

**TRINITY COUNTY PLANNING COMMISSION STAFF REPORT**

**PLANNER:** Lisa Lozier, Deputy Director of Planning

**PROJECT DESCRIPTION:**

The Planning Commission will consider recommending that the Board of Supervisors adopt an ordinance amending Trinity County Code Title 17, Section 17.43.050(A)(8) to revise wording to clarify the intent that commercial cannabis cultivation sites are not allowed within 350-feet of a residential dwelling without an approved variance.

**LOCATION:** County Wide

**BACKGROUND DISCUSSION:**

December 28, 2020, Ordinance number 315-849 was adopted to incorporate mitigations of the Certified Environmental Impact Report in addition to specific regulations for the cultivation of cannabis in Trinity County. Including Section 17.43.050 – Limitation on location to cultivate cannabis

Planning Staff has since interpreted the word “adjoining” contained in Chapter 17.43.050(A)(8) to mean a parcel directly touching or sharing a common boundary of a parcel with commercial cannabis cultivation license, which the Planning Commission has determined is inconsistent with the original intent and on May 13, 2021, at a regularly scheduled Planning Commission meeting, requested that a zoning amendment be initiated by resolution in accordance with Trinity County Zoning Code Section 17.35.030 to revise the wording to reflect the intent that the commercial cannabis cultivation sites are not allowed within proximity of 350 feet from any residential dwelling without a variance.

The criteria for updating Title 17 (Trinity County Zoning Code) is provided by Section 17.35.030. This Section provides the opportunity for the Board of Supervisors or Planning Commission to direct staff, via resolution, to bring updates and proposed revisions for review by the Planning Commission. The Planning Commission may then make Recommendations to the Board of Supervisors.

On June 10, 2021 the Planning Commission adopted Resolution 2021-07 directing Planning Department Staff to initiate the zoning amendment for Chapter 17.43.050(A)(8) to reflect the intent that commercial cannabis cultivation sites are not allowed within proximity of 350 feet from any residential dwelling without a variance.

**PROPOSED AMENDMENT TO TRINITY COUNTY CODE: CHAPTER 17.43**

Proposed Amendment to Trinity County Code: Chapter 17.43

Amend Section 17.43.050(A)(8) as follows:

17.43.050 - Limitation on location to cultivate cannabis.

A. Applications will not be approved for cultivation of cannabis in any amount or quantity, in the following areas:

1. Within one thousand feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein.
2. Within five hundred feet of an authorized school bus stop.
3. A legal parcel without a legal dwelling, or without an active building permit.
4. Timber production zones (TPZ) with the exception made for qualified Phase I applicants (persons or entities who completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County-based operation by August 1, 2016).
5. Residential 1 (R1), residential 2 (R2), or residential 3 (R3) zones.
6. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
7. Within the legal boundaries of the Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, Bucktail Subdivision and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, 13, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:
  - Weaverville Community Services District by December 31, 2016;
  - Lewiston Community Services District by January 15, 2017;
  - Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.
8. For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any **other**

adjoining legal parcels, as defined in Section 17.43.010. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.

**ENVIRONMENTAL DETERMINATION:**

California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment.

**ALTERNATIVES:**

1. The Planning Commission may deny the requested modifications.
2. The Planning Commission may recommend amend the request for modifications.
3. The Planning Commission may request continuance for additional information.

**RECOMMENDATION:** That the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution recommending the Board of Supervisors:
  - a) find that the amendment to Chapter 17.43.050(A)(8) of the Trinity County Code is not subject to California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment; and
  - b) the Board of Supervisors approve an ordinance to amend the Zoning Code of the County of Trinity identified in Zone Amendment (DEV-21-02)

**ATTACHMENTS:**

1. Resolution PC-2021-10
2. Resolution PC-2021-07
3. Draft Ordinance 315-XX
4. Zoning Code Section 17.43.050
5. Zoning Code Section 17.35.030

**RESOLUTION NO. PC-2021-10**

**A RESOLUTION OF THE TRINITY COUNTY PLANNING COMMISSION  
RECOMMENDING THAT THE TRINITY COUNTY BOARD OF SUPERVISORS APPROVE A  
TEXT AMENDMENT OF ZONING CODE CHAPTER 17.43  
COMMEDRCIAL CANNABIS CULTIVATION REGULATIONS**

