

**Ordinance Establishing a Temporary Moratorium on Accepting Applications for
Any Permits for Cannabis Activities Under the CCLUO in the
Yurok Area of Traditional Tribal Cultural Affiliation**

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

INTERIM ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON ACCEPTING APPLICATIONS FOR ANY PERMITS FOR COMMERCIAL CANNABIS ACTIVITIES WITHIN THE YUOK AREA OF TRADITIONAL TRIBAL CULTURAL AFFILIATION, OUTSIDE OF THE COASTAL ZONE

ORDINANCE NO. 2600

WHEREAS, California Government Code Section 65858. authorizes the Board of Supervisors, by 4/5ths vote, to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that it is considering, based on findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional use permits or other entitlements which are required to comply with the zoning ordinance would result in that threat to public health, safety, or welfare; and

WHEREAS, the County of Humboldt has undertaken preparation of a comprehensive update of its land use regulations with respect to medicinal and adult use commercial cannabis activities (Commercial Cannabis Land Use Ordinance, or CCLUO) for which it will certify an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, *et seq.*; and,

WHEREAS, CEQA mandates that in the preparation of an EIR the lead agency shall consult with Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project (Pub. Res. Code §§ 21080.3.1, 21080.3.2, 21082.3) and shall avoid, when feasible, damaging effects to any tribal cultural resource. (Pub. Res. Code § 21084.3). The CEQA requirements for tribal consultation are commonly referred to by the legislation by which they were adopted – AB 52 (Gatto), Statutes of 2014, Chapter 532; and,

WHEREAS, in accordance with AB 52, the County initiated consultation with the eleven Native American tribes traditionally and culturally affiliated with unincorporated areas of Humboldt County that will be affected by the activities that may be permitted under the CCLUO, including the Yurok Tribe; and,

WHEREAS, the government-to-government consultation between the County of Humboldt and the Yurok Tribe has not yet been concluded; and,

WHEREAS, the Board of Supervisors has completed its review of the EIR for the CCLUO and is prepared to certify the EIR and adopt the CCLUO, except as it pertains to the area of the county that the County and the Yurok Tribe have identified as the ancestral territory of the Yurok Tribe with which it is traditionally and culturally affiliated, as depicted on the map attached hereto as Exhibit A; and,

WHEREAS, the Board of Supervisors describes in the Resolutions of Approval for the CCLUO how the proposed ordinance serves the public health, safety, and welfare for the remaining area of the County, and is consistent with the requirements of CEQA, the County's General Plan and Zoning Ordinance, and therefore should be approved at this time; and,

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WHEREAS, it is in the best interest of the County to adopt the CCLUO while at the same time suspending implementation of the CCLUO within the Yurok Tribal Area of Traditional and Cultural Affiliation to allow further consultation with the Yurok Tribe to develop feasible ordinance language, policies and procedures, or other agreement acceptable both parties, if possible, that will avoid damaging effects to any Yurok tribal cultural resource; and,

WHEREAS, Board of Supervisors adopted an interim ordinance prohibiting all commercial cannabis activities inside the Coastal Zone on October 17, 2017 (Ordinance # 2583) that was extended under separate ordinance (Ordinance # 2586) for up to two (2) years (October 17, 2019) or until Humboldt County ordinances regulating Commercial Cannabis Activities in the Coastal Zone are certified by the Coastal Commission, whichever occurs first, which is not anticipated to occur before the consultation between the County and the Yurok Tribe can be concluded; and,

WHEREAS, a temporary moratorium on accepting applications under the CCLUO for any permit for cannabis activities outside of the Coastal Zone that is within the Yurok Area of Traditional Tribal Cultural Affiliation is required to protect the public health, safety, and welfare;

WHEREFORE, the Board of Supervisors of the County of Humboldt finds as follows:

1. For the reasons set forth in the above recitals there is a current and immediate threat to the public health, safety, and welfare due to the potential damaging effects to Yurok tribal cultural resources that may result from activities that may be permitted by the CCLUO outside of the Yurok Reservation but within the ancestral territory of the Yurok Tribe that cannot be adequately assessed and avoided, if feasible, until such time as the consultation between County and the Yurok Tribe can be concluded.
2. This interim ordinance is not subject to the California Environmental Quality Act (CEQA) because the activity is not a project as defined by Section 15378 of the CEQA guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly. Furthermore, pursuant to Section 15060(c) (2) of the CEQA Guidelines the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment.

NOW, THEREFORE the Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Section 314-54 is hereby added to Title III, Chapter 4 of the Humboldt County Code as follows:

314-54 PROHIBITION OF APPLICATIONS SUBMITTED AFTER DECEMBER 31, 2016 FOR COMMERCIAL CANNABIS ACTIVITIES IN THE YUROK TRIBAL AREA OF TRADITIONAL AND CULTURAL AFFILIATION.

No application for a Zoning Clearance, Special Permit, or Use Permit submitted after December 31, 2016, to authorize commercial cannabis activities, including cultivation, processing, manufacturing, testing, distribution or sale, which might otherwise be conducted pursuant to the

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Medicinal and Adult Use Cannabis Regulation and Safety Act, or any other state statute, shall be accepted or processed for approval for activities that would be conducted on any parcel within the Yurok Tribal Area of Traditional Cultural Affiliation, as depicted on the map attached as Exhibit A to Ordinance No. 2600, adopted by the Board of Supervisors of the County of Humboldt.

SECTION 2. DECLARATION OF URGENCY - EFFECTIVE PERIOD

This interim ordinance is hereby declared to be an urgency ordinance for the immediate preservation of the public health, safety and welfare of the County of Humboldt and it shall take effect immediately upon its adoption based upon the findings set forth above. Pursuant to Government Code Section 65858, this ordinance shall be in full force and effect for forty-five (45) days from the date of its adoption by the Board of Supervisors, unless, following a public hearing noticed pursuant to Government Code Section 65090 and four-fifths vote of its members, the Board of Supervisors extends the ordinance in accordance with the provisions of Government Code Section 65858.

PASSED, APPROVED, AND ADOPTED the 8th day of May, 2018, on the following vote, to wit:

AYES: Supervisors Bass, Fennell, Sundberg, Bohn
NOES: Supervisors Wilson
ABSENT: Supervisors --



RYAN SUNDBERG, Chair
Board of Supervisors, County of Humboldt
State of California

ATTEST:
Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: 
Ryan Sharp, Deputy Clerk

Date: May 8, 2018

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EXHIBIT A

Map of Yurok Tribal Area of Traditional Cultural Affiliation, outside of the Coastal Zone

