



TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931
TELEPHONE (530) 872-6291 FAX (530) 877-5059
www.townofparadise.com

Planning Commission Staff:

Craig Baker, Community Development Director
Susan Hartman, Assistant Planner

Planning Commission Members:

Ray Groom, Chair
Anita Towslee, Vice Chair
James Clarkson, Commissioner
Stephanie Neumann, Commissioner
Martin Nichols, Commissioner

PLANNING COMMISSION AGENDA

6:00 PM – April 18, 2017

In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact Community Development Director Baker, at 872-6291 at least 48 hours in advance of the meeting. Hearing assistance devices for the hearing impaired are available from the Presiding Clerk. Members of the public may address the Planning Commission on any agenda item, including closed session. If you wish to address the Planning Commission on any matter on the Agenda, it is requested that you complete a "Request to Address Council/Commission" card and give it to the Presiding Clerk prior to the beginning of the Council Meeting. All writings or documents which are related to any item on an open session agenda and which are distributed to a majority of the Planning Commission within 72 hours of a Regular Meeting will be available for public inspection at the Town Hall in the Town Clerk or Community Development Services Department located at 5555 Skyway, Room 3, at the time the subject writing or document is distributed to a majority of the subject body. Regular business hours are Monday through Thursday from 8:00 a.m. to 5:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL

1. APPROVAL OF MINUTES

- 1a. Approve minutes from the Regular March 21, 2017 and Special April 5, 2017 Planning Commission meetings.

2. COMMUNICATION

- 2a. Recent Council Actions
- 2b. Staff Comments

3. PUBLIC COMMUNICATION

Comments are limited to a maximum of five minutes duration. If more time is needed, please request staff to place the subject on an agenda for a future Commission meeting.

***** PUBLIC HEARING PROCEDURE *****

- A. Staff comments
- B. Open the hearing to the public
 - 1. Project applicant
 - 2. Parties for the project
 - 3. Parties against the project
 - 4. Rebuttals
- C. Close hearing to the public
- D. Commission discussion
- E. Motion
- F. Vote

NOTE: Pursuant to Planning Commission Resolution No. 96-001, any person may speak before the Commission regarding the matter under consideration for a **maximum of five minutes** unless granted additional time by the Chair. "In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact the Community Development Dept., at 872-6291 at least 48 hours in advance of the meeting."

4. CONTINUED PUBLIC HEARING - None.

5. PUBLIC HEARING

5a. Conduct a public hearing to consider adopting Planning Commission Resolution No 17-01, A Resolution recommending Town Council Adoption of Amendments to the Town’s Zoning Ordinance Regulations regarding the Cultivation of Marijuana (Paradise Municipal Code Chapter 17.31). If adopted, the proposed text amendments ordinance would expressly regulate the cultivation and delivery of medical and non-medical marijuana and would prohibit marijuana collectives/cooperatives and dispensaries in all Town of Paradise zoning districts. (ROLL CALL VOTE)

6. OTHER BUSINESS – None

7. COMMITTEE ACTIVITIES

8. COMMISSION MEMBERS

a. Identification of future agenda items. (All Commissioners/Staff)

9. ADJOURNMENT

STATE OF CALIFORNIA) COUNTY OF BUTTE)	SS.
I declare under penalty of perjury that I am employed by the Town of Paradise in the Town Clerk’s Department and that I posted this Agenda on the bulletin Board both inside and outside of Town Hall on the following date:	

TOWN/ASSISTANT TOWN CLERK SIGNATURE	



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PLANNING COMMISSION SPECIAL MEETING MINUTES

April 05, 2017
6:00 PM

The meeting was called to order by Vice Chair Anita Towslee at 6:01 p.m. who led the Pledge of Allegiance to the Flag of the United States of America.

COMMISSIONERS PRESENT: James Clarkson, Stephanie Neumann, Martin Nichols and Anita Towslee, Vice Chair.

COMMISSIONERS ABSENT: Ray Groom.

1. OTHER BUSINESS

- 1a. Ware Tentative Map Extension (PL17-00023). Request for a time extension for the conditional approval of the Ware Tentative Map (PM-07-12) at 1029 Wagstaff Rd, AP No. 051-120-053, for an additional six years beyond February 6, 2017, thereby creating a new tentative parcel map expiration date of February 5, 2023.

