMMERCIAL CANNABIS ACTIVITIES FOR BOTH MEDICINAL AND ADULT USE, INCLUDING PROVISIONS FOR INTERIM PERMITTING OF LAWFUL EXISTING CULTIVATION SITES, AND FIND THE AMENDMENTS CONSISTENT WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND SECTION 312-50 OF HUMBOLDT COUNTY CODE, CONCERNING ADOPTION OF ZONING ORDINANCE AMENDMENTS.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes; and

WHEREAS, California Government Code Sections 65853 through 65857 and Humboldt County Code Sections 312-50.7.2 – 312-50.7.3, and sets forth the procedures governing the adoption and amendment of zoning ordinances; and,

WHEREAS, the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, a Notice of Public Hearing Regarding the Adoption of Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities for Medicinal and Adult Use to be held on October 19, 2017; and

WHEREAS, on October 19, 2017 the Humboldt County Planning Commission conducted a public hearing on the proposed Interim Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities For Medicinal and Adult Use, including provisions for issuance of interim permits, and received the staff report on the draft ordinance, took public testimony, and reviewed evidence; and

WHEREAS, the Planning Commission reviewed and considered the report, evidence, and other testimony presented to the Commission regarding the proposed interim Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities for Medicinal and Adult Use; and

WHEREAS, the Planning Commission finds that the proposed interim Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities for Medicinal and Adult Use are in the public interest and are consistent with the General Plan;

NOW, THEREFORE, be it resolved and determined that the Planning Commission hereby recommends that the Board of Supervisors of Humboldt County:

1. Adopt a resolution finding that the proposed interim Amendments to the Humboldt County Code Regulating Commercial Cannabis Activities for Medicinal and Adult Use have been

PLANNING COMMISSION, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
meeting on October 19, 2017

appropriately reviewed for compliance with CEQA, are in the public interest, and are consistent with the General Plan for the reasons more fully set forth in the attached draft resolution (Attachment 2); and

2. Adopt the proposed Ordinance making interim amendments to the Humboldt County Code Regulating Commercial Cannabis Activities for Medicinal and Adult Use as attached hereto as Attachment 3.

Adopted after review and consideration of all the evidence on _____, 2017.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____.

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:
DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John H. Ford, Director
Department of Planning and Building
County of Humboldt

ATTACHMENT 2

Draft Board of Supervisors Resolution

A Resolution of the Board of Supervisors of the County of Humboldt
Making Findings Pursuant to the California Environmental Quality Act (CEQA),
Humboldt County Code Section 312-50 – Concerning Adoption of Zoning Ordinance
Amendments

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), HUMBOLDT COUNTY CODE SECTION 312-50 – CONCERNING ADOPTION OF ZONING ORDINANCE AMENDMENTS.

WHEREAS, in 2016 the County of Humboldt adopted comprehensive ordinances, Ordinance Nos. 2554 and 2559, to regulate land use with respect to the commercial cultivation, processing, manufacturing, distribution, testing and sale of medical cannabis, as authorized by the Medical Cannabis Regulation and Safety Act (MCRSA); and,

WHEREAS, on November 8, 2016, the voters of the State of California passed Proposition 64, the Control Regulate and Tax Adult Use Of Marijuana Act (AUMA) to authorize the adult possession and use of cannabis by persons 21 years of age and older, and commercial cannabis cultivation, processing, manufacturing, distribution, testing and sale of cannabis for adult use; and,

WHEREAS, on June 27, 2017, the State of California adopted a comprehensive statute to integrate MCRSA and AUMA for the regulation of commercial medicinal and adult use cannabis cultivation, distribution, manufacturing, testing, and sale known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (SB 94), Statutes of 2017, chapter 27, Business and Professions Code Section 26000, et seq. State licensing authorities are the Department of Food and Agriculture for cultivation, the Department of Public Health for manufacturing, and the Bureau of Cannabis Control in the Department of Consumer Affairs for all other commercial cannabis activity license types. None of the licensing authorities have as yet published comprehensive regulations that include both medicinal and adult use commercial cannabis activities. Business and Professions Code Section 26013 authorizes licensing authorities to adopt emergency regulations, which do not require prior notice and public comment.

