

SUPPLEMENTAL INFORMATION #1

For the Board of Supervisors Agenda of

February 9,2021

- ☐ Consent Agenda Item
- ☐ Continued Hearing Item
- ☐ Matters Set for Time Certain
- ☒ Public Hearing Item
- ☐ New Business

Re: Public Hearing on the Industrial Hemp Land Use Ordinance;

Attached for the Board's record and review is (are) the following supplementary information item(s):

1. Revision to the definition of Industrial Hemp, update to Section 55.5.3 in Draft Coastal and Inland Ordinances (Attachments 3 and 4 to Staff Report)
2. Comments from the California Coastal Commission received 2/3/2021 and staff responses.

1. Revision to the definition of Industrial Hemp (underlined text has been added):

“Industrial Hemp”: A crop agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa Linnaeus* and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol (THC) concentration of no more than 0.3 percent on a dry weight basis. State Food and Agricultural Code Section 81000 – 81015 requires registered Industrial Hemp sites be a minimum 1/10th of an acre for entities other than seed breeders or established agricultural research institutions.

To replace

- 1. Attachment 3 Draft Coastal Industrial Hemp Ordinance, pg. 3, Section 55.5.3 “Definitions”**
- 2. Attachment 4 Draft Inland Industrial Hemp Ordinance, pg. 3, Section 55.5.3 “Definitions”**

2. Comments from the California Coastal Commission received 2/3/2021, and staff responses

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Sent: Wednesday, February 3, 2021 4:00 PM
To: Adler, Elanah <EAdler@co.humboldt.ca.us>
Cc: Richardson, Michael <MRichardson@co.humboldt.ca.us>
Subject: RE: CC initial comments on coastal industrial hemp ordinance

Thanks. That would probably simplify it. I watched the hearing and was a bit surprised at the community opposition. However, some of that was because people thought the ban pertained to personal cultivation of hemp as well. I heard John F. say that's not the case, but I don't think that is clear from the ordinance. In other words, he said that the personal cultivation ord that has already been adopted in the coastal zone allows for hemp cultivation, but I'm not sure that's the case – maybe you should double check that (I also can do so), but to the extent it's not currently allowed under that ordinance mdr response: The reason John Ford said the personal use ordinance in the coastal zone allows someone to cultivate hemp is hemp is the same plant as cannabis (*Cannabis sativa* Linnaeus) with a super low THC concentration, and since the personal use allows cultivation of cannabis it therefore also allows cultivation of hemp., maybe update that or somehow make it clear in this industrial ban that the ban only pertains to cultivation of a certain size or whatever. It's not clear from the definition in this ordinance that it's regulating hemp about a certain threshold or size or for a certain purpose. mdr response: Great point! The federal definition of industrial hemp includes a minimum cultivation area of 1/10 of an acre. We'll advise the Board to add that into the definition of Industrial Hemp in the ordinance.

Comments from the California Coastal Commission received 2/3/2021

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Sent: Wednesday, February 3, 2021 7:15 PM
To: Richardson, Michael <MRichardson@co.humboldt.ca.us>; Adler, Elanah <EAdler@co.humboldt.ca.us>
Subject: RE: CC initial comments on coastal industrial hemp ordinance

So this is the definition that was certified in the personal coastal ordinance, so as long as this works...

Cannabis: means any mature or immature male or female *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties.

(does hemp always have psychoactive or medicinal properties, since that's referenced in the definition? What if someone wants to grow it for seeds or other uses that people use hemp for that doesn't involve psychoactive or medicinal – would it still be covered? The personal use ord was adapted from the previous medical marijuana ord so it may have some residual language from that)

So someone would be allowed to grow the amounts allowed under the personal use ordinance (6 plants covering 100 sf or 200 sf depending on acreage), but they wouldn't be allowed to grow 1/10 of an acre since that's the definition of industrial hemp. But what if you are on ag land where the principal use is growing crops, and you wanted to plant 4,000 square feet of hemp? It wouldn't meet the industrial hemp definition, so you wouldn't be violating that. And you wouldn't be growing it for personal use, so you wouldn't be violating that. You'd be growing it as just another type of crop along with your peas, strawberries, etc. Would that be allowed? If not, why not, and should that clarification be added?

Staff responses to Coastal Commission comments received 2/3/2021

From: Richardson, Michael <MRichardson@co.humboldt.ca.us>

Sent: Thursday, February 4, 2021 8:05 AM

To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>; Adler, Elanah <EAdler@co.humboldt.ca.us>

Subject: RE: CC initial comments on coastal industrial hemp ordinance

Thanks Melissa...you worked late yesterday! We so grateful 😊! Below are my responses to your thoughtful comments. We're glad to discuss this further.

Thanks again!

- Michael R.

CC comment: *does hemp always have psychoactive or medicinal properties, since that's referenced in the definition? What if someone wants to grow it for seeds or other uses that people use hemp for that doesn't involve psychoactive or medicinal – would it still be covered? The personal use ord was adapted from the previous medical marijuana ord so it may have some residual language from that)*

MDR response: Personal use hemp always has psychoactive or medicinal properties because it always has THC or CBD or both. If only the seeds are used for food, or only the stalks are used for their fiber in making clothing or other products, that doesn't diminish the medicinal or psychoactive properties of the plant.

CC comment: *So someone would be allowed to grow the amounts allowed under the personal use ordinance (6 plants covering 100 sf or 200 sf depending on acreage), but they wouldn't be allowed to grow 1/10 of an acre since that's the definition of industrial hemp. But what if you are on ag land where the principal use is growing crops, and you wanted to plant 4,000 square feet of hemp? It wouldn't meet the industrial hemp definition, so you wouldn't be violating that. And you wouldn't be growing it for personal use, so you wouldn't be violating that. You'd be growing it as just another type of crop along with your peas, strawberries, etc. Would that be allowed? If not, why not?*

MDR response: If someone on ag land where the principal use is growing crops wanted to plant more than their personal use allowance and below 4,356 square feet of hemp (the maximum allowed without being "Industrial Hemp") they would need to get approval of a commercial cannabis permit. No one would be allowed to be growing it as just another type of crop along with peas, strawberries, etc. because of the risk of cross pollination of nearby permitted commercial cannabis sites and the risk of introducing pests and or pathogens the could adversely affect nearby permitted commercial cannabis sites.

CC comment: *should that clarification be added?*

MDR response: While we could add text that clarifies that point, we have so far resisted that urge because in our experience we've found that sometimes in trying to clarify things we end up introducing more loopholes unintentionally because the clarification is just not tight enough or because it didn't anticipate some oddball scenario that we didn't think about and is only revealed later. That said, if you have suggested language that clarifies the intent without introducing unintended effects, please let us know and we will bring them to the Board for consideration.