Community Development Director Craig Baker provided a brief overview of the project stating that 11 of the 17 conditions have been completed and more than \$10,000 worth of work has been donated towards the project for surveying, relocating a septic system and required vegetation removal.

Commissioners asked if the applicant was confident about completing the project. The applicant indicated that they were certain the map would be completed within the requested six year time extension period.

MOTION BY Clarkson, seconded by Neumann, approved, on behalf of the Town of Paradise, the granting of a six year time extension for assignment to the conditionally approved Ware Tentative Parcel Map (PM-07-12), thereby creating a new tentative parcel map expiration date of **February 5, 2023**. Motion passed unanimously with Groom absent and not voting.

2. ADJOURNMENT

Vice Chair Towslee adjourned the meeting at 6:09 p.m.

Date Approved:

Attest:

By: _____
Anita Towslee, Vice Chair

Dina Volenski, CMC, Town Clerk



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PLANNING COMMISSION MINUTES

March 21, 2017
6:00 PM

CALL TO ORDER by Chair Groom at 6:00 p.m. who led the Pledge of Allegiance to the Flag of the United States of America.

COMMISSIONERS PRESENT: James Clarkson, Martin Nichols, Anita Towslee and Ray Groom Chair.

COMMISSIONERS ABSENT: Stephanie Neumann

1. APPROVAL OF MINUTES

- 1a. **MOTION by Nichols, seconded by Towslee**, approved the Regular Meeting Minutes of February 21, 2017. Roll call vote was unanimous with Neumann absent and not voting.

2. COMMUNICATION

- a. Recent Council Actions

Community Development Director Baker informed the Planning Commissioners that Town Council amended the Personnel Policies allowing individuals living outside of the Town limits to volunteer. Mr. Baker interviewed and hired a Chico State graduate to work on the General Plan Safety Element update.

- b. Staff Comments – None

3. PUBLIC COMMUNICATION - None

4. CONTINUED PUBLIC HEARING - None

5. PUBLIC HEARING

- 5a. Item determined to be exempt from environmental review:

HOMETECH CHARTER CONDITIONAL USE PERMIT (PL17-00028) APPLICATION:
Request for Town approval of a Conditional Use Permit application to establish an educational facility (HomeTech Charter School) for up to 150 students within an existing +/-9,565 square foot office space adjoining the Boys & Girls Club upon a +/-0.66 acre property located at 6249 Skyway in Paradise. (AP No. 052-130-043)

Assistant Planner Susan Hartman provided a brief update on the HomeTech Charter Conditional Use Permit application to establish an education facility for up to 150 students at the Boys and Girls Club located at 6249 Skyway.

The Public Hearing was opened at 6:10 p.m.

1. Krista Enos – HomeTech Charter Board Member supported the project, stated that the school had outgrown the current facility and that the new location would provide more classroom space.
2. Nicole Ledford – NorthStar Engineering, explained that they looked at the average number of students per day to determine the allowable septic usage for the location.
3. Rashell Brobst – CEO of the Boys & Girls Club, supported the project, excited to partner with the Charter School and asked for approval from the Commissioners.

The Public Hearing was closed at 6:19 p.m.

MOTION BY NICHOLS, seconded by Towslee, approved the HomeTech Charter Conditional Use Permit (PL17-00028) Application to Establish An Educational facility (Home Tech Charter School) for up to 150 students within an existing +/-9,565 square foot office space adjoining the Boys & Girls Club upon a +/-0.66 acre property located at 6249 Skyway in Paradise. (AP No. 052-130-043) with changes to Condition #4. Roll call vote was unanimous with Neumann absent and not voting. Below are the Conditions of Approval.

GENERAL CONDITIONS OF CONDITIONAL USE PERMIT APPROVAL

1. If any land use for which a conditional use permit has been granted and issued is not established within three years of the conditional use permit's effective date, the conditional use permit may become subject to revocation by the Town of Paradise.
2. Secure Town of Paradise design review approval for any new business or identification signs prior to the establishment of such signs.
3. Secure annual fire prevention inspections from the Town Fire Marshal in accordance with the California Code of Regulations Title 19 Public Safety.
4. Minor changes to the nature or function of project-related activities as *outlined within the project description submitted with the use permit application materials* may be approved administratively by the Town Planning Director upon submittal of a written request for such changes, if the requested changes are consistent with the overall intent of the project and its approval action. Any requested changes deemed by the Planning Director to be major or significant shall require a formal conditional use permit modification review and the payment of the appropriate processing fees. No changes affecting wastewater flow shall be considered without prior consultation with the Onsite Division.

