

RESOLUTION NO. PC-2020-13

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY RECOMMENDING TO THE BOARD OF
SUPERVISORS THE APPROVAL, WITH PROPOSED MODIFICATIONS, OF (1) THE
ORDINANCE REPEALING, AMENDING, AND ENACTING VARIOUS SECTIONS OF
TITLE 17 OF THE COUNTY CODE, IMPLEMENTING THE MITIGATION
MEASURES FOR THE COUNTY'S COMMERCIAL CANNABIS PROGRAM; AND (2)
THE CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT
CONCERNING THAT PROGRAM**

WHEREAS, the County published a Notice of Preparation of an Environmental Impact regarding the County's Commercial Cannabis Program ("Program") on December 21, 2018.

WHEREAS, on January 16, 2019, the County held a scoping meeting to elicit public input and comment regarding the preparation of the intended environmental impact report for the Program.

WHEREAS, following the preparation of a Draft Environmental Impact Report ("DEIR") regarding the Program, the County published Notice of Availability of the DEIR on May 29, 2019.

WHEREAS, on September 26, 2019, the Planning Commission held a workshop to receive public input regarding the DEIR.

WHEREAS, on November 19, 2019 and February 11, 2020, the Board of Supervisors held special meetings to receive further public input regarding the DEIR.

WHEREAS, a Final Environmental Impact Report ("FEIR") has been prepared, which includes written responses to all comments received during the formal comment period on the DEIR.

WHEREAS, to incorporate the mitigations identified in the FEIR into the Program, an ordinance has been prepared repealing and amending Chapter 17.43 of the County Code; enacting new sections to Chapters 17.43A, 17.43B, 17.43C, 17.43D, 17.43E, and 17.43F; and enacting new Chapter 17.43G (the "Ordinance").

WHEREAS, a public hearing was held before the Planning Commission on November 19, 2020 to consider whether the Planning Commission should recommend certification of the FEIR and enactment of the Ordinance to the Board of Supervisors.

WHEREAS, notice of this public hearing was duly given in accordance with Trinity County Code section 18.04.110 and California Government Code sections 65090 and 65854.

WHEREAS, following the close of the public hearing, the Planning Commission continued the proposed certification of the FEIR and adoption of the Ordinance for further consideration and deliberation at a special meeting on December 3, 2020.

WHEREAS, in considering the certification of the FEIR and adoption of the Ordinance, the Planning Commission has identified modifications it believes should be made to some of the mitigation measures of the FEIR and provisions of the Ordinance, as fully stated in Attachment A.

WHEREAS, the documents and other materials that constitute the record of proceedings for this matter are in the custody of the Secretary of the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission finds he Planning Commission finds, in accordance with Sections 15090 and 15091 of the California Environmental Quality Act ("CEQA) Guidelines (California Code of Regulations, Title 14, Chapter 3) that:

- (1) The FEIR and DEIR were prepared and completed in compliance with CEQA and the CEQA Guidelines;
- (2) The Planning Commission has fully reviewed and considered the FEIR and DEIR; and
- (3) The FEIR and DEIR reflect the independent judgment and analysis of the County, as the lead agency for the CEQA project being considered.

BE IT FURTHER RESOLVED that the Planning Commission recommends to the Board of Supervisors the certification of the FEIR, provided the Board accepts the modifications to the proposed mitigation measures stated in Attachment A.

BE IT FURTHER RESOLVED that the Planning Commission recommends to the Board of Supervisors the enactment of the Ordinance, provided the Board accept the modifications to the ordinance stated in Attachment A.

DULY PASSED AND ADOPTED this 3rd day of December, 2020 by the Planning Commission of the County of Trinity by the following vote:


AYES: Commissioners -- Matthews, Stewart, McIntosh

NOES: Commissioners -- McHugh, Frasier

ABSENT:

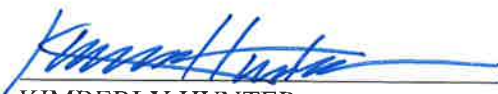
ABSTAIN:

RECUSE:



MICHAEL D. FRASIER, Chairman
Planning Commission
County of Trinity, State of California

ATTEST:

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

ATTACHMENT A

PLANNING COMMISSION RECOMMENDED FINAL EIR EDITS

Mitigation Measure 3.1-1b: Maintain Cultivation Parcel Premises

Section 315-843(6) will be amended to include the following new performance standard:

- ▶ License applications for new cultivation sites and requests for license renewal will maintain the premises parcel clear of trash and debris piles. No trash or debris, including abandoned cars, various woody materials, plastic tarps, cannabis waste, or household appliances, will be allowed to accumulate on the premises parcel for a period greater than two weeks for the life of the license. The County will inspect compliance with this measure prior to license renewal.