WHEREAS, on September 29, 2017, all three licensing authorities announced that they will use the emergency rulemaking process for the adoption of new regulations, which are expected to be published in November and will serve as the basis for the state to begin issuing temporary commercial cannabis licenses by 2018, as authorized by Business and Code Section 26050.1. An application for a temporary license must include a copy of a valid license, permit, or other authorization, issued by a local jurisdiction, enabling the applicant to conduct commercial cannabis activity at the location requested for the temporary license.

WHEREAS, the County of Humboldt has accepted and is processing approximately 2,300 applications to conduct commercial cannabis activities for medical use in accordance with Ordinance 2559, and additional applications for conditional use permits for medical cannabis dispensaries in accordance with Ordinance 2554; and,

WHEREAS, the County of Humboldt is in the process of amending the County Code to update the commercial cannabis activity regulations with comprehensive uniform regulations applicable to both medicinal and adult use commercial cannabis activities, which may not be finalized and effective until after January 1, 2018; and,

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WHEREAS, the social, environmental, economic, and land use impacts of commercial cannabis cultivation, processing, manufacturing, distribution, and testing are no different whether for medicinal or adult use; and,

WHEREAS, it is in the best interest of the County of Humboldt for all cannabis that is cultivated, processed, manufactured, distributed, tested, and/or sold in the County of Humboldt to be part of a well-regulated, environmentally responsible, and economically sustainable legal cannabis marketplace.

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of Humboldt County that interim amendments be made to existing land use regulations governing commercial cannabis activities so that they become applicable to both the Medicinal and Adult-Use legal marketplace, and help to further the economic viability and stability of existing commercial cannabis industries within the County; and,

WHEREAS, persons who are issued a zoning clearance certificate or discretionary permit to engage in commercial cannabis activities for medicinal use pursuant to Ordinance Nos. 2554 or 2559, but prior to the adoption of more comprehensive amendments, should be able to seek and obtain state licenses and conduct commercial cannabis activities for either the Medicinal or Adult-Use legal marketplace; and,

WHEREAS, it is in the best interest of the County of Humboldt to allow for issuance of an interim permit to applicants seeking local approval of existing lawful cultivation sites established prior to January 1, 2016, and who have filed a timely and complete application with the County for a commercial cannabis land use permit; and,

WHEREAS, it is in the best interest of the County of Humboldt to provide for the issuance of an interim permit so that those Humboldt County cultivators who have elected to participate in the legal California marketplace may apply for temporary state licenses as soon as they become available; and,

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors, based on the Planning & Building Department's staff report, testimony and evidence presented at the public hearing that the Board finds as follows:

1. A Mitigated Negative Declaration (SCH# 2015102005) was previously prepared and adopted together with the Commercial Medical Marijuana Land Use Ordinance, which evaluated and addressed the potential environmental impacts from the regulation of commercial cannabis activities. No additional review is required under section 15162 of the CEQA Guidelines because the proposed amendments to Humboldt County Code, Title III, Division 1, Chapter 4, section 314-55.4 will not cause new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No substantial changes in the circumstances under which the amendments are being undertaken that will require major revisions of the previous mitigated negative declaration. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time that the previous mitigated negative declaration was adopted that shows that the amendments will have any significant effects not discussed in the previous mitigated negative declaration, or that the significant effects previously examined will be substantially more severe than shown in the previous mitigated negative declaration.

