



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Hearing Date: June 6, 2019

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Zoning Ordinance Amendments**  
Commercial Cannabis Land Use Ordinance in the Coastal Zone  
Case Number OR 17-02

The attached staff report has been prepared for your consideration of the Coastal Zone Commercial Cannabis Land Use Ordinance at the public hearing on June 6, 2019. The staff report includes the following:

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Please contact Michael Richardson, Supervising Planner, at 268-3723, or by email at [mrichardson@co.humboldt.ca.us](mailto:mrichardson@co.humboldt.ca.us), if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
June 6, 2019	Zoning Ordinance Amendments – Commercial Cannabis Land Ordinance (CCLUO) for the Coastal Zone	Michael Richardson

**Project:** Review of the Coastal Commission’s suggested modifications to the ordinance which regulates the cultivation, processing, manufacturing, distribution and sale of medical and adult use of cannabis in the coastal zone of Humboldt County. The project will involve repealing the existing Commercial Medical Marijuana Land Use Ordinance (Section 313-55.4 of Chapter 3 of Division 1 of Title III of the County Code and the Medical Cannabis Testing and Research Laboratories and on-site consumption prohibitions found in Sections 313-55.3.15 and 313-55.3.11.7 of Division 1 of Title III of the County Code to be replaced by the provisions of the proposed ordinance with the modifications suggested by the Coastal Commission. The proposed ordinance as modified would apply throughout the unincorporated areas of Humboldt County within the Coastal Zone.

**Project Location:** The implementing Ordinance and LCP Amendments apply to all the unincorporated areas of the County within the coastal zone.

**Present Plan Designations:** N/A.

**Present Zoning:** N/A.

**Assessor Parcel Number(s):** (multiple).

**Environmental Review:** The Planning Commission will be considering an Addendum to the Environmental Impact Report (EIR) prepared for this Project (SCH #2017042022) certified by the Board of Supervisors May 8, 2018. The Addendum documents there are no new impacts not previously evaluated as part of the CCLUO that would be realized with adoption of the modifications approved by the Coastal Commission in accordance with Section 15168 (c)(2) and 15162 of the State CEQA Guidelines

**State Appeal Status:** Changes proposed to the Local Coastal Program (zoning ordinance provisions in 313-55.3 and 313-55.4) must receive final certification from the California Coastal Commission before they may become effective.

**ORDINANCE AMENDING HUMBOLDT COUNTY CODE  
CONCERNING THE REGULATION OF COMMERCIAL CANNABIS ACTIVITIES  
IN THE COASTAL ZONE  
Case Number OR-17-02**

**Recommended Commission Action**

1. Open the public hearing.
2. Request that staff present the staff report.
3. Receive public testimony.
4. Deliberate on the draft ordinance, public input, and alternatives presented.
5. Take the following action:

*“Move to make all of the required findings, based on evidence in the staff report and public testimony, and recommend the Board of Supervisors consider the Addendum to the EIR and approve the Cannabis Ordinance Amendments in the coastal zone by adopting the attached Resolution.”*

**Executive Summary:** The Board of Supervisors approved the Commercial Cannabis Land Use Ordinance (CCLUO) for both the inland and coastal areas on May 8, 2018 and directed staff to submit the coastal version to the Coastal Commission for certification. County staff and Coastal Commission staff worked together to identify suggested modifications to address Coastal Commission staff concerns the ordinance was not consistent with the County’s coastal plans and the Coastal Act. On May 9, 2019 the Coastal Commission approved those modifications. For the ordinance to become effective, those modifications need to be accepted by the Board of Supervisors with recommendations from the Planning Commission.

Staff believes the necessary findings can be made for the Commission to approve the attached resolution recommending that the Board of Supervisors adopt the proposed CCLUO with the modifications approved by the Coastal Commission. The draft resolution is included in the staff report as Attachment 1. The updated draft ordinance with the Coastal Commission’s suggested modifications is included in Attachment 2.

The nature of the changes made by the Coastal Commission did not change the regulatory intent or approach of the ordinance as crafted. Most of the changes are intended to increase clarity relative to regulations and policies specific to the Coastal Zone, some definitions were added, and the Mitigation Measures from the EIR were all completely written out as standards within the ordinance.

**Environmental Review:** The FEIR prepared for the CCLUO (SCH #2017042022) was certified by the Board of Supervisors May 8, 2018. The attached Addendum concludes that there are no new impacts not previously evaluated as part of the CCLUO that would be realized with adoption of the modifications suggested by the Coastal Commission in accordance with Section 15168 (c)(2) and 15162 of the State CEQA Guidelines. The suggested modifications approved by the Coastal Commission increase protection of coastal resources consistent with the Local Coastal Plans and reduce impacts on the environment compared to the project evaluated in the EIR.