Mitigation measure 3.3-1a: Prohibit Burning Vegetation

The following shall be included as a new performance standard in Section 315-843(6) (Performance Standards for Commercial Cultivation of Cannabis):

- ▶ Prohibit the burning of vegetation that has been cleared for cultivation purposes unless proof is submitted that all required permits have been obtained for the burning, including, but not limited to, a standard burn permit, a non-standard burn permit, and/or CalFire approval for less-than-three-acre conversion. It should also be noted that CDFA regulations prohibit the burning of cannabis waste under CCR, Title 3, Division 8, Chapter 1, Section 8308.

Mitigation Measure 3.3-3: Implement Odor Control Plan for the Growing, Cultivating, Processing, and Handling of Cannabis

The following shall be included as new performance standards for Section 315-843(6) (Performance Standards for Commercial Cultivation of Cannabis), Section 315-824(5) (Required Conditions), Section 315-826(3) (Regulation of Nurseries), Section 315-828(5) (Required Conditions), Section 315-835(2) (Regulations), Section 315-837(3) (Required Conditions), and Section 315-842(6) (Required Conditions):

- ▶ This mitigation shall not apply to lands zoned Agricultural, Agriculture-Forest, or Agricultural Preserve.
- ▶ Cannabis sites shall develop and implement an odor control plan that contains the following requirements as appropriate for each cannabis use:
- ▶ Identify and describe odor-emitting activities and the nature and characteristics of the emissions.

- ▶ Location and distance of sensitive receptors (e.g., residents, youth-oriented facilities, schools, churches, residential treatment centers) from the site.
- ▶ Demonstrate that the cannabis site's distance to receptors, wind direction, and local topographic conditions would not result in detection of cannabis odors by off-site sensitive receptors that would create a nuisance.
- ▶ If off-site odor nuisance impacts cannot be avoided without odor controls, identify procedures and controls for reducing/controlling odors on-site, including the following as applicable to the cannabis use and license type (outdoor, mixed-light, and indoor). The operator may propose a numeric odor detection threshold for on-site operations (such as dilution-to-threshold standard that is verified by persons of normal odor sensitivity as defined by European Standard EN 13725) subject to County review and approval.
 - All fully enclosed and secure structures that contain cannabis plants or products that generate odors will employ mechanical ventilation controls, carbon filtration, or other equivalent or superior method(s) to eliminate the detection of cannabis off the parcel. This will include all drying and processing of cannabis plant material recently harvested.
 - Outdoor operations may include different plant strains and smaller grow areas or relocation of outdoor activities indoors or, in a mixed-light facility contained within an enclosed structure, use of site design or other technology and/or use of odor easements to address odor impacts.
 - Corrective actions to address County-verified off-site odor complaints will be identified and methods to be developed and applied for the next harvest ~~This may include immediate and complete harvest of the cannabis plants or identification of other methods to be applied as part of the current harvest or the next harvest~~ to minimize off-site odor impacts so that they would not conflict with other applicable standards of the County's Cannabis Program or State license requirements.

Mitigation Measure 3.5-1b: Revise Ordinance to Include All Historic Districts and Additional Measures to Protect Historic Resources

The following shall be included as new performance standards for Section 315-843(6) (Performance Standards for Commercial Cultivation of Cannabis), Section 315-824(5) (Required Conditions), Section 315-826(3) (Regulation of Nurseries), Section 315-828(5) (Required Conditions), Section 315-835(2) (Regulations), Section 315-837(3) (Required Conditions), and Section 315-842(6) (Required Conditions) for the protection of historic resources:

- ▶ Cannabis cultivation operations shall not be permitted within the historic districts of Weaverville, Denny, Helena, and Lewiston, unless the operations occur indoors and do not require modification of historic features.