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2. Adoption of the proposed amendments does not constitute a “project” as defined under section 15378 of the CEQA Guidelines, in that the adoption of these interim regulatory amendments will not result in a reasonably foreseeable direct or indirect physical change in the environment, but simply serve to clarify that previously adopted local regulations governing commercial cannabis activities for medicinal uses (cultivation, processing, manufacturing, distribution, testing, and sale) are equally applicable to the adult use marketplace.
3. Pursuant to section 15061(b)(3) of the CEQA Guidelines, the proposed amendments are exempt from environmental review because the proposed amendments do not authorize any use that would cause a substantial adverse change in physical condition within the area affected by the amendments different from that previously approved, because there is no difference in effects from commercial cannabis activities for medical use from those for adult use. Regardless of the end use, the environmental effects of cultivation, processing, manufacturing, distribution, and sale of cannabis are the same.
4. The proposed amendments are exempt from environmental review under Class 8, CEQA Guidelines Section 15308, because they assure the maintenance, restoration, enhancement, or protection of the environment because the regulations involve procedures for the protection of the environment of previously unregulated activities that frequently caused significant adverse environmental effects.
5. Makes the findings for approval of the amendments to the Zoning Regulations (Case No.: OR-17-007) based on the evidence submitted as more fully set forth in Exhibit 1 attached hereto.

BE IT FURTHER RESOLVED by the Humboldt County Board of Supervisors that the Planning & Building Department – Long Range Planning unit is hereby directed to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research pursuant to California Environmental Quality Act.

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

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

VIRGINIA BASS, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

EXHIBIT A

Findings for Adoption of Zoning Text Amendments

DRAFT

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

ADMINISTRATIVE PROCEDURES ZONING TEXT AMENDMENT

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.*

Public Interest and General Plan, and Housing Element Consistency.

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
Government Code Section 65356.1 and §1452.2 of the Framework Plan. <i>The General Plan Amendment must be in the public interest.</i>	Proposed amendments to the Zoning Ordinance are in the public interest in that they will apply the local land use regulations applicable to medicinal cannabis commercial activities to commercial cannabis activities related to the adult use of cannabis authorized under state law in a uniform, equitable and efficient manner. Providing for all permitted commercial cannabis activities conducted in Humboldt County to be eligible to apply for state licenses for medicinal or adult use license types, or any combination thereof will help assure the economic viability of commercial cannabis operations by providing the broadest possible marketplace. Allowing for interim permits is consistent with state regulations allowing for the issuance of temporary state licenses to facilitate the transition to fully regulated commercial cannabis activities statewide, and maintains Humboldt County's leading role during the emergence of the regulated marketplace.

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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 General Plan Volume 1 (Framework Plan).

Applicable Requirements	Evidence Supporting Finding
§1330 Consistency	
<p>The elements of the General Plan must be consistent.</p> <p>All the goals, policies and standards must be consistent.</p> <p>The General Plan text and diagrams must support each other and show the same conclusions.</p> <p>The data base must be consistent for all the elements.</p> <p>When a portion of the plan is amended, then the rest of the plan and its implementing programs must be brought into conformity.</p> <p><i>Zoning or the implementation of the plan is required to be consistent with the plan.</i></p>	<p>The proposed amendments to the Commercial Medical Marijuana Land Use Ordinance (CMMLUO), Humboldt County Code Section 314-55.4 <i>et seq.</i> and the Medical Cannabis Dispensary Ordinance, Humboldt County Code Section 314-55.3 <i>et seq.</i>, do not change the land use designation or zoning of the parcels where commercial cannabis activities are permitted, or the characteristics of those activities, other than the category of the end user or consumer. Therefore, the proposed changes are found to be consistent with the goals, policies, and standards of the General Plan, as previously found to be the case during the adoption of the CMMLUO and Medical Cannabis Dispensary Ordinance.</p>
§1452.2 Required Findings	
<p>Base information or physical conditions have changed; or</p> <p>Community values and assumptions have changed; or</p> <p>There is an error in the plan; or</p> <p>To maintain established uses otherwise consistent with a comprehensive view of the plan.</p>	<p>The base information of the General Plan changed with the passage of the Compassionate Use Act (Proposition 215) in 1995, the adoption of the Medical Marijuana Program (Senate Bill 420) in 2004, the passage of the Medical Marijuana Regulation & Safety Act (MMRSA – AB243, AB266, and SB643) in 2015, the passage of the Medical Cannabis Regulation & Safety Act (SB 837) and passage of the Adult Use of Marijuana Act (Proposition 64) in 2016, as well as the recent adoption of the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA – SB 94) in June of 2017. The amendments are designed to be consistent with changes in state law.</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.