CONDITIONS TO BE MET PRIOR TO OCCUPANCY AS AN EDUCATIONAL FACILITY

FIRE PROTECTION

5. Establish and maintain compliance with all requirements of the Town Building Official/Fire Marshal in accordance with the written comments dated March 10, 2017 for the HomeTech Charter conditional use permit application (copy on file with the Town Development Services Department).

SITE DEVELOPMENT

6. Meet the requirements of the Town Building Official/Fire Marshal regarding submittal of any plans, building permit applications, and all applicable Town adopted building code requirements.
7. Meet the requirements of Paradise Irrigation District with the installation of a backflow prevention assembly in accordance with the written comments dated March 3, 2017.

CONDITIONS OF LAND USE OPERATION

8. Hours and days of operation for the educational facility shall be limited to from 8:00 a.m. to 4:00 p.m., Monday through Friday.
9. Maintain the project site in an orderly manner free of debris and litter.
10. Services provided by HomeTech Charter School on the project site shall be limited to K-12 students.
11. All activities associated with operation of the educational facility shall be conducted in compliance with the Town of Paradise Noise Ordinance regulations.

Mr. Baker announced that an appeal of the Planning Commission's decision can be made within 7 (seven) days of the decision date to the Town Council.

6. **OTHER BUSINESS** - None.
7. **COMMITTEE ACTIVITIES** - None
8. **COMMISSION MEMBERS**

- a. Identification of future agenda items (All Commissioners/Staff)

Community Development Director Baker discussed the Carousel Motel, Safeway project, Taco Bell, KFC, Optimo, informed the Commissioners that there may be a special meeting for approval of a map extension in the beginning of April and that marijuana will be coming forward at the Regular April meeting.

Commissioner Nichols suggested that if the sewer project does not go through that at some time the Commissioners will need to discuss zoning for the downtown businesses.

9. ADJOURNMENT

Chair Groom adjourned the meeting at 6:31 p.m.

Date Approved:

By: _____
Ray Groom, Chair

Attest:

Dina Volenski, CMC, Town Clerk

MEMORANDUM

TO: Paradise Planning Commission Agenda No. 5(a)

FROM: Craig Baker, Community Development Director

SUBJECT: Consideration of a Planning Commission Resolution Recommending Town Council Adoption of Amendments to the Town’s Zoning Ordinance Regulations regarding the Cultivation of Marijuana (Paradise Municipal Code Chapter 17.31)

DATE: April 12, 2017

BACKGROUND:

A California initiative commonly referred to as the “Adult Use of Marijuana Act” (AUMA) was approved by a majority of voters in California resulting in the passage of Proposition 64 on November 8, 2016. The measure took effect on November 9, 2016, adding many sections to the State of California Health and Safety Code and amending or repealing several others, all of which effectively decriminalized the personal, nonmedical use of marijuana in California, within defined limits. Generally, AUMA provisions permit a person at least 21 years old to possess not more than one (1) ounce of processed marijuana, to cultivate indoors for personal use not more than six (6) living marijuana plants and to smoke or ingest marijuana and marijuana products.

The Town’s current marijuana cultivation regulations contained within Paradise Municipal Code (PMC) Chapter 17.31 prohibit the cultivation of any marijuana in Town by any person, for any reason and therefore directly conflicts with the provisions of the AUMA in that regard. The Town’s current regulations also prohibit the establishment of any marijuana dispensaries, collectives or cooperatives, which is not in conflict with the new State law. The AUMA also expressly provides that the personal cultivation of marijuana must comply with any local ordinances containing “reasonable regulations” requiring that the living plants must be kept within a private residence.

