



AGENDA ITEM NO.

J2

## COUNTY OF HUMBOLDT

Hearing Date: November 14, 2017

To: Board of Supervisors

From: John Ford, Director of Planning and Building

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

### RECOMMENDATION(S):

That the Board of Supervisors:

1. Introduce the proposed Ordinance amending sections 314-55.3 and 314-55.4 of Chapter 4 of Division 1 of Title III of the County Code [Attachment B]; and
2. Open the public hearing, receive and consider the staff report and determination that no further environmental review is required pursuant to CEQA, accept public comment, and close the public hearing; and
3. Deliberate on the proposed Ordinance; and
4. Adopt Resolution No. 7107 [Attachment A] 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; and

Prepared by

Steven Lazar, Senior Planner

CAO Approval

REVIEW:

Auditor \_\_\_\_\_ County Counsel JW Personnel \_\_\_\_\_ Risk Manager \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:

☐ Consent  
☐ Departmental  
☒ Public Hearing  
☐ Other \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Agenda Order No. H-2  
Meeting of: September 19, 2017

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**

Upon motion of Supervisor  
Seconded by Supervisor

Ayes  
Nays  
Abstain  
Absent

**SEE ACTION SUMMARY**

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Kathy Hayes, Clerk of the Board

*Recommendations (continued)*

5. Adopt Ordinance No. ~~2582~~ [Attachment B] approving the proposed Zoning Ordinance changes. The proposed amendments to Chapter 4 of the Zoning Regulations will become effective 30 days from the date of their adoption; and
6. Direct the Clerk of the Board to publish a Summary of the Ordinance within 15 days after adoption by the Board, along with the names of those Supervisors voting for and against the ordinance [Attachment C] and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the ordinance; and
7. Direct the Clerk of the Board to record in the action summary of the Board meeting that the ordinance has been duly published and posted, and to give notice of the decision to any interested parties.

**SOURCE OF FUNDING:**

General Fund contribution to the Long Range Planning unit, 1100-282. Costs of Implementation the interim ordinance will borne by the applicant.

**DISCUSSION:**

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 (CMMLUO), and will allow issuance of interim permits to applicants who have applied to permit existing cultivation sites and whose applications were complete before July 14, 2017.

The interim ordinance is part of a twofold approach to clarify Humboldt County's local land use requirements prior to the onset of temporary cannabis licensing of commercial activities for medicinal and adult use. The ordinance was developed in tandem with a separate urgency ordinance prohibiting commercial cannabis activities within the Coastal Zone, which was adopted by the Board on October 17<sup>th</sup> (Ordinance No. 2583). Both ordinances were prepared in response to Board discussion and direction received during the September 19<sup>th</sup> 2017 meeting, and are intended to preserve local control of commercial cannabis activities in concert with forthcoming state licensing.

The State intends to publish emergency regulations in November and is expected to begin issuing licenses by January 1, 2018. Recent and ongoing conversations with officials from the state agencies responsible for licensing indicate that they intend to issue cannabis licenses in cases where local-level regulations are absent or unclear.

Recent changes to state law and cannabis rulemaking create potential vulnerabilities to Humboldt County in two areas:

- (1) Potential for Temporary State Licensing of Commercial cannabis activities within the Coastal Zone without County permits; and
- (2) Potential for Temporary State Licensing of Commercial cannabis activities for the 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

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 regulate commercial cannabis land use activities outside of the Coastal Zone and were adopted prior to the emergence of "Adult-Use" licensing under Proposition 64 and MAUCRSA.

The provisions for issuance of interim permits would be available to applicants (seeking approval of an existing cultivation site) who had submitted a complete permit application by July 14, 2017. Receipt of the interim permit 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 approach would not enable any new activity not already currently authorized under the existing ordinance implementation framework. The interim permitting provisions include a sunset date of July 1, 2018 for applicants to complete their local permit process. This deadline may be extended by the Planning Director for cause.

Issuance of an interim permit requires execution of a written compliance agreement with the County. The compliance agreement memorializes permit restrictions, potential penalties, and commitments and timeframes to complete the permit process and confine continued operation to existing areas only.

During their October 19<sup>th</sup> meeting, the Planning Commission reviewed the draft Interim Ordinance and recommended by a vote of 5-2 that the Board of Supervisors adopt the zoning ordinance amendments with some minor changes and clarifications. At the hearing, a local representative of the Department of Fish and Wildlife expressed concern about fraudulent and inaccurate claims of prior cultivation area size by applicants, based on observations made by agency staff during their review of over 200 project referrals for "existing" sites. Several other environmentally based organizations also expressed the same concern. As a result, the Commission added clarifying language specifying that county staff must verify the size of the pre-existing cultivation site prior to issuance of an interim permit, and that failure to complete the process in a timely manner or violating other terms of the compliance agreement will be grounds for cancellation of the permit and could result in the property becoming ineligible for future cannabis permitting. These revisions to the interim permitting provisions can be found underlined within Section 5 of the draft ordinance (Attachment B). The Draft Resolution of the Planning Commission has also been included (Attachment D).