Mitigation Measure 3.8-1c: Renewable Electricity Requirements

The following shall be included as a new performance standard in Section 315-843(6) (Performance Standards for Commercial Cultivation of Cannabis); Section 315-842(6) (Required Conditions); Section 315-838(6) (Required Conditions); Section 315-837(3) (Required Conditions); Section 315-835(2) (Regulations); Section 315-824(5) (Required Conditions); Section 315-827(4) (Required Conditions of Use Permit Approval); and Section 315-828(5) (Required Conditions) by January 1, 2023 for consistency with California Code of Regulations Title 3, Division 8, Chapter 1, Section 8305 (Renewable Energy Requirements):

- ▶ All electricity sources used for commercial cannabis cultivation, manufacturing, microbusinesses, non-storefront retail, testing, nurseries, and distribution shall be from renewable sources by conforming to one or more of the following standards:
 - ▶ Grid-based electricity supplied from 100 percent renewable sources
 - ▶ On-site power supplied fully by renewable source (e.g., photovoltaic system)
 - ▶ On-site power supplied by partial or wholly non-renewable source with purchase of carbon offset credits
 - ▶ Or some combination of the above.
- ▶ This mitigation measure is consistent with a local action measure recommended in Appendix B, Local Action, of the 2017 Scoping Plan, which reads, "Require on-site renewable energy generation" (CARB 2017:B-8).

Mitigation Measure 3.10-2: Conduct Groundwater Monitoring and Adaptive Management

The following shall be included as a new performance standard for Section 315-843(6) (Performance Standards for Commercial Cultivation of Cannabis), Section 315-824(5) (Required Conditions), Section 315-826(3) (Regulation of Nurseries), Section 315-828(5) (Required Conditions), Section 315-835(2) (Regulations), Section 315-837(3) (Required Conditions), and Section 315-842(6) (Required Conditions) associated with projects using groundwater as a water supply source:

- ▶ As part of the application and license renewal process, applicants shall provide the County with groundwater monitoring data for existing on-site well facilities that documents water usage ~~well production~~ and changes in

groundwater levels during each month of the year. Should this monitoring data identify potential drawdown impacts on adjacent well(s), surface waters, and waters of the state and sensitive habitats, and indicate a connection to operation of the on-site wells, the cannabis operators, in conjunction with the County, shall develop adaptive management measures to allow for recovery of groundwater levels that would protect adjacent wells and habitat conditions that could be adversely affected by declining groundwater levels. Adaptive management measures may include forbearance (e.g., prohibition of groundwater extraction from the months of May to October), water conservation measures, reductions in on-site cannabis cultivation, alteration of the groundwater pumping schedule, or other measures determined appropriate. Adaptive management measures will remain in place until groundwater levels have recovered and stabilized based on annual monitoring data provided to the County as part of subsequent annual inspections. Any monitoring cannabis cultivation irrigation wells that demonstrate hydrologic connection to surface waters shall be subject to surface water diversion requirements and restrictions in SWRCB Order WQ 2019-0001-DWQ. Wells shall also be sited outside of the stream setbacks as set forth in SWRCB Order WQ 2019-0001-DWQ.

PLANNING COMMISSION RECOMMENDED ORDINANCE EDITS

Mitigation Measure 3.1-1b: Maintain Cultivation Parcel Premises

17.43.060 - Performance standards for commercial cultivation of cannabis

- V. License applications for new cultivation sites and requests for license renewal will maintain the premises ~~parcel~~ clear of trash and debris piles. No trash or debris, including abandoned cars, various woody materials, plastic tarps, cannabis waste, or household appliances, will be allowed to accumulate on the premises ~~parcel~~ for a period greater than two weeks for the life of the license. The County will inspect compliance with this measure prior to license renewal. (MM 3.1-1b.)

Mitigation measure 3.3-1a: Prohibit Burning Vegetation

17.43.060 - Performance standards for commercial cultivation of cannabis

- X. Vegetation cleared as part of cultivation operations, or for cultivation purposes, shall not be burned unless proof is submitted that all required permits have been obtained including, but not limited to, a standard burn permit, a non-standard burn permit, and/or CalFire approval for less-than-three-acre conversion. (MM 3.3-1a.)