DISCUSSION:

Over the past several months since the passage of the AUMA and with the assistance of the Town Attorney, Town staff and two Town Council members have developed a set of proposed amendments to the Town’s marijuana cultivation regulations. The purpose of these proposed amendments is to remove any direct conflicts that exist between the AUMA and the Town’s regulations, to promote the health and safety of Paradise citizens by prohibiting the outdoor cultivation of marijuana, prohibiting the establishment of medical or nonmedical marijuana dispensaries, collectives and cooperatives, and establishing other reasonable limits to the indoor cultivation of marijuana consistent with the AUMA. These proposed amendments to

PMC Chapter 17.31 are contained within Planning Commission Resolution No. 17-01, which is attached for your review and consideration. Following is a summary of the proposed PMC amendments contained within the resolution document:

- Marijuana cultivation would be limited to secured and locked indoor locations in residential zoning districts on the site of a private residence occupied full time by a qualified grower. All outdoor cultivation of marijuana would be prohibited.
- Marijuana collectives, cooperatives, dispensaries would be prohibited, as would any marijuana processing or cultivation activity that uses flammable or non-flammable gas and any other activity that requires a State-issued license under the AUMA.
- Indoor Marijuana cultivation would be limited to six plants, either mature or immature on any single property. The area devoted to the cultivation of marijuana would be limited to fifty (50) square feet.
- Any visibility or evidence of marijuana cultivation from a public place would be prohibited.
- Except for delivery by a primary caregiver for a qualified medical marijuana patient, the delivery of marijuana would be prohibited within the Town.
- The proposed ordinance would not restrict landlords from prohibiting the indoor cultivation of marijuana as part of a rental agreement.

Town staff has determined that the proposed text amendments are not significant in nature and that there is no possibility that adoption of the amendments would result in a significantly adverse effect upon the environment. Therefore, the proposed amendments can be found to be exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines section 15061 (general rule exemption).

Staff has developed the attached resolution document that, if adopted by the Planning Commission, would recommend Town Council adoption of the revised text amendments to the Town's Zoning Ordinance in order to accomplish the objectives outlined in the preceding discussion (added text in the attached Exhibit "A" is shown as shaded; deleted text in ~~strikeout~~).

RECOMMENDATION:

Adopt Planning Commission Resolution No. 17-1, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Chapter 17.31 of the Paradise Municipal Code Relative to Regulating Marijuana Cultivation and Delivery." Town staff will be prepared to make changes to the text of the proposed amendments in accordance with direction provided by a majority of Planning Commissioners. Please feel free to contact

Town staff in advance of the April 18, 2017 Planning Commission meeting if you have any questions or concerns regarding the proposed amendments.

ATTACHMENTS

1. Planning Commission Resolution No. 17-1
2. PMC Chapter 17.31 showing proposed text amendments
3. Notice of the April 18, 2017 Planning Commission public hearing
4. Notice of Exemption prepared for the proposed text amendments

**TOWN OF PARADISE PLANNING COMMISSION
RESOLUTION 17-01**

**A RESOLUTION OF THE PARADISE PLANNING COMMISSION RECOMMENDING TOWN COUNCIL
ADOPTION OF TEXT AMENDMENTS TO CHAPTER 17.31 OF THE PARADISE MUNICIPAL CODE
RELATIVE TO REGULATING MARIJUANA CULTIVATION AND DELIVERY**

WHEREAS, the Town of Paradise is legally required to direct and regulate land development and land uses via zoning regulations and other means that are consistent with its current Paradise General Plan as well as current state planning and zoning law; and

WHEREAS, the Paradise Planning Commission finds that there is a compelling need for the Town Council of the Town of Paradise to adopt the foregoing Paradise Municipal Code (PMC) amendments to regulate the cultivation and delivery of marijuana in all zoning districts, and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on April 18, 2017 to study and consider recommending Town Council adoption of text amendments to PMC Chapter 17.31 as proposed by Town staff; and

WHEREAS, the public review also included review and determination that the proposed PMC text amendment is an activity that is exempt from to the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) (general rule exemption) because there is no possibility that the amendment would result in a significantly adverse effect upon the environment; and

WHEREAS, the Planning Commission has considered the recommendation of the Town staff, etc., as well as input received during the public hearing; and on the basis of the foregoing, has determined that the text amendment to PMC Chapter 17.31 is warranted at this time in order to expressly regulate the cultivation and delivery of marijuana in all zoning districts of the Town of Paradise.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF PARADISE as follows:

The Planning Commission hereby recommends to the Town Council of the Town of Paradise, adoption of the proposed text amendments to PMC Chapter 17.31 as set forth in **Exhibit "A"** attached hereto and made a part of by reference; and recommends to the Town Council that the proposed Paradise Municipal Code text amendment is not subject to the requirements of the California Environmental Quality Act (CEQA) in accordance with the general rule categorical exemption provisions of CEQA Guidelines section 15061.