## **CEQA Compliance**

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.

## **FINANCIAL IMPACT:**

The cost of preparing the proposed ordinance is approximately \$1,000, which is being paid by the General Fund contribution to the Planning and Building Department, Long Range Planning Unit's FY 2017-18 budget. Staff costs for review of interim permits will be borne by the applicant.

The proposed ordinance is consistent with the Board's 2017 Strategic Framework as it will help enforce laws and regulations to protect residents and proactively work to insure and advance local interests in natural resource discussions, as well as those involving our regional economic future.

## **OTHER AGENCY INVOLVEMENT:**

Staff met with the local office of the California Coastal Commission in September and October. Minimal additional involvement with other agencies has occurred in association with the proposed prohibition.

## **ALTERNATIVES TO STAFF RECOMMENDATIONS:**

### **Alternative 1: Modify**

The Board may choose to modify the proposed ordinance amendments. This could include changes to the provisions and eligibility requirements for interim permitting, or the length the ordinance would remain in effect. If substantial revisions are suggested or contemplated, staff requests that this matter be continued to a future meeting to provide sufficient time to perform the requested changes.

### **Alternative 2: Not adopt**

The Board may choose not to adopt the proposed interim amendments to the Zoning regulations. In this event, the existing regulations would remain unchanged. However, this is not recommended since it would leave the county's position on these land use activities in question and could result in premature or inappropriate state licensing of commercial operations ahead of local land use review and approval, while restricting current and future permittees from seeking state licenses for the Adult Use Marketplace during the coming months. This would be inconsistent with prior Board direction.



### **Alternative 3: Continue**

The Board may also choose to continue this matter to a future meeting to provide for the receipt of additional public comment. The Board may also wish to direct staff to respond to public comments received. However, this is not recommended since it is expected that state agencies will be adopting emergency licensing regulations in the next month, and begin accepting applications for licensing and issuing licenses soon thereafter. Failure to enact these interim amendments prior to this could result in premature or inappropriate state licensing of commercial operations ahead of local land use review and approval, as well as unnecessary marketplace limitations on cannabis permittees during this initial licensing period.

### **ATTACHMENTS:**

Attachment A: Resolution No. ~~17-107~~<sup>17-107A</sup> Resolution of the Board of Supervisors of the County of Humboldt Making Findings for Adoption of Zoning Text Amendments

Attachment B: Ordinance No. ~~2588~~ adding Section 313-54 of the Humboldt County Zoning Regulations (Chapter 3 of Division 1 of Title III of the Humboldt County Code).

Attachment C: Post-Adoption Summary of Ordinance

Attachment D: Draft 10/19/17 Planning Commission Resolution regarding Interim Ordinance

## **ATTACHMENT A**

**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**

Certified copy of portion of proceedings, Meeting of November 14, 2017

**RESOLUTION NO. 17-107**

**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; and

**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; and

**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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**RESOLUTION NO. 17-107**

**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; and

**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.

**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



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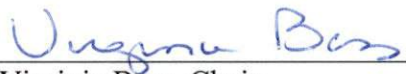
substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time that the previous mitigated negative declaration was adopted that shows that the amendments will have any significant effects not discussed in the previous mitigated negative declaration, or that the significant effects previously examined will be substantially more severe than shown in the previous mitigated negative declaration.

2. 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 upon adoption of the Interim Ordinance:

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 Ordinance within fifteen (15) days after its passage.

Dated: November 14, 2017

  
\_\_\_\_\_  
Virginia Bass, Chair  
Humboldt County Board of Supervisors


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

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

STATE OF CALIFORNIA    )  
County of Humboldt     )

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

  
\_\_\_\_\_  
By Ryan Sharp  
Deputy Clerk of the Board of Supervisors of the  
County of Humboldt, State of California

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**EXHIBIT 1**

Findings for Adoption of Zoning Text Amendments

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

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**RESOLUTION NO. 17-107**

**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.

<b>Applicable Requirements</b>	<b>Evidence Supporting the Finding</b>
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).