**ATTACHMENT 1**

**Draft Resolution**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19-**

**Case Number OR-17-02**

**RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 3 OF THE HUMBOLDT COUNTY CODE - REGULATIONS INSIDE THE COASTAL ZONE GOVERNING COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, AND DISTRIBUTION OF CANNABIS.**

**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 May 8, 2018 the Board of Supervisors approved the CCLUO for the inland and coastal portions of the County, and directed staff to submit the coastal version to the Coastal Commission for certification; and

**WHEREAS**, beginning in May, 2018 and continuing through May 2019, County staff and Coastal Commission staff worked together to identify suggested modifications to address their concerns the ordinance was not consistent with the County's coastal plans and the Coastal Act; and

**WHEREAS**, on May 9, 2019 the Coastal Commission approved those modifications to the coastal version of the CCLUO; and

**WHEREAS**, for the ordinance to become effective, those modifications need to be approved by the Board of Supervisors with recommendations from the Planning Commission; and

**WHEREAS**, the proposed zoning text amendments may be approved if findings can be made that: (1) the proposed change is in the public interest; and (2) the proposed change is consistent with the General Plan; and (3) the 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; and; (4) the proposed change is consistent with the objectives of the Coastal Act and approved Local Coastal Plans.

**WHEREAS**, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

**WHEREAS**, the Environmental Impact Report (EIR) for the CCLUO, State Clearinghouse No. 2017042022, was certified by the Board of Supervisors on May 8, 2018; and

**WHEREAS**, The EIR Section 3.9.1, Land Use Planning - Regulatory Setting, identifies the CCLUO needs to be certified by the Coastal Commission prior to becoming effective; and

**WHEREAS**, Exhibit A of this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning text; and

**WHEREAS** a public hearing was held on the matter before the Humboldt County Planning Commission on June 6, 2019.

**NOW, THEREFORE**, be it resolved and determined that the Planning Commission:

1. The Planning Commission has considered the Addendum to the EIR in Exhibit B of this Resolution, and the EIR in Attachment 3 of the staff report and finds there is no substantial evidence that the proposed modifications to the CCLUO approved by the Coastal Commission in Attachment 2 of the staff report will have a significant effect on the environment not already considered in the EIR for the CCLUO and no new mitigation measures are necessary; and
2. The proposed modifications to the CCLUO approved by the Coastal Commission are in the public interest; and
3. The proposed modifications to the CCLUO approved by the Coastal Commission are

consistent with the General Plan; and

4. The proposed modifications to the CCLUO approved by the Coastal Commission do 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; and
5. The Planning Commission makes the findings in Exhibit A and B of this resolution, which are incorporated fully herein, based on the evidence provided.

**BE IT FURTHER RESOLVED** that the Planning Commission recommends that the Board of Supervisors of the County of Humboldt:

1. Hold a public hearing in the manner prescribed by law.
2. Consider the Addendum and the Environmental Impact Report (EIR) for the CCLUO, State Clearinghouse No. 2017042022, certified by the Board of Supervisors on May 8, 2018 (Exhibit B).
3. Find that the Addendum is sufficient for adoption of the adoption of the modifications approved by the Coastal Commission based on the evidence provided in the Addendum; and
4. Accepts and agrees to the modifications that are suggested by the Coastal Commission as shown in Attachment 2 of the staff report.
5. Take whatever formal action is necessary to implement the modifications.
6. Agree to issue coastal development permits subject to the approved Local Coastal Program.
7. Transmit the approved ordinance amendments to the Coastal Commission for final certification.
8. Direct the Planning Staff to prepare and file a Notice of Determination with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on \_\_\_\_\_, 2019.

The motion was made by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_.

AYES:           Commissioners:  
NOES:           Commissioners:  
ABSTAIN:       Commissioners:  
ABSENT:        Commissioners:  
DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

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John H. Ford, Director  
Planning and Building Department

## Exhibit A - Findings

**Required Findings:** To approve the proposed zoning ordinance amendments, the Hearing Officer shall determine that there is evidence in support of making **all** of the following required findings.

**A. Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes in the Zoning Ordinance**

1. The proposed zoning change is consistent with the General Plan.
2. The proposed change is in the public interest

**B. Required Finding for Consistency With Housing Element Densities**

1. Government Code Section 65302.81 requires specific findings supported by substantial evidence where a general plan amendment or zone reclassification is adopted that reduces 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).
2. In addition, the same Government Code sections also requires any proposed development to maintain the residential density for any parcel at or above 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), unless the following written findings are made supported by substantial evidence: 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.