RESOLUTION NO. 17-01

PASSED AND ADOPTED by the Planning Commission of the Town of Paradise this 18th day of April, 2017 by the Following Vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Raymond Groom, Chairman

ATTEST:

Dina Volenski, Town Clerk

TOWN OF PARADISE
ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN OF PARADISE AMENDING
SECTIONS 17.31.100, 17.31.200, 17.31.300 AND 17.31.500 OF THE PARADISE
MUNICIPAL CODE REGULATING MEDICAL OR NONMEDICAL MARIJUANA
CULTIVATION AND DELIVERY AND PROHIBITING MARIJUANA COLLECTIVES
AND COOPERATIVES

The Town Council of the Town of Paradise, State of California, does **ORDAIN AS FOLLOWS:**

Section 1. Paradise Municipal Code section 17.31.100 is hereby amended to read as follows:

A. The town council finds that the Town of Paradise is not preempted from exercising its traditional police powers in enacting land use and zoning regulations, as well as legislation for preservation of public health, safety and welfare, such as this zoning ordinance prohibiting the establishment and operation of marijuana cooperatives and collectives within the town.

B. The town council finds that the public health, safety and general welfare of the town and its residents necessitates and requires the adoption of this zoning ordinance, prohibiting the establishment and operation of marijuana cooperatives and collectives.

C. This chapter is consistent with the Paradise General Plan in that the general plan, its objectives, policies and goals do not permit or contemplate the establishment or operation of marijuana cooperatives, collectives or similar facilities that engage in dispensing of marijuana for medicinal or recreational purposes.

D. The purpose of this chapter is to expressly regulate the cultivation and delivery of medical marijuana and to prohibit marijuana collectives/cooperatives and dispensaries in all Town of Paradise zoning districts. Such regulation shall apply to all medical and nonmedical marijuana collectives/cooperatives and dispensaries, the delivery of medical or nonmedical marijuana and the cultivation of marijuana except as permitted herein.

~~A. The town council hereby finds that the cultivation of medical marijuana significantly impacts, or has the potential to significantly impact, the town's jurisdiction. These impacts include damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, inadequate ventilation, increased occurrences of home invasion robberies and similar crimes, and nuisance impacts to neighboring properties from the strong and potentially noxious odors from the plants and increased crime.~~

~~B. It is acknowledged that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of marijuana for medical purposes through the adoption of the~~

~~Compassionate Use Act in 1996 pursuant to Proposition 215 and codified as Health and Safety Code § 11362.5. The Compassionate Use Act ("CUA") does not address the land use or other impacts that are caused by the cultivation of medical marijuana.~~

~~C. The purpose of this chapter is to adopt rules consistent with the Compassionate Use Act and the Medical Marijuana Program Act ("MMPA") commencing with Health and Safety Code § 11362.7 to regulate medical marijuana in a manner that protects the public health, safety and welfare of the community and prevents the adverse impacts which such activities may have on nearby town properties and residents, without interfering with the rights of qualified patients and their primary caregivers to possess or cultivate medical marijuana pursuant to state law.~~

~~D. The Compassionate Use Act is limited in scope, in that it only provides a defense from criminal prosecution for possession and cultivation of marijuana to qualified patients and their primary caregivers. The scope of the Medical Marijuana Program Act is also limited in that it establishes a statewide identification program and affords qualified patients, persons with identification cards and their primary caregivers, an affirmative defense to certain enumerated criminal sanctions that would otherwise apply to transporting, processing, administering or distributing marijuana.~~

~~E. The Compassionate Use Act and Medical Marijuana Program Act do not appear to have facilitated the stated goals of providing access to marijuana for patients in medical need of marijuana, but instead the predominant use of marijuana has been for recreational and not medicinal purposes. As the report issued by California Chiefs Association on September 2009, entitled "California Chiefs Association Position Paper on Decriminalizing Marijuana" states, "[i]t has become clear, despite the claims of use by critically ill people that only about 2% of those using crude Marijuana for medicine are critically ill. The vast majority of those using crude Marijuana as medicine are young and are using the substance to be under the influence of THC [tetrahydrocannabinol] and have no critical medical condition." (California Chiefs Association's Position Paper on Decriminalizing Marijuana, available at the Community Development Department.)~~

