



# COUNTY OF HUMBOLDT

For the meeting of: 2/9/2021

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File #: 21-81

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Public Hearing on the Industrial Hemp Land Use Ordinance (Case Number: PLN-2019-15590)

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Receive and consider the staff report, open the public hearing, and accept public comment;
2. Close the public hearing;
3. Deliberate on the proposed ordinances; and
4. Adopt the proposed ordinances by taking the following actions:
  - a. Adopt Resolution No. \_\_\_\_\_ [Attachment 1] making findings the Coastal Ordinance is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) and making all the required findings for consistency with the General Plan, Zoning Ordinance and the Coastal Act, and transmitting the ordinance to the California Coastal Commission for their review and certification;
  - b. Adopt Resolution No. \_\_\_\_\_ [Attachment 2] making findings the Inland Ordinance is exempt from environmental review pursuant to CEQA, and making all the required findings for consistency with the General Plan, Zoning Ordinance;
  - c. Adopt Coastal Ordinance No: \_\_\_\_\_ [Attachment 3] extending a permanent moratorium on Industrial Hemp cultivation in the coastal zone, which will become effective after California Coastal Commission certification;
  - d. Adopt Inland Ordinance No: \_\_\_\_\_ [Attachment 4] extending a permanent moratorium on Industrial Hemp cultivation in the inland parts of the county;
  - e. 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 5] 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 (Government Code section 25124); and
  - f. Direct Planning staff to prepare and file a Notice of Exemption with the County Clerk and

Office of Planning and Research.

SOURCE OF FUNDING:

The salary funding for preparing this staff report is included in the General Fund contribution to the Long-Range Planning unit, 1100-282.

DISCUSSION:

This item involves two amendments to the Zoning Regulations for both Coastal and Inland areas of the unincorporated County to add an Industrial Hemp Ordinance (addition of Sections 313-55.5 and 314-55.5 of Chapters 3 and 4 of Division 1 of Title III of the Humboldt County Code). The proposed ordinance makes permanent the existing temporary prohibition on Industrial Hemp cultivation. The temporary moratorium currently in place expires on May 10, 2021.

***Background***

At previous Board of Supervisors meetings, including April 2<sup>nd</sup>, May 14<sup>th</sup>, and May 21<sup>st</sup>, 2019, the public expressed interest in capitalizing on an emerging market for Industrial Hemp as a potential source for cannabidiol (CBD) extract production for medicinal use. However, public comment at those meetings also identified concerns about the potential impacts to the legal cannabis industry through cross pollination and the introduction of new pests and pathogens. During these hearings the Board heard that much of the desire for Industrial Hemp was related to small farmers unable to participate in the legal cannabis marketplace due in part to a burdensome and expensive permitting process.

In 2019 the Board approved a temporary moratorium on the cultivation of Industrial Hemp and directed staff to examine the Commercial Cannabis Land Use Ordinance (CCLUO) to determine if there are regulatory barriers which preclude small farmers from entry into the legal marketplace. An ad-hoc committee of the Board of Supervisors identified some areas that should be addressed to make it easier for small farmers to navigate the cannabis permitting process which were developed into the “Small Cultivator” amendments to the CCLUO, adopted by the Board of Supervisors on October 6, 2020 (Ordinance 2652). These amendments allow cultivation of up to 2,000 square feet of commercial cannabis with a fixed-cost ministerial permit that is guaranteed to be completed within 30 days after receipt of a complete application.

Also, in October 2020, officials at the College of the Redwoods (CR) approached Agriculture Commissioner Jeff Dolf expressing an interest in limited cultivation of Industrial Hemp for research and educational purposes at their campus facility on Tompkins Hill Road. Based on this, staff drafted inland and coastal Industrial Hemp ordinances that continued the existing moratorium on Industrial Hemp cultivation everywhere in the unincorporated area, but with an exception to allow cultivation at the CR campus with a Special Permit. The coastal zone boundary bisects the CR campus at Tompkins Hill Road, so the exception is embedded in both the coastal and inland versions of the Industrial Hemp ordinance.

After reviewing the coastal version, Coastal Commission staff asked questions and had suggestions to address potential impacts on coastal resources from future Industrial Hemp cultivation at the CR campus. The ordinances were considered by the Planning Commission on January 7<sup>th</sup>, 2021, including

alternatives responding to the Coastal Commission's comments. The Planning Commission voted to recommend approval of both the inland and coastal Industrial Hemp ordinances without making any changes responding to the Coastal Commission's questions or suggestions. The Planning Commission staff report is Attachment 6.

Staff is concerned Board approval of the coastal Industrial Hemp ordinance without responding to Coastal Commission staff's comments and suggestions for revisions could delay their review and certification beyond the May 10, 2021, expiration of the existing temporary moratorium on Industrial Hemp cultivation. If this were to happen, cultivation of Industrial Hemp could proceed unimpeded in the coastal zone.

To avoid this, staff recommends splitting adoption of the Industrial Hemp ordinance into two steps. First, the Board of Supervisors would adopt a "clean" ordinance banning Industrial Hemp cultivation without an exception for CR and send the coastal version to the Coastal Commission for review and certification. This would be followed by the Board's consideration of a second ordinance drafted to include the CR exception. Review of the second ordinance would follow Coastal Commission review and certification of the first one.

### ***Environmental Review***

This project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15050(c)(2) and 15060(c)(3) of the CEQA Guidelines, which states an activity is not subject to CEQA when it will not result in a physical change to the environment either directly or indirectly.

Also, adoption of the Coastal Industrial Hemp Ordinance is statutorily exempt from CEQA pursuant to 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the California Environmental Quality Act (CEQA) Guidelines, because CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program. Local Coastal Program Amendments are exempt subject to approval by the California Coastal Commission, a regulatory program certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA).

### **FINANCIAL IMPACT:**

Staff costs and other expenses related to preparation and review of this ordinance total approximately \$3,000. There will be additional future costs of around \$3,000 to consider the Industrial Hemp Ordinance with the CR exception later in 2021. These costs are supported by the General Fund contribution to the Planning and Building Department, Long Range Planning Unit's FY 2020-21 budget.

### **STRATEGIC FRAMEWORK:**

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

### **OTHER AGENCY INVOLVEMENT:**

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

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

The Board may choose to not adopt the permanent prohibition ordinance of cultivation of Industrial Hemp which would lead to near term approval of Industrial Hemp cultivation without consideration of the potential impacts. Staff is not recommending this alternative because the potentially significant impacts may be prevented with a more deliberate and methodical approach as recommended by staff.

**ATTACHMENTS:**

1. Resolution No. \_\_\_\_\_ making findings the Coastal Ordinance is exempt from environmental review pursuant to CEQA and making all the required findings for consistency with the General Plan, Zoning Ordinance and the Coastal Act, and transmitting the ordinance to the California Coastal Commission for their review and certification 2. Resolution No. \_\_\_\_\_ making findings the Inland Ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), and making all the required findings for consistency with the General Plan and Zoning Ordinance 3. Draft Coastal Industrial Hemp Ordinance 4. Draft Inland Industrial Hemp Ordinance 5. Post Adoption Ordinance Summary 6. Planning Commission staff report for January 7, 2021 meeting

**PREVIOUS ACTION/REFERRAL:**

Board Order No.:

Meeting of: 12/08/2020, 5/21/2019, 5/14/2019, 4/02/2019

File No.: 20-1483, 19-758, 19-721, 19-457