§ 312-17.1.5 Housing Element Densities	
Applicable Requirements	Evidence Supporting Finding
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.	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.

ATTACHMENT 3

Draft Ordinance

Adding Sections 314-55.4.2.1, 314-55.4.3.8, 314-55.4.3.9, 314-55.3.2.1, 314-55.3.3.8, 314-55.3.3.9, and 314-55.4.8.11 of the Humboldt County Zoning Regulations
(Chapter 4 of Division 1 of Title III of the Humboldt County Code)

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR MEDICINAL OR ADULT USE

ORDINANCE NO. _____

WHEREAS, the County of Humboldt has adopted comprehensive ordinances, Ordinance Nos. 2554 and 2559, to regulate land use with respect to the commercial cultivation, processing, manufacturing, distribution, testing and sale of medical cannabis, as authorized by state law; and,

WHEREAS, since the adoption of Ordinances 2554 and 2559, state law has been amended by the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), SB 94, Statutes of 2017, Chapter 27, effective June 27, 2017, to provide for a legal commercial marketplace for adult recreational cannabis use by persons 21 years of age or older with uniform regulations applicable to both medicinal and adult use commercial cannabis activities, and state licensing to begin January 1, 2018; and,

WHEREAS, the State of California commercial cannabis licensing authorities -- the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health -- have announced that they will initially adopt emergency regulations as authorized by Business and Professions Code section 26013, and begin to issue temporary licenses on or before January 1, 2018, pursuant to Business and Professions Code section 26050.1. An application for a temporary license must include a copy of a valid license, permit, or other authorization, issued by a local jurisdiction, enabling the applicant to conduct a commercial cannabis activity at whichever location a license is being sought; and,

WHEREAS, in accordance with Ordinance 2559, the County of Humboldt has accepted and is processing approximately 2,300 applications to conduct commercial cannabis activities for the Medicinal use marketplace, and additional applications for conditional use permits for medical cannabis dispensaries in accordance with Ordinance 2554; and,

WHEREAS, the County of Humboldt is currently preparing a comprehensive update to the existing commercial cannabis land use regulations known as the Commercial Cannabis Land Use Ordinance (CCLUO), with uniform provisions applicable to both medicinal and adult use commercial cannabis activities, but which may not be finalized and effective until after January 1, 2018; and,

WHEREAS, it is in the best interest of the County of Humboldt that all cannabis that is cultivated, processed, manufactured, distributed, tested, and/or sold in the County of Humboldt be part of a well-regulated, environmentally responsible, and economically sustainable legal cannabis marketplace; and,

WHEREAS, the social, environmental, economic, and land use impacts of commercial cannabis cultivation, processing, manufacturing, distribution, and testing are no different whether in support of the medicinal or adult use commercial marketplace; and,

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WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of Humboldt County that interim amendments be made to existing land use regulations governing commercial cannabis activities so that they become applicable to both the Medicinal and Adult-Use legal marketplace, and help to further the economic viability and stability of existing commercial cannabis industries within the County; and,

WHEREAS, persons who are issued a zoning clearance certificate or discretionary permit to engage in commercial cannabis activities for medicinal use pursuant to Ordinance Nos. 2554 or 2559, but prior to the adoption of more comprehensive amendments, should be able to seek and obtain state licenses and conduct commercial activities for either the Medicinal or Adult-Use legal commercial marketplace; and,

WHEREAS, it is in the best interest of the County of Humboldt to allow for issuance of an interim permit to applicants seeking local approval of existing lawful cultivation sites established prior to January 1, 2016, and who have filed a timely and complete application with the County for a commercial cannabis land use permit; and,

WHEREAS, it is in the best interest of the County of Humboldt to provide for the issuance of an interim permit so that those Humboldt County cultivators who have elected to participate in the legal California marketplace may apply for temporary state licenses as soon as they become available; and,

WHEREAS, to receive an interim permit, applicants shall be required to execute a written compliance agreement with the County, and agree to complete the remainder of the permit process.