Mitigation Measure 3.3-3: Implement Odor Control Plan for the Growing, Cultivating, Processing, and Handling of Cannabis

17.43G.040 – Performance Standards Applicable to all Cannabis Land Uses

- E. Cannabis sites shall develop and implement an odor control plan that contains the following requirements, as appropriate for each cannabis use:
1. This mitigation shall not apply to lands zoned Agricultural, Agriculture-Forest, or Agricultural Preserve.
 2. Identification and description of odor-emitting activities and the nature and characteristics of the emissions.
 3. Location and distance of sensitive receptors (e.g., residents, youth-oriented facilities, schools, churches, residential treatment centers) from the site.
 4. Demonstrate that the cannabis site's distance to receptors, wind direction, and local topographic conditions would not result in detection of cannabis odors by off-site sensitive receptors that would create a nuisance.
 5. If off-site odor nuisance impacts cannot be avoided without odor controls, identify the procedures and controls for reducing and controlling odors on-site, including the following as applicable to the cannabis use and license type (outdoor, mixed-light, and indoor). The operator may propose a numeric odor detection threshold for on-site operations (such as dilution-to-threshold standard that is verified by persons of normal odor sensitivity as defined by European Standard EN 13725) subject to County review and approval.
 - a. All fully enclosed and secure structures that contain cannabis plants or products that generate odors will employ mechanical ventilation controls, carbon filtration, or other equivalent or superior method(s) to eliminate the detection of cannabis off the parcel. This will include all drying and processing of cannabis plant material recently harvested.
 - b. Outdoor operations may include different plant strains and smaller grow areas or relocation of outdoor activities indoors or, in a mixed-light facility contained within an enclosed structure, use of site design or other technology and/or use of odor easements to address odor impacts.
 - c. Corrective actions to address County-verified off-site odor complaints will be identified and methods to be developed and applied for the next harvest ~~This may include immediate and~~

~~complete harvest of the cannabis plants or identification of other methods to be applied as part of the current harvest or the next harvest to minimize off-site odor impacts so that they would not conflict with other applicable standards of the County's Cannabis Program or State license requirements. (3.3-3.)~~

Mitigation Measure 3.5-1b: Revise Ordinance to Include All Historic Districts and Additional Measures to Protect Historic Resources

17.43G.030 – Application Standards Applicable to all Cannabis Land Uses

S. Historic Buildings and Structures.

1. Cannabis cultivation operations shall not be permitted within the historic districts of Weaverville, Denny, Helena, and Lewiston, unless the operations occur indoors and do not require modification of historic features. (MM 3.5-1b)

Mitigation Measure 3.8-1b: Renewable

17.43G.040 – Performance Standards Applicable to all Cannabis Land Uses

- G. All electricity sources used for commercial cannabis cultivation, manufacturing, microbusinesses, non-storefront retail, testing, nurseries, and distribution shall be from renewable sources by conforming to one or more of the following standards by January 1, 2023 for consistency with California Code of Regulations Title 3, Division 8, Chapter 1, Section 8305 (Renewable Energy Requirements):

1. Grid-based electricity supplied from 100 percent renewable sources
2. On-site power supplied fully by renewable source (e.g., photovoltaic system)
3. On-site power supplied by partial or wholly non-renewable source with purchase of carbon offset credits
4. Or some combination of the above. (MM 3.8-1b)

Mitigation Measure 3.10-2: Conduct Groundwater Monitoring and Adaptive Management

17.43G.030 – Application Standards Applicable to all Cannabis Land Uses

- X. As part of the application and license renewal process, applicants shall provide the County with groundwater monitoring data for existing on-site well facilities that documents water usage ~~well production~~ and changes in groundwater levels during each month of the year. Should this monitoring

data identify potential drawdown impacts on adjacent well(s), surface waters, waters of the state, and sensitive habitats, and indicate a connection to operation of the on-site wells, the cannabis operators, in conjunction with the County, shall develop adaptive management measures to allow for recovery of groundwater levels that would protect adjacent wells and habitat conditions that could be adversely affected by declining groundwater levels. Adaptive management measures may include forbearance (e.g., prohibition of groundwater extraction from the months of May to October), water conservation measures, reductions in on-site cannabis cultivation, alteration of the groundwater pumping schedule, or other measures determined appropriate. Adaptive management measures will remain in place until groundwater levels have recovered and stabilized based on annual monitoring data provided to the County as part of subsequent annual inspections. Any monitoring cannabis cultivation irrigation wells that demonstrate hydrologic connection to surface waters shall be subject to surface water diversion requirements and restrictions in SWRCB Order WQ 2019-0001-DWQ, or any successor to that order. Wells shall also be sited outside of the stream setbacks as set forth in SWRCB Order WQ 2019-0001-DWQ, or any successor that order. (MM 3.10-2.)