

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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

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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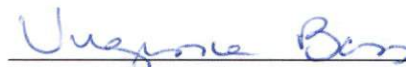
ORDINANCE NO. 2588

PASSED, APPROVED AND ADOPTED this 14th 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



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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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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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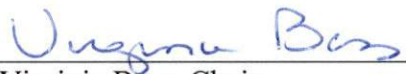
substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time that the previous mitigated negative declaration was adopted that shows that the amendments will have any significant effects not discussed in the previous mitigated negative 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

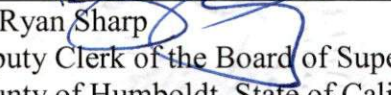
Adopted on motion by Supervisor Sundberg, seconded by Supervisor Fennell, and the following vote:

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