~~F. Facilities purportedly dispensing marijuana for medicinal purposes are commonly referred to as medical marijuana dispensaries, medical marijuana cooperatives, or medical marijuana collectives; however, these terms are not defined anywhere in the Compassionate Use Act nor Medical Marijuana Program Act. Significantly, nothing in the CUA or the MMPA specifically authorizes the operation and the establishment of medical marijuana dispensing facilities.~~

~~G. Further, neither the CUA nor the MMPA require or impose an affirmative duty or mandate upon local governments, such as the town, to allow, authorize or sanction the establishment and the operation and establishment of facilities dispensing medical marijuana within their jurisdictions. Moreover, the Compassionate Use Act did not create a constitutional right to obtain medical marijuana.~~

~~H. It is critical to note that neither Act abrogates the town's powers to regulate for public health, safety and welfare. Health and Safety Code § 11362.5(b)(2) provides that the Act does not supersede any legislation intended to prohibit conduct that endangers others. In addition, Health and Safety Code § 11352.83 authorizes cities and counties to adopt and enforce rules and regulations consistent~~

~~with the Medical Marijuana Program Act.~~

~~I. On August 25, 2008, Edmund G. Brown, the California Attorney General issued "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" ("the Attorney General Guidelines"), which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients. Health and Safety Code § 11362.81(d) authorizes the Attorney General to "develop and adopt appropriate guidelines to ensure the security and non-diversion of marijuana grown for medical use by patients qualified under" the Compassionate Use Act. Nothing in the guidelines imposes an affirmative mandate or duty upon local governments, such as the town, to allow, sanction or permit the establishment or the operation of facilities dispensing medical marijuana within their jurisdictional limits.~~

~~J. Marijuana remains an illegal substance under the Federal Controlled Substances Act, 21 U.S.C. § 801, et seq. and is classified as a "Schedule I Drug," which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for its use under medical supervision. Furthermore, the Federal Controlled Substances Act makes it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Controlled Substances Act contains no statutory exemption for the possession of marijuana for medical purposes.~~

~~K. Pursuant to the town's police powers authorized in Article XI, Section 7 of the California Constitution, as well as under the Paradise Municipal Code, the town has the power to regulate permissible land uses throughout the town and to enact regulations for the preservation of public health, safety and welfare of its residents and community. And, pursuant to Government Code § 38771 the town also has the power through its town council to declare actions and activities that constitute a public nuisance.~~

~~L. The town council finds that neither the CUA nor the MMPA preempts the town's exercise of its traditional police powers in enacting land use and zoning regulations, as well as legislation for preservation of public health, safety and welfare, such as this zoning ordinance prohibiting the establishment and operation of medical marijuana cooperatives and collectives within the town.~~

~~M. The town council finds that the public health, safety and general welfare of the town and its residents necessitates and requires the adoption of this zoning ordinance, prohibiting the establishment and operation of medical marijuana cooperatives and collectives, in order to: (a) protect and safeguard against the detrimental secondary negative effects and adverse impacts of facilities dispensing medical marijuana; (b) preserve and safeguard the minors, children and students in the community from the deleterious impacts of medical marijuana facilities; and (c) preserve the town's law enforcement services, in that monitoring and addressing the negative secondary effects and adverse impacts will likely burden the town's law enforcement resources. The town council further finds that due to the negative secondary effects and adverse impacts of facilities dispensing medical marijuana, the establishment and the operation of these facilities will negatively impact the town.~~

~~N. This zoning ordinance is consistent with the Paradise General Plan in that the general plan, its~~

~~objectives, policies and goals do not permit or contemplate the establishment or operation of medical marijuana cooperatives, collectives or similar facilities that engage in dispensing of marijuana for medicinal purposes.~~

SECTION 2. Paradise Municipal Code section 17.31.200 is hereby amended to read as follows:

17.31.200 Applicability.

- A. Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act.
- B. Nothing in this chapter is intended, nor shall it be construed, to make legal any cultivation, sale, or other use of medical or nonmedical marijuana that is otherwise prohibited under California law.
- C. Nothing in this chapter is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting medical or nonmedical marijuana cultivation by tenants.
- D. Nothing in this chapter is intended, nor shall it be construed, to exempt any activity related to the cultivation of medical or nonmedical marijuana from any applicable electrical, plumbing, land use, or other building or land use standards or permitting requirements.
- E. All cultivation of medical or nonmedical marijuana within the town shall be subject to the provisions of this chapter.