<b>Applicable Requirements</b>	<b>Evidence Supporting Finding</b>
<b>§1330 Consistency</b>	
The elements of the General Plan must be consistent. All the goals, policies and standards must be consistent. The General Plan text and diagrams must support each other and show the same conclusions. The data base must be consistent for all the elements. When a portion of the plan is amended, then the rest of the plan and its implementing programs must be brought into conformity. <i>Zoning or the implementation of the plan is required to be consistent with the plan.</i>	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.
<b>§1452.2 Required Findings</b>	
Base information or physical conditions have changed; or Community values and assumptions have changed; or There is an error in the plan; or To maintain established uses otherwise consistent with a comprehensive view of the plan.	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.

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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	
<b>Applicable Requirements</b>	<b>Evidence Supporting Finding</b>
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.

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**EXHIBIT 1**

Findings for Adoption of Zoning Text Amendments



**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

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**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).

<b>Applicable Requirements</b>	<b>Evidence Supporting Finding</b>
<b>§1330 Consistency</b>	
<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>
<b>§1452.2 Required Findings</b>	
<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 &amp; Safety Act (MMRSA – AB243, AB266, and SB643) in 2015, the passage of the Medical Cannabis Regulation &amp; 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 B**

Ordinance No. 2588

**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)

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**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. 2588**

**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



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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.

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 314-55.3, 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 314-55.3 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

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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:

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. Prior to issuance of any interim permit, the Department shall independently review evidence of prior cultivation and specify the size of pre-existing cultivation area (if any) based upon aerial and satellite imagery, or other substantial evidence. 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. Compliance agreements will specify permit restrictions, penalties, and commitments to complete the permit process and confine continued operation to existing areas only. Violation of the compliance agreement shall be grounds for permit cancellation and disqualification of the property from future permitting. 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, approval of any interim permit does not obligate the County to anything except what is described in the compliance agreement, including but not limited to approval of a non-interim permit or extension of the interim permit. Permit cancellation and disqualification of the property from future permitting shall be decided by the Zoning Administrator or the Planning Commission at a noticed public hearing. Those decisions may be appealed to the Board of Supervisors pursuant to the appeal procedures outlined under 312-13 of these regulations. Applicants with pending applications where only minor additional information is needed for approval shall not be issued interim permits unless in the discretion of the Director reasons exist (not within control of the applicant) that the information cannot be provided prior to December 31st, 2017.

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**ORDINANCE NO. 2588**

**PASSED, APPROVED AND ADOPTED** this 14<sup>th</sup> day of November, 2017 on the following vote, to wit:

AYES: Supervisors Fennell, Bass, Wilson, Bohn, Sundberg

NOES: Supervisors --

ABSENT: Supervisors --



Virginia Bass, 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: \_\_\_\_\_



Ryan Sharp, Deputy

## **ATTACHMENT C**

### **Post-Adoption Summary of Ordinance**

## **SUMMARY OF ORDINANCE**

(To be published within fifteen days after adoption of this ordinance.)

On November 14, 2017, during its regularly scheduled Board meeting, the Humboldt County Board of Supervisors adopted Ordinance No. \_\_\_\_\_.

The ordinance performs minor changes to the County's existing Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and Dispensary Regulations (Sections 314-55.4 and 314-55.3, respectively, of Division 1 of Title III of the County Code, Chapter 4) to enable these existing local regulations to govern various commercial activities for both Medical and Adult Use, including cultivation, processing, manufacturing, distribution, testing, and sale of cannabis within the County. The amendments preserve local review and control of these activities in tandem with forthcoming state licensing, which is expected to begin by January 1, 2018. The amendments enable persons who have received a permit for commercial cannabis activities to conduct operations and seek a state license for commercial activities in support of California's Medicinal or Adult Use marketplace, or both. The ordinance also includes provisions for granting interim permits to eligible pre-existing cultivation sites, consistent with recent amendments to state law which provide for the issuance of temporary licenses. The ordinance amendments apply throughout the unincorporated areas of Humboldt County, outside of the Coastal Zone. The ordinance shall become effective 30 days after adoption.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors, 825 Fifth Street, Room 111, Eureka, California 95501-1153.

The names of the Supervisors voting for and against are as follows:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

A copy of the Ordinance is posted in the office of the Clerk of the Board of Supervisors, Room 111, 825 Fifth Street, Eureka, California, and is available online on the County's website.

**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:



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

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 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 draft Board of Supervisors resolution; 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 October 19, 2017.

The motion was made by COMMISSIONER Shepherd and second by COMMISSIONER Levy.

AYES: COMMISSIONERS: Morris, Levy, Shepherd, Mitchell, McKenny

NOES: COMMISSIONERS: Bongio, Edmonds

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

DECISION: Motion carries 5/2

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