**WHEREAS**, on December 28, 2020, Ordinance number 315-849 was adopted to incorporate mitigations of the Certified Environmental Impact Report in addition to specific regulations for the cultivation of cannabis in Trinity County. Including Section 17.43.050 – Limitation on location to cultivate cannabis; and

**WHEREAS**, Planning Staff has since interpreted the word “adjoining” contained in Chapter 17.43.050(A)(8) to mean a parcel directly touching or sharing a common boundary of a parcel with commercial cannabis cultivation license, which the Planning Commission has determined is inconsistent with the original intent; and

**WHEREAS**, the Planning Commission on May 13, 2021, requested that a zoning amendment be initiated by resolution in accordance with Trinity County Zoning Code Section 17.35.030 to revise the wording to reflect the intent that the commercial cannabis cultivation sites are not allowed within proximity of 350 feet from any residential dwelling without a variance; and

**WHEREAS**, the Planning Commission on June 10, 2021, by Resolution 2020-07, directed the Planning Department staff to initiate the zoning amendment procedure for Chapter 17.43 to amend section 17.43.050(A)(8) to substitute “other Legal Parcel as defined in Section 17.43.010” for adjoining.

**NOW, THEREFORE, BE IT RESOLVED** by the Trinity County Planning Commission:

1. The foregoing recitals are true and correct.
2. The Planning Commission has independently reviewed and considered the proposed zoning text amendment, together with all oral and written testimony received at the public hearing.
3. Recommends that the Trinity County Board of Supervisors adopt the following environmental finding:
  - a. Pursuant to the State California Environmental Quality Act (CEQA) Guidelines, the Planning Commission of the County of Trinity makes the following environmental findings that this action is exempt from CEQA as provided by the Common Sense exemption (CCR 15061(b)(3)) where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Resolution No. PC-2021-10  
July 8, 2021

4. The Planning Commission further recommends that the Trinity County Board of Supervisors introduce, waive the reading of, and enact an ordinance to amend Chapter 17.43 of the Trinity County Code, Section 17.43.050(A)(8) to substitute “other Legal Parcel as defined in Section 17.43.010” for “adjoining”.

**DULY PASSED** this 8<sup>th</sup> day of July, 2021 by the Planning Commission of the County of Trinity by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

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DUNCAN MCINTOSH, CHAIRMAN  
Planning Commission  
County of Trinity, State of California

ATTEST:

By:

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KIMBERLY HUNTER  
Secretary of the Planning Commission  
County of Trinity, State of California

**RESOLUTION NO. 2021-07**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF TRINITY  
INITIATING A MINOR TEXT AMENDMENT OF  
TITLE 17 ZONING CODE SECTION 17.43.050(A)(8)**

**WHEREAS**, on December 28, 2020, Ordinance number 315-849 was adopted to incorporate the mitigations of the certified Environmental Impact report; and

**WHEREAS**, Planning Staff has since interpreted the word “adjoining” contained in Chapter 17.43.050(A)(8) to mean a parcel directly touching or sharing a common boundary of a parcel with commercial cannabis cultivation license, which the Planning Commission has determined is inconsistent with the original intent; and

**WHEREAS**, Planning Commission on May 13, 2021 requested that a zoning text amendment be initiated by resolution in accordance with Trinity County Zoning Code section 17.35.03 to revise the wording to reflect the intent that commercial cannabis cultivation sites are not allowed within proximity of 350 feet from any residential dwelling without a variance;

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the County here by initiates the procedure to amend Chapter 17.43 section 17.43.050(A)(8) and makes the following environmental finding:

1. Pursuant to the State California Environmental Quality Act (CEQA) Guidelines, the Planning Commission of the County of Trinity makes the following environmental findings that this action exempt from CEQA as provided by the Common Sense exemption (CCR 15061(b)(3)).