**C. Required Finding for Consistency With the California Environmental Quality Act**

The California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA:

1.
  - a) The project either is categorically or statutorily exempt; or
  - b) There is no substantial evidence that the project will have a significant effect on the environment or any potential impacts have been mitigated to a level of insignificance and a negative declaration has been prepared pursuant to Section 15070 of the CEQA Guidelines; or
  - (c) An environmental impact report (EIR) has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

**D. Required Finding for Consistency With the California Coastal Act**

Consistency: Administrative Regulations – Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act). 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:

**Access** (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)

**Recreation** (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)

**Marine Resources** (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)

**Land Resources** (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)

**Development** (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)

**Industrial Development** (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.

**Finding A: Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes to the Zoning Ordinance**

Section(s)	Applicable Requirements
§312-50 of the Zoning Ordinance	<b>Finding A1.</b> That the proposed zoning change is consistent with the General Plan.
<p><b>Evidence Supporting Finding A1</b></p> <p>The purpose of the ordinance amendments is to establish land use regulations concerning the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the coastal zone portion of Humboldt County.</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. The General Plan policy was finalized prior to California State approval of recreational cannabis, and thus this policy should be understood to apply to both medical and recreational cannabis regulations. This policy states the clear intent of the county that cannabis activities shall be regulated in order to protect the public, health safety and welfare. This ordinance accomplishes that objective.</p> <p>The modifications approved by the Coastal Commission align the CCLUO with the County’s Local Coastal Plans as described in the findings approved by the Coastal Commission in the May 9, 2019 staff report.</p>	



Section(s)	Applicable Requirements
§312-50 of the Zoning Ordinance	<b>Finding A2.</b> That the proposed zoning change is in the public interest
<b>Evidence Supporting Finding A2</b>	
<p>These regulations are in the public interest because they are designed to protect the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, end users of medicinal or adult use cannabis; the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law.</p> <p>The modifications approved by the Coastal Commission align the CCLUO with the County's Local Coastal Plans which is also in the public interest.</p>	

**Finding B: Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes to the Zoning Ordinance**

Section(s)	Applicable Requirements
Government Code Section 65302.81	<b>Finding B.</b> That the proposed zoning change 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 (the mid point of the density range specified in the plan designation)
<b>Evidence Supporting Finding B</b>	
<p>The proposed ordinance amendments as modified by the Coastal Commission do not allow any cannabis activities on parcels zoned Residential Single Family or Residential Multifamily, so the properties affected by the ordinance are not included in the residential land inventory used by the by the Department of Housing and Community Development in determining compliance with housing element law.</p>	

**Finding C: Required Finding for Consistency With CEQA**

Section(s)	Applicable Requirements
Section 15091 of the CEQA Guidelines	<b>Finding C.</b> That the proposed zoning ordinance amendments comply with the requirements of CEQA
<b>Evidence Supporting Finding C</b>	
<p>An Addendum to the EIR has been prepared for the project, which is included in Exhibit B of the resolution. The Planning Commission has considered the Addendum finds that the there are no new impacts not previously evaluated as part of the CCLUO that would be realized with adoption of the modifications suggested by the Coastal Commission in accordance with Section 15168 (c)(2) and 15162 of the State CEQA Guidelines.</p>	

**D. Required Finding for Consistency with the California Coastal Act**

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

Section(s)	Applicable Requirements
<p>Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act)</p>	<p><b>Finding D.</b> That the proposed zoning ordinance amendments comply with the requirements of the Coastal Act.</p> <p><b>Access</b> (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)</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>
<p><b>Evidence Supporting Finding D</b></p> <p>The proposed zoning ordinance amendments as modified by the Coastal Commission will help protect coastal resources from harm resulting from cannabis activities, including streams, fish, and wildlife and wildlife habitat, and Tribal Cultural Resources. Cultivation activities share many similar features with more conventional agricultural uses and are therefore potentially compatible in a variety of zoning districts where agriculture is allowed. Commercial cannabis sales, manufacturing, distribution and testing are activities which share many similar features with more conventional retail sales, light manufacturing, distribution and scientific research uses and are therefore potentially compatible in a variety of zoning districts where those uses are allowed.</p> <p>The new policies and performance standards provide guidance and new tools to address land use issues surrounding the siting and operational standards for commercial activities involving the cultivation, manufacturing, processing, and distribution of cannabis for medical use. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial resources are likely to occur.</p> <p>The suggested modifications will make the CCLUO for the coastal zone more consistent with the County’s Coastal Plans and the Coastal Act as described in the findings adopted by the Coastal Commission at their meeting on May 9, 2019.</p>	







ATTACHMENT 2

DRAFT COASTAL VERSION OF THE CCLUO  
WITH THE MODIFICATIONS APPROVED BY THE COASTAL COMMISSION ON MAY 9, 2019

(AMENDMENTS TO CHAPTER 3 OF ZONING REGULATIONS - COASTAL)

**ATTACHMENT 3**

**HYPERLINK TO THE ENVIRONMENTAL IMPACT REPORT (EIR)**

(<https://humboldt.gov/DocumentCenter/View/62689/Humboldt-County-Cannabis-Program-Final-EIR-60mb-PDF>)