

ORDINANCE NO. 315-815 . EXT

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
ENACTING SECTION 32(N)
TO ZONING ORDINANCE NO. 315
TO PROHIBIT THREE-ACRE CONVERSIONS**

The Board of Supervisors of the County of Trinity, State of California, ordains as follows:

SECTION I. This urgency ordinance is adopted pursuant to California Constitution, Article XI, Section 7, and Government Code Section 65858.

SECTION II. Findings and Declarations. The Board of Supervisors of the County of Trinity hereby declares the following:

A. Based on reliable data presented by the California Department of Forestry and Fire Protection (Cal Fire), the number of what are termed "Less Than Three Acre Conversion Exemption" applications ("three-acre conversions" hereafter) in Trinity County has risen dramatically during the course of the last couple years. The number has increased significantly during 2016.

B. Persuasive anecdotal evidence presented by residents, as well as data collected by the County Sheriff's Department and Building & Safety Code Enforcement personnel, documents significant linkage between the surge in three-acre conversion applications and illegal cannabis cultivation occurring within the County.

C. Data collected by the County Sheriff's Department, Building & Safety Code Enforcement personnel, and Planning Department staff also indicates that the overwhelming majority of the three-acre conversions are being submitted by persons who are not County residents, and are utilizing the process to remove timber on undeveloped or vacant land for undefined "agricultural" purposes.

D. Cal Fire acceptance of three-acre conversions, as described in 14 CCR § 1104.1(a), is defined as a "ministerial" action, meaning that those applications which appear to comply with the provisions of the Forest Practice Act, based on the assertions made by the licensed forester preparing and submitting the application, must be approved. The information submitted to Cal Fire as part of the application often includes minimal back-up documentation of the site proposed for timber clearance and rarely includes signed certifications from the owner describing the exact nature of the conversion use being proposed and why it is necessary.

E. At its April 5, 2016 meeting, the Board of Supervisors of the County of Trinity reaffirmed the Director of Planning, and/or his/her designee, as the County's Conversion Exemption Conformance Officer, per the provisions described in 14 CCR § 1104.1(a), said statute granting local jurisdictions the right to review three-acre conversion applications to ensure that approval of these is consistent with local regulatory requirements, the decision made to not sign the three-acre conversion application being deemed a denial of the application in the view of Cal Fire.

F. The three-acre conversions have an impact on aesthetics, air quality, greenhouse gas generation and noise, biological resources and critical water resources.

G. At its June 7, 2016 meeting, the Board of Supervisors of the County of Trinity approved and enacted this Urgency Ordinance 315-858 for a period of 45 days by a 5-0 vote of the Board.

SECTION III. In order to protect the public health, safety and welfare of the residents of the County of Trinity from a current and immediate threat, the County hereby extends Section 32(N) of the Zoning Ordinance, for 10 months plus 15 days. Section 32(N) shall read as follows:

Section 32(N). Emergency Prohibition on Under Three Acre Conversion Exemptions

(a) No new Less Than Three Acre Conversion Exemption Applications (“three-acre conversions” hereafter) will be approved. Approval of such conversions shall be granted only under the following circumstances:

- 1) The owner/applicant provides a signed affidavit as part of the conversion application defining the reason for the conversion, describing a bona fide agricultural, forestry or other homestead maintenance purpose, and that the land is in compliance with all state and local laws.
- 2) The lot has a legal permanent dwelling, the owner/applicant has obtained permits to place a legal permitted structure on the property,, or the owner/applicant affirms by affidavit the intent to obtain permits within 90 days at the time the conversion application is approved to place a legal permitted structure, and certifies that conversion is for bona fide purposes only.

A bona fide use is defined as good faith without intent to defraud or violate the law. Cannabis cultivation in violation of County Law is not a bona fide agricultural, forestry or other homestead maintenance purpose.

(b) The County designee will require that information be submitted as part of the conversion application describing the location of the property where the conversion is proposed as well as a site plan describing the location of the conversion site within the property in relationship to existing water courses and adjoining grades, and the location of any proposed temporary or permanent roads, water crossings and encroachments onto adjacent public roads. Additional information regarding the nature of grading actions and storm water pollution prevention measures may be requested by the County in order to complete its review.

(c) The County will continue to levy an appropriate fee to recoup the time for County staff review of conversion applications.

SECTION IV. This ordinance is an extension of the original interim ordinance adopted as an urgency measure pursuant to Government Code section 65858, and is shall be of no further force and effect 10 Months and 15 days from its date of adoption, unless it is extended by further action of the Board of Supervisors, pursuant to Section 65858.

SECTION V. This ordinance is not a project under the California Environmental Quality Act (Pub. Resources Code, 21000 et seq.) (“CEQA”), and accordingly is not subject to its provisions. Nevertheless, to the extent that this ordinance may be construed as a project, it is exempt from CEQA under the general rule that it can be seen with certainty that this Ordinance has no possibility of having a significant effect on the environment, as set forth in California Code of regulations, title 14, section 15061, subdivision(b)(3). Further, this ordinance extending an interim urgency ordinance is exempt from CEQA pursuant to the provisions of Public Resources Code section 21080, subdivision (b)(4) and California Code of regulations, title 14, sections 15307 and 15308.

SECTION VI. The Board of Supervisors declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion of it, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions of it be declared invalid or unconstitutional. If for any reason any portion of this ordinance is declared invalid or unconstitutional, then all other provisions of it shall remain valid and enforceable.

SECTION VII. This ordinance is declared an urgency measure necessary for the immediate protection and preservation of the public peace, health, safety and welfare for the reasons stated in Section 1, and it shall take effect

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immediately upon its adoption, pursuant to Government Code section 65858 and clause (d) of Government Code section 25123.

Introduced, passed and enacted this 19th day of July, 2016 by the Board of Supervisors of the County of Trinity by motion, second (Fenley, Burton) and the following vote:

AYES: Supervisors Burton, Fenley, Groves, Morris and Fisher
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None



L. KARL FISHER, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:

MARGARET E. LONG
Clerk of the Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:


Margaret Long, County Counsel