SECTION 3. Paradise Municipal Code section 17.31.300 is hereby amended to read as follows:

17.31.300 Definitions

As used in this Chapter the following definitions shall apply:

- A. "Authorized Grower" means a person 21 years and older who is authorized by, and in compliance with state law to cultivate marijuana indoors for personal or medical use.
- B. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof.
- C A. "Director" means the Town of Paradise planning director or his or her designee.

D. "Fully enclosed and secure structure" means a fully-enclosed space within a building that complies with the California Building Standards Code ("CBSC"), as adopted in the Town of Paradise, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the Town of Paradise.

E. "Immature marijuana plant" means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination

F. "Indoors" means within a fully enclosed and secure structure as that structure is defined above in subsection D.

G. "Marijuana" means marijuana as defined in Health and Safety Code section 11018.

H. ~~€~~ "Medical ~~m~~ Marijuana collective or cooperative" means a collective, cooperative, dispensary, operator, establishment, provider, association, or similar entity that cultivates, distributes, delivers, tests, or processes marijuana for medical purposes relating to a qualified patient or primary caregiver, pursuant to the Compassionate Use Act, ~~and~~ the Medical Marijuana Program Act or for recreational purposes under the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA).

~~D.~~ "Medical Marijuana cultivation" means the planting, growing and harvesting of marijuana.

~~I.~~ "Mature marijuana plant" means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

~~J.~~ ~~B.~~ "Medical marijuana" means marijuana used for medical purposes in accordance with California Health and Safety Code section 11362.5.

K. "Outdoor" means any location within the Town of Paradise that is not within a fully enclosed and secure structure as defined above in subsection D.

L. "Parcel" means property assigned a separate parcel number by the Butte County assessor.

~~M.~~ ~~E.~~ "Primary caregiver" means a primary caregiver as defined in Health and Safety Code section 11362.7.

N. Private residence” means a house, apartment unit, mobile home, or other similar dwelling unit.

O G. "Qualified patient" means a qualified patient as defined in Health and Safety Code section 11362.7.

P H. "School" means an educational facility as defined in Health and Safety Code section 11362.768(h).

SECTION 4. Paradise Municipal Code section 17.31.500 is hereby amended to read as follows:

17.31.500 Prohibition.

- A. ~~Medical~~ Marijuana Collectives and Cooperatives as defined in sections 17.31.300~~HD~~ shall be prohibited in all zoning districts within the town. This prohibition shall include the cultivation of marijuana by ~~Medical~~ all ~~M~~marijuana Collectives and Cooperatives.
- B. Except for delivery by a primary caregiver for a qualified patient, the delivery of ~~medical~~ marijuana shall be prohibited within the town. No person shall conduct any mobile ~~medical~~ marijuana delivery service within the town through any means whatsoever. The term “delivery” shall also include the same meaning as set forth in Business and Professions Code section 19300.5 (m) or as amended.
- C. This section shall prohibit all medical ~~or nonmedical~~ marijuana activities for which a State of California license is required. The town shall not issue any permit, license or other entitlement for any activity for which a State of California license is required under the Medical Marijuana Regulation and Safety Act ~~or the AUMA~~.
- D. ~~Outdoor~~ ~~C~~cultivation of ~~medical~~ marijuana for ~~non-commercial~~ ~~medical~~ or ~~commercial~~ purposes, including ~~indoor and outdoor~~ cultivation by a qualified patient or a primary caregiver or any person, shall be prohibited in all zoning districts within the town. No person, including a qualified patient or primary caregiver, shall cultivate ~~indoor or outdoor~~ any amount of ~~medical~~ marijuana in the town.
- E. When authorized by state law, an authorized grower shall be allowed to cultivate marijuana only in a private residence in a residential zone, only indoors, and only for personal use, in compliance with the following regulations:
 - 1. If the authorized grower is a tenant, the Property owner of the residence shall have given written consent to the cultivation of marijuana on the premises.
 - 2. The marijuana cultivation area shall be located indoors within a fully enclosed and secure structure and shall not exceed fifty (50) square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting. Cultivation in a

structure on the property of the residence but not physically part of the home shall be permitted, only if it is fully enclosed, secure, not visible from a public right-of-way.

3. Marijuana cultivation lighting shall not exceed one thousand two hundred (1,200) watts in total for the total cultivation area within the residence.