**DULY PASSED AND ADOPTED** this 10<sup>th</sup> day of June, 2021, by the Planning Commission of the County of Trinity by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

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DIANA STEWART  
Planning Commission Chair  
County of Trinity, State of California

ATTEST:

By:

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KIMBERLY HUNTER  
Secretary of the Planning Commission  
County of Trinity, State of California

**DRAFT**

**ORDINANCE NO. 315-**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF TRINITY  
AMENDING TRINITY COUNTY CODE CHAPTER 17.43  
COMMERCIAL CANNABIS CULTIVATION REGULATIONS**

**WHEREAS**, on December 28, 2020, Ordinance number 315-849 was adopted to incorporate mitigations of the Certified Environmental Impact Report in addition to specific regulations for the cultivation of cannabis in Trinity County. Including Section 17.43.050 – Limitation on location to cultivate cannabis; and

**WHEREAS**, Planning Staff has since interpreted the word “adjoining” contained in Chapter 17.43.050(A)(8) to mean a parcel directly touching or sharing a common boundary of a parcel with commercial cannabis cultivation license, which the Planning Commission has determined is inconsistent with the original intent; and

**WHEREAS**, the Planning Commission on May 13, 2021, at a regularly scheduled Planning Commission meeting, requested that a zoning amendment be initiated by resolution in accordance with Trinity County Zoning Code Section 17.35.030 to revise the wording to reflect the intent that the commercial cannabis cultivation sites are not allowed within proximity of 350 feet from any residential dwelling without a variance.

**WHEREAS**, the Planning Commission on June 10, 2021, by Resolution 2020-07, directed the Planning Department staff to initiate the zoning amendment procedure for Chapter 17.43 to amend section 17.43.050(A)(8) to substitute “other legal parcel as defined in Section 17.43.010” for “adjoining”.

**SECTION I:**

Proposed Amendment to Trinity County Code: Chapter 17.43

Amend Section 17.43.050(A)(8) as follows:

17.43.050 - Limitation on location to cultivate cannabis.

A. Applications will not be approved for cultivation of cannabis in any amount or quantity, in the following areas:

1. Within one thousand feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein.
2. Within five hundred feet of an authorized school bus stop.

3. A legal parcel without a legal dwelling, or without an active building permit.
4. Timber production zones (TPZ) with the exception made for qualified Phase I applicants (persons or entities who completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County-based operation by August 1, 2016).
5. Residential 1 (R1), residential 2 (R2), or residential 3 (R3) zones.
6. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
7. Within the legal boundaries of the Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, Bucktail Subdivision and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, 13, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:
  - Weaverville Community Services District by December 31, 2016;
  - Lewiston Community Services District by January 15, 2017;
  - Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.
8. For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on **any other adjoining legal parcels, as defined in Section 17.43.010**. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.

**SECTION II:**

If any section, subsection, sentence, clause, or phrase, of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted this ordinance and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrases be declared invalid.



**SECTION III:**

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity State of California.

Introduced at a regular meeting of the Board of Supervisors held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and passed and enacted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the Board of Supervisors of the County of Trinity by motion, second (/), and the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:  
RECUSE:

DRAFT

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JEREMY BROWN, CHAIRMAN  
Board of Supervisors  
County of Trinity  
State of California

ATTEST:

RICHARD KUHNS, Psy.D  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:

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Margaret E. Long, County Counsel

17.43.050 - Limitation on location to cultivate cannabis.

- A. Applications will not be approved for cultivation of cannabis in any amount or quantity, in the following areas:
1. Within one thousand feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein.
  2. Within five hundred feet of an authorized school bus stop.
  3. A legal parcel without a legal dwelling, or without an active building permit.
  4. Timber production zones (TPZ) with the exception made for qualified Phase I applicants (persons or entities who completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County-based operation by August 1, 2016).
  5. Residential 1 (R1), residential 2 (R2), or residential 3 (R3) zones.
  6. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
  7. Within the legal boundaries of the Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, Bucktail Subdivision and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, 13, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:
    - Weaverville Community Services District by December 31, 2016;
    - Lewiston Community Services District by January 15, 2017;
    - Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.
  8. For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.

( Ord. No. 315-849, § 1, 12-28-2020)

17.35.030 - Initiation by board of supervisors or planning commission.

By resolution, the board of supervisors or the planning commission may initiate the procedure for amendment. Upon receipt of such a resolution, the planning director shall file the necessary application.

17.35.040 - Procedure—Planning commission.

- A. Hearings and Notice. At least one hearing for an amendment shall be conducted by the planning commission. The procedural requirements for any such hearings and notice shall be governed by the provisions of Chapter 17.34 of this title.