

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**  
Certified copy of portion of proceedings, Meeting of October 17, 2017

RESOLUTION NO. 17-84

**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 CONFORMANCE WITH THE  
CALIFORNIA COASTAL ACT**

**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. SB 94 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. Officials from these agencies have consistently confirmed that they intend to issue cannabis licenses without explicit local approval in cases where local-level regulations are absent or unclear; and

**WHEREAS**, Humboldt County Code Section 311-10.1 provides that "no land, building, structure or premises shall be used for any purpose or in any manner other than is included among the uses hereinafter listed [in the Zoning Ordinance] as permitted in the zone in which such buildings, land or premises is located. Within the Coastal Zone of the unincorporated area of Humboldt County the only use related to cannabis in the Humboldt County Code that has been certified by the Coastal Zone is indoor cultivation for personal medical use pursuant to Humboldt County Code Section 313-55.1, et seq. (Ord. No. 2468, 12/13/2011, eff. 3/9/12.) Commercial cannabis activities pursuant to SB 94 are therefore prohibited within the Coastal Zone of the unincorporated area of Humboldt County, until such time as the Coastal Commission certifies zoning ordinance amendments from Ordinance No. #2559 or successor regulations governing similar uses, as being in conformance with the Coastal Act; and

**WHEREAS**, California Government Code Section 65853 sets forth the manner in which Zoning Regulations may be amended; and

**WHEREAS**, California Government Code Section 65860 and Section 312-50 et seq. of the Humboldt County Code sets forth the findings that must be made before Zoning Regulations may be amended; and

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**WHEREAS**, Section 312-15 et seq. of the Humboldt County Code sets forth provisions for waiver of procedures during an emergency and California Government Code Section 65858 specifies the manner in which Zoning Regulations may be amended to include interim prohibition of any uses that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time, without prior review or recommendation by the Planning Commission.

**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:

1. Finds that the amendments to Humboldt County Code, Title III, Division 1, Chapter 3, section 313-54 have been reviewed for compliance with CEQA and found to be not subject to further environmental review.
2. Finds that, pursuant to section 15061(b) (3), 15308, and 15321 of the CEQA Guidelines, the proposed amendments are exempt from environmental review.
3. Makes the findings for approval of the amendments to the Zoning Regulations (Case No.: OR-17-006) based on the evidence submitted as more fully set forth in Exhibit 1 attached hereto.
4. Finds that the proposed interim amendment to the Coastal Zoning Regulations does not conflict with the Coastal Act and instead will help prevent adverse effects to coastal resources.

**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.

Dated: October 17, 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	--

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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

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**ADMINISTRATIVE PROCEDURES ZONING TEXT AMENDMENT**

**Findings:**

Section 312-50 of the Humboldt County Code (H.C.C.) specifies the findings that must be made in order to approve an amendment to the Zoning Regulations and the Implementation Plan for the certified Local Coastal Program. 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. *That amendment to the County's Certified Local Coastal Program may be approved where the California Coastal Commission finds, upon submittal by the County, that the amendment meets the requirements of, and is in conformity with, the policies of Chapter 3 Section 30005 and Section 30200 of the Public Resources Code, and the implementing ordinances are in conformity with and carry out the provisions of the certified Coastal Area Plans.*
4. *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.*

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**Public Interest and General Plan, Coastal Act 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>
<p>Government Code Section 65356.1 and §1452.2 of the Framework Plan.  <i>The General Plan Amendment must be in the public interest.</i></p>	<p>The project applies in the Coastal Zone. The interim prohibition on commercial cannabis activities within the Coastal Zone is intended to preserve local land use control consistent with the Medicinal and Adult Use Cannabis Regulation and Safety Act (SB 94), during the certification of proposed amendments to the Coastal Zoning Regulations governing commercial cannabis activities within the Coastal zone. The Commercial Medical Marijuana Land Use Ordinance (CMMLUO / Ord. #2559) and draft Commercial Cannabis Land Use Ordinance (CCLUO) are both designed to help prevent conflicts between commercial cannabis activities and neighboring land uses while prescribing operational standards for addressing environmental concerns unique to these land uses. Therefore, the proposed prohibition can be found to be in the public interest as it will provide for the onset and application of local regulations in advance of licensure by state agencies.</p>

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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 with a comprehensive view of 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>Zoning or the implementation of the plan is required to be consistent with the plan.</p>	<p>The project applies in the Coastal Zone. The zoning ordinance change serves to clarify the local land use regulations governing commercial cannabis activities within the Coastal zone during certification of permanent regulations. The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and successor regulations are primarily designed to address land use concerns unique to commercial cannabis activities involving the cultivation, manufacturing, processing, and distribution of cannabis for medicinal or adult use. The proposed prohibitory amendment is designed to ultimately enable timely implementation of commercial regulations that promote consistency with the General Plan, as well as consistency between the Coastal and Inland Zoning Regulations. Therefore, the proposed changes are found to be consistent with the goals, policies, and standards of the General Plan.</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 &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 prohibitory amendments enable the County to complete the adoption processes for necessary implementing ordinances and LCP Amendments which promote consistency and clarification regarding changes in state laws that pertain to commercial activities in support of the medicinal and adult use of cannabis.</p>

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**3. Consistency with the California Coastal Act:** The following table identifies the evidence which supports finding that the proposed Zoning Ordinance Amendments are consistent with the California Coastal Act.

Section(s)	Applicable Requirements	Evidence Supporting Finding
<p>Consistency: Administrative Regulations – Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act)</p> <p>The proposed amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Chapter 3 sets forth policies regarding the following issues:</p>	<p><b>Access</b> (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)</p>	<p>The proposed amendment to the Zoning Ordinance and Local Coastal Program will help promote greater consistency and guidance on unique forms of land use not previously anticipated by the Zoning Code, providing for temporary prohibition of these uses. During this period, the County will continue to work with Coastal Commission staff to have local commercial cannabis regulations certified for the Coastal Zone. This will include insuring that regulations are consistent with Coastal Act policies for protection of Access, Recreation, Marine Resources, Land Resources, Development, and Industrial activities.</p>
	<p><b>Recreation</b> (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)</p>	
	<p><b>Marine Resources</b> (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)</p>	
	<p><b>Land Resources</b> (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p>	
	<p><b>Development</b> (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p>	
<p><b>Industrial Development</b> (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.</p>		

Section	Applicable Requirements	Evidence Supporting Finding
<p>30510(a) of the Act.</p> <p><b>Submission to the Commission</b></p> <p>The LCP Amendment shall be carried out in accordance with the Coastal Act (pursuant to Section 30510(a) of the Act.</p>		<p>The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) was submitted to the Coastal Commission for review and certification on December 31, 2016. The proposed urgency ordinance does not require certification by the Commission as it merely effectuates an interim prohibition on certain commercial activities during the certification of the CMMLUO LCP amendment. The amendments performed under the interim prohibition ordinance are consistent with the provisions of section 30005 of the Coastal Act which supports local government powers to impose further conditions, restrictions, or limitations with respect to land/water use or other activities which might adversely affect coastal resources.</p>

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**4. 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 amendment will help temporarily prohibit a unique form of land use not previously anticipated by the Zoning Code. The forthcoming certification of new regulations for commercial cannabis activities will provide guidance and new tools to address siting and specify operational standards for these types of activities. As these uses are only authorized in areas that are planned and zoned for agricultural, commercial and industrial uses, the provisions will have minimal potential to affect the number of housing units available within the county. The proposed interim prohibition ordinance will have no effect on the local housing inventory.