NOW, THEREFORE the Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Section 314-55.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended to add subsection 55.4.2.1, as follows:

55.4.2.1 The further purpose of this Section is to establish land use regulations concerning the commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use within the inland area of the County of Humboldt, outside of the Coastal Zone, in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), and as it may subsequently be amended, to achieve the same objectives as more fully set forth in the preceding section.

SECTION 2. Section 314-55.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended to add subsection 55.4.3.8 and subsection 55.4.3.9, as follows:

55.4.3.8 Wherever the terms "medical marijuana," "medical cannabis," "marijuana for medical use," or "cannabis for medical use," may appear in regulations in Section 314-55.4, *et seq.* of the Humboldt County Code, the regulations shall also apply to adult use commercial cannabis activity authorized by MAUCRSA and regulations issued thereunder.

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55.4.3.9 Permits issued for commercial cannabis activities pursuant to the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as set forth in Ordinance No. 2559 shall remain valid, and shall be governed by the terms and conditions of that ordinance and permits issued thereunder, except that use shall not be limited to medical use. Holders of such permits may apply for state licenses and conduct commercial activities for either medicinal or adult use license categories for cultivation, processing, distribution, or manufacturing or any combination thereof as may be permitted under state statute and regulations.

SECTION 3. Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended to add subsection 55.3.2.1, as follows:

55.3.2.1: The further purpose of this Section is to minimize the negative land use impacts that can be associated with the sale or testing of cannabis to adults twenty-one (21) years of age or older and to facilitate the local implementation of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), and as it may subsequently be amended.

SECTION 4. Section 314-55.3 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended to add subsection 55.3.3.8 and subsection 55.3.3.9, as follows:

55.3.3.8. Adult Use Retail Sales facilities are a conditionally permitted use, subject to the same permit requirements that apply pursuant to Humboldt County Code Sections 313-55.3, et seq. applicable to Medical Cannabis Dispensaries. All regulations applicable to permitting of Medical Cannabis Dispensaries shall be applicable to Adult Use Retail Sales facilities, except those limiting sales exclusively to medical cannabis.

55.3.3.9 Permits issued for Medical Cannabis Dispensaries pursuant to Section 313-55.3 as set forth in Ordinance No. 2554 shall remain valid, and shall be governed by the terms and conditions of the approved permit, including those limiting distribution and sales to qualified patients with a recommendation from a licensed California physician, consistent with state provisions for medicinal use. Any Dispensary operating under a local permit approved prior to the effective date of the ordinance adding section 55.3.3.8 may seek a modification of the permit to authorize the sale of cannabis to an adult twenty-one (21) years of age or older who is not a qualified patient with a physician recommendation. Modification of the permit may be authorized as provided under section 312-11 of these regulations. Approval of the modification must be made by the Planning Commission or Zoning Administrator, at a public hearing for which notice has been provided pursuant to section 312-8. Holders of such permits may apply for state licenses for either medicinal or adult use retail sale license categories, or any combination thereof as may be permitted under state statute and regulations.

SECTION 5. Section 314-55.4.8 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby amended to add subsection 55.4.8.11, as follows:

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55.4.8.11. Where adequate evidence has been submitted demonstrating that a cultivation site existed prior to January 1, 2016, permit applications seeking authorization of commercial cannabis cultivation and ancillary activities at these sites shall be eligible to receive an interim permit, provided the application was determined to be complete for processing on or before July 14, 2017. Approval of the interim permit is conditional and shall occur through issuance of a Zoning Clearance Certificate and written Compliance Agreement on forms provided by the County. The interim permit authorizes the permittee to seek state licensure and continue operations until completion of the local permit review process and issuance or denial of a County permit, or July 1, 2018, whichever occurs first. The Director may extend this deadline for cause. Refusal of the Director to issue or extend an interim permit shall not entitle the applicant to a hearing or appeal of the decision. Additionally, receipt of an interim permit does not obligate the County to issue a non-interim permit nor does it create a vested right in the holder to either an extension of the permit or to the granting of a subsequent non-interim permit.

PASSED, APPROVED, AND ADOPTED the ____ day of _____, 2017, on the following vote, to wit:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

VIRGINIA BASS, Chair
Board of Supervisors, County of Humboldt
State of California

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

By: _____, Deputy