

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of February 9, 2021

RESOLUTION NO. 21-20

RESOLUTION NO. 21-20 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING FINDINGS OF FACT ASSOCIATED WITH THE INDUSTRIAL HEMP ORDINANCE

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on April 2, 2019, the Board of Supervisors directed staff to prepare a work program for regulation of Industrial Hemp cultivation in Humboldt County; and

WHEREAS, in June 2019 the Planning and Building Department held three public workshops to get public input on what should be included in the proposed Zoning Ordinance amendments; and

WHEREAS, comments received supported a tiered approach to allowing cultivation; and

WHEREAS, in August, 2019 a workshop draft Industrial Hemp Ordinance was published which includes 1) industrial Hemp cultivation areas with no local regulation (“Industrial Hemp Management Zones”), 2) cultivation allowances for CCLUO permit holders, 3) “Accessory Use” cultivation which would allow small grows on parcels with existing residences, and 4) a path for cultivation in other areas just like cannabis cultivation under the CCLUO; and

WHEREAS, in September 2019 the Planning and Building Department held two public workshops on the proposed ordinance amendments; and

WHEREAS, comments received expressed concern that large-scale Industrial Hemp farms grown in the Management Zone could potentially have widespread impacts on cannabis farms from uncontrolled pollen drift; “mono-cropping” of Industrial Hemp and the potential to bring in new pests and pathogens could destroy the economic viability of the local cannabis industry; and Accessory Use grows are not going to be economically viable when Industrial Hemp is being produced throughout the United States and the price has dropped significantly for CBD produced from Industrial Hemp; and

WHEREAS, on October 3, 2019 the Planning Commission held a public workshop on the proposed ordinance amendments; and

WHEREAS, written and verbal comments at the meeting expressed the same concerns raised at the September workshops; and

WHEREAS, staff introduced and the Planning Commission approved a revised draft ordinance at the October 17, 2019 meeting which took a more cautionary approach and did not allow any Industrial Hemp activities, including cultivation, distribution, sale, manufacturing or processing of Industrial Hemp; and

WHEREAS, on November 19, 2019 the Board of Supervisors took no action on the Planning Commission-recommended Industrial Hemp ordinance and instead directed staff to explore reducing barriers for entry of small farmers into the legal marketplace through amendments to the Commercial Cannabis Land Use Ordinance (CCLUO); and

WHEREAS, in October, 2020 the Board of Supervisors approved amendments to the CCLUO which established a streamlined permitting pathway to encourage small farmers to participate in the commercial cannabis industry; and

WHEREAS, in an email exchange with Agriculture Commissioner Jeff Dolf on November 4, 2020, representatives of the College of the Redwoods indicated they may pursue a curriculum based on Industrial Hemp cultivation activities at the Tompkins Hill campus for educational purposes in the future; and

WHEREAS, the ordinance amendments were drafted to allow with a Special Permit the cultivation of Industrial Hemp at the CR Tompkins Hill campus for educational purposes; and

WHEREAS, the Coastal Commission reviewed the proposed coastal version of the ordinance and raised questions and made suggestions to protect coastal resources from impacts of cultivation of Industrial Hemp at the CR Tompkins Hill campus for educational purposes; and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on January 7, 2021, during which the Planning Commission reviewed the staff report, took public comments, and deliberated on the draft Industrial Hemp Ordinance and alternatives presented; and

WHEREAS, on January 7, 2021 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; and

WHEREAS, 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, and if this were to happen, cultivation of Industrial Hemp could proceed unimpeded in the coastal zone; and

WHEREAS, To avoid this, the Board of Supervisors prefers to split adoption of the Industrial Hemp ordinance into two steps, first adopting a "clean" ordinance banning Industrial Hemp

cultivation without an exception for CR, and sending the coastal version to the Coastal Commission for review and certification, followed by the Board's consideration of a second ordinance drafted to include the CR exception, which would be reviewed following Coastal Commission review and certification of the first one.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors hereby makes the following findings:

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).			
1.	FINDING:		The proposed Industrial Hemp Ordinance is exempt from environmental review.
	EVIDENCE:	a)	<p>The California Environmental Quality Act (CEQA) Guidelines Sections 15050(c)(2) and 15060(c)(3), states that an activity is not subject to CEQA when it will not result in a physical change to the environment either directly or indirectly. The proposed amendments to the zoning ordinance will prohibit cultivation of Industrial Hemp in all areas of the County.</p> <p>Also, Public Resources Code Section 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program, and therefore the County adoption of the coastal version of the ordinance is statutorily exempt from environmental review. 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.</p>
CONSISTENCY WITH THE ZONING ORDINANCE.			
2.	FINDING:		Section 312-50.3.1 of the Zoning Ordinance requires changes to the Zoning Ordinance to be in the public interest. The proposed Zoning Ordinance amendment is in the public interest.
	EVIDENCE:	a)	These regulations which prohibit Industrial Hemp cultivation are in the public interest because they reduce potential impacts to the legal cannabis industry through cross pollination and the introduction of new pests and pathogens from Industrial Hemp.