4. The use of gas products such as, but not limited to, CO₂, butane, methane, or any other flammable or non-flammable gas for marijuana cultivation or processing shall be prohibited.

5. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence from the public right-of-way including, but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.

6. The authorized grower shall reside full-time in the residence where the marijuana cultivation occurs.

7. The authorized grower shall not participate in marijuana cultivation in any other location within the Town.

8. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.

9. The marijuana cultivation area shall be in compliance with the current adopted edition of the California Building Standards Code section 1203.4 Natural Ventilation or section 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

10. The building official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.

11. The marijuana cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

12. No more than six (6) marijuana plants, mature or immature, shall be permitted only for personal use under this Chapter.

13. Marijuana in excess of 28.5 grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.

SECTION 5. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the proposed ordinance is exempt from environmental review because there is no possibility that its adoption will have a significant effect on the environment.

SECTION 7. This ordinance shall take effect thirty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance or a summary thereof shall be published in a newspaper of general circulation published and circulated within the Town of Paradise along with the names of the members of the Town Council of Paradise voting for and against same.

PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this ___ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____, Mayor

ATTEST:

APPROVED AS TO FORM:

Dina Volenski, Town Clerk

Dwight L. Moore, Town Attorney

**NOTICE OF MEETING
TOWN OF PARADISE PLANNING COMMISSION
PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Town of Paradise Planning Commission will hold a public hearing on April 18, 2017, at 6:00 p.m. in the Town Hall Council Chambers located at 5555 Skyway, Paradise, California. The purpose of the public hearing is to consider adopting a resolution recommending that the Town Council adopt a proposed ordinance relating to marijuana cultivation, delivery and distribution within the Town.

The proposed ordinance would expressly regulate the cultivation and delivery of medical and non-medical marijuana and would prohibit marijuana collectives/cooperatives and dispensaries in all Town of Paradise zoning districts. The proposed ordinance provides, among other things, as follows:

1. Except for delivery by a primary caregiver for a qualified patient, the delivery of marijuana would be prohibited within the town.
2. When authorized by state law, an authorized grower would be allowed to cultivate marijuana plants only in a private residence in a residential zone, only indoors, and only for personal use, based on specific, reasonable regulations.
3. Outdoor cultivation of marijuana for medical or commercial purposes, including cultivation by a qualified patient or a primary caregiver or any person, would be prohibited in all zoning districts within the town.
4. The authorized grower would be required to reside full-time in the residence where the marijuana cultivation occurs.
5. The authorized grower would be prohibited from participating in marijuana cultivation in any other location within the Town.
6. No more than six (6) marijuana plants, mature or immature, would be permitted and could occupy no more than fifty square feet and could only be for personal use.

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the proposed ordinance is exempt from environmental review because there is no possibility that its adoption will have a significant effect on the environment.

The proposed ordinance and the subject file are available for public inspection at the Town of Paradise, Community Development Department. If you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Paradise Planning Commission at, or prior to, the public hearing. For further information contact the Community Development Department, Town Hall, 5555 Skyway, Paradise, CA (530) 872-6291 x 111.

Dated: April 5, 2017

By: Craig Baker, Planning Director

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Butte

From: (Public Agency): Town of Paradise
5555 Skyway

Paradise, CA 95969

(Address)

Project Title: Paradise Municipal Code Amendments - Chapter 17.31; Marijuana Cultivation

Project Applicant: Town of Paradise

Project Location - Specific:

Affects all properties in the Town of Paradise

Project Location - City: Paradise Project Location - County: Butte

Description of Nature, Purpose and Beneficiaries of Project:

Paradise Municipal Code Zoning text amendments to Chapter 17.31 of the town's Zoning Ordinance Regulations regarding the cultivation of marijuana. Text amendments are necessary to comply with the requirements of the Adult Use of Marijuana Act (California Proposition 64).

Name of Public Agency Approving Project: Town of Paradise

Name of Person or Agency Carrying Out Project: Town of Paradise

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- Statutory Exemptions. State code number: General Rule Exemption (CEQA Section 15061)

Reasons why project is exempt:

The project is limited to Municipal Code text amendments relating to the cultivation of marijuana for personal use and is environmentally insignificant. There is no possibility for the project to have a significantly adverse effect on the environment.

Lead Agency

Contact Person: Craig Baker Area Code/Telephone/Extension: 530-872-6291 x 1

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Date: April 12, 2017 Title: Planning Director

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____