			<p>Additionally, by prohibiting hemp cultivation in undisturbed natural areas, the proposed amendments would reduce environmental harm resulting from new hemp cultivation activities, including but not limited to impacts resulting from land clearing causing soil erosion into streams, degrading fish, and wildlife habitat. Tribal Cultural Resources impacts resulting from Industrial Hemp cultivation would not occur because new Industrial Hemp cultivation activities would not be allowed. If the proposed ordinance were not to be adopted, Industrial Hemp cultivation would be automatically allowed, which could result in fish and wildlife impacts associated with the drawdown or dewatering of streams resulting from increased water use for irrigation of Industrial Hemp cultivation sites; land clearing and potentially disturbance of cultural resources would occur, along with the increased use of pesticides, herbicides, and fertilizers for pest, pathogen and plant health management, all of which could adversely impact the environment and have detrimental public health effects.</p>
3.	FINDING:		<p>Section 312-50.3.2 of the Zoning Ordinance requires changes to the Zoning Ordinance to be consistent with the General Plan. The proposed Ordinances is consistent with the General Plan.</p>
	EVIDENCE:	a)	<p>The purpose of the ordinance is to establish land use regulations concerning the cultivation of Industrial Hemp within the County of Humboldt. Implementation of these regulations, by prohibiting cultivation of Industrial Hemp is an effort to eliminate potential impacts to the County's commercial cannabis industry to reduce uncontrolled pollen drift from hemp to cannabis; the potential of introducing new pests and pathogens that could destroy the economic viability of the local cannabis industry.</p> <p>Policy UL-P21 of the 2017 Humboldt County General Plan states: Cultivation of medical cannabis shall be regulated by ordinance to provide for the health, safety, and welfare of the community, but shall not interfere with the patient's right to medical cannabis.</p> <p>This ordinance accomplishes the General Plan objectives by protecting the commercial cannabis industry from potential impacts of Industrial Hemp cultivation which include cross pollination, and the introduction of new pests and pathogens, which may result in reduced commercial cannabis productivity. Additionally, the ordinance protects the public, health, safety and welfare by minimizing the risks of Industrial Hemp cultivation introducing new pests and pathogens to the agricultural community as a whole.</p>

4.	FINDING:		Section 312-50.3.4 of the Zoning Ordinance requires changes to the Zoning Ordinance to not reduce the residential density for any parcel below that utilized by the State Department of Housing and Community Development (HCD) in determining compliance with housing element law.
	EVIDENCE:	a)	The proposed ordinances will not affect Housing Element densities because it only disallows Industrial Hemp cultivation. These ordinance amendments do not involve parcels zoned for residential use that are included in the residential land inventory used the by the Department of Housing and Community Development in determining compliance with housing element law.
5.	FINDING:		<p>Section 312-50.3.3 requires if the proposed changes to the Zoning Ordinance requires a Local Coastal Plan Amendment, the amendment is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act. Chapter 3 of the Coastal Act sets forth policies regarding the following issues:</p> <ul style="list-style-type: none"> a) Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access) b) Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aquacultural uses, and priority of development purposes) c) Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control) d) Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources) e) Development (including scenic resources, public works facilities, safety, and priority of coastal dependent developments) f) Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants). <p>The proposed Industrial Hemp Ordinance is consistent with the Coastal Act.</p>
	EVIDENCE:	a)	Access

		<p>The proposed ordinance prohibits Industrial Hemp cultivation. There is no evidence that prohibiting Industrial Hemp will impact coastal access.</p>
	b)	<p>Recreation</p> <p>The proposed ordinance prohibits Industrial Hemp cultivation. There is no evidence that prohibiting Industrial Hemp cultivation will impact coastal recreation facilities.</p>
	c)	<p>Marine Resources</p> <p>The proposed ordinance prohibits Industrial Hemp cultivation. There is no evidence that prohibiting Industrial Hemp cultivation will impact marine resources.</p>
	d)	<p>Land Resources</p> <p>The proposed ordinance prohibits Industrial Hemp cultivation. There is no evidence that disallowing Industrial Hemp cultivation will impact environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources. .</p>
	e)	<p>Development</p> <p>The proposed ordinance prohibits Industrial Hemp cultivation. There is no evidence that disallowing Industrial Hemp cultivation will impact scenic resources, public works facilities, or the safety, and priority of coastal dependent developments.</p>
	f)	<p>Industrial Development</p> <p>The proposed ordinance prohibits Industrial Hemp cultivation. There is no evidence that disallowing Industrial Hemp cultivation will impact the location and expansion or use of tanker facilities, oil and gas development or transport (both onshore and off), or power plants.</p>

BE IT FURTHER RESOLVED that the Board of Supervisors hereby:

1. Finds that the proposed amendments to the Coastal Zoning Regulations conform to and appropriately carry out the policies of each of the Humboldt County's six Coastal Plans and Chapter 3 of the Coastal Act, and further finds that the proposed Zoning Regulations will be carried out in accordance with the Coastal Act;

2. Finds that the changes to the Coastal Zoning Regulations will become effective only upon certification by the Coastal Commission;
3. Directs and hereby provides notice to the California Coastal Commission and its staff that modifications to the proposed amendments to the Zoning Regulations required by the Coastal Commission for certification need not be brought back to the Board of Supervisors for consideration at a future public hearing prior to certification by the Coastal Commission;
4. Directs the Clerk of the Board to publish the Post-Adoption Summary of the Ordinances within fifteen (15) days after its passage;
5. Directs Planning and Building Department staff to transmit the Coastal Industrial Hemp Ordinance, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 305143;
6. Directs Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research; and
7. Directs the Clerk of the Board to give notice of the decision to any interested party.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on February 9, 2021 by the following vote:

Dated: February 9, 2021


Virginia Bass, Chair
Humboldt County Board of Supervisors

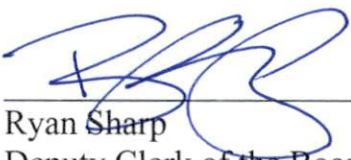
Adopted on motion by Supervisor Wilson, seconded by Supervisor Bohn, and the following vote:

AYES: Supervisors Bohn, Bass, Wilson, Madrone, Bushnell
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.


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