



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:

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

PLANNING COMMISSION AGENDA

6:00 PM – December 21, 2015 – Special Meeting

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 Regular Meeting Minutes of November 17, 2015.

2. COMMUNICATION

3. 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. PUBLIC HEARING

- 4a. Planning Commission consideration to adopt a resolution recommending that the Town Council adopt a proposed ordinance relating to prohibiting all medical marijuana cultivation, delivery and distribution within the Town. The proposed ordinance would provide, among other things, that qualified patients or primary caregivers would be prohibited from cultivating medical marijuana within all Town zoning districts, medical marijuana cooperative/collectives and dispensaries would not be permitted within any Town zoning district, and the prohibition would include any cultivation, distribution or processing of medical marijuana. In addition, the delivery of medical marijuana would be prohibited within the Town limits.

5. OTHER BUSINESS – None.

6. ADJOURNMENT

STATE OF CALIFORNIA)	SS.
COUNTY OF BUTTE)	
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:	
<hr/>	
TOWN/ASSISTANT TOWN CLERK SIGNATURE	



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PLANNING COMMISSION MINUTES

November 17, 2015

6:00 PM

The regular meeting of the Paradise Planning Commission was called to order by Chair James Clarkson at 6:00 pm in the Paradise Town Council Chamber located at 5555 Skyway, Paradise, California. Chair Clarkson led the pledge of the allegiance to the flag of the United States of America.

COMMISSIONERS PRESENT: Ray Groom, Stephanie Neumann, Martin Nichols, Anita Towslee and Jim Clarkson, Chair. No commissioners were absent.

1. APPROVAL OF MINUTES

MOTION by Neumann, seconded by Towslee, approved the Regular Meeting Minutes of August 18, 2015 by unanimous roll call vote.

2. STAFF COMMUNICATION

Director Baker informed the Planning Commissioners that Vice Mayor Jody Jones presented information to the Chico City Council Members regarding the proposed Paradise Community Wastewater Project and that the Chico City Council voted 5 – 2 to support investigating the concept in that there would be no cost to City of Chico and no city staff time devoted to the planning process.

3. PUBLIC COMMUNICATION – None.

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

Assistant Planner Susan Hartman reported to the Commission regarding the item for which a mitigated negative declaration is proposed to be adopted, the Yuhasz Parcel Map Application (PL15-00329), a request for town approval of a Parcel Map application proposing to divide an existing +5.53 acre property with split zoning between C-C (Community Commercial) and M-F (Multi-Family) into three parcels of record for commercial and multi-family land use located at 7015 Skyway and is locally identified as assessor parcel number 052-040-071.

Chair Clarkson opened the public hearing at 6:10 p.m.

1. Fernando Marin stated that he just learned of this hearing today and wanted to confirm the location of the property is on the north side of Skyway on property formerly used as a lumber yard by the Builder's Supply Company.

Mr. Baker informed Mr. Marin that his understanding is correct and that there is no development proposed by this application, nor is there any plan to change the zoning.

Chair Clarkson closed the public hearing at 6:20 p.m.

MOTION by Nichols, seconded by Neumann, adopted by unanimous roll call vote the required findings set forth below as provided by staff and approved the Yuhasz parcel map application (PL 15-00329) proposing to create three parcels of record from an existing +/- 5.53 acre property located at 7015 Skyway, subject to the following conditions set forth below:

REQUIRED FINDINGS FOR APPROVAL:

- a. Find that the proposed project, as conditioned, will not result in a significant adverse effect on the environment because the project developer has agreed to mitigation measures that have been identified and assigned to address potentially significant adverse impacts.
- b. Find that the project, as conditioned, is consistent with the goals and policies of the Paradise General Plan, because the resulting sizes and uses of the parcels would be consistent with existing land use in the area, and adequate infrastructure would be in place to serve the parcels.
- c. Find that the project, as conditioned, is consistent with the spirit and intent of the zoning district in which the project site is situated, because the land use proposed for the parcels would be commercial and multi-family and parcel sizes proposed are consistent with the requirements of the zone.
- d. Find that the project, as conditioned, will not result in a significant adverse effect on existing plant and animal life in the project vicinity for the following reasons:
 1. The project site is located within an area that has been significantly altered by commercial and residential development spanning several decades.
 2. No known outstanding wildlife habitat exists in the immediate project vicinity; and
 3. No known rare or endangered plants exist in the immediate project vicinity.

**CONDITIONS TO BE MET PRIOR TO RECORDATION
OF FINAL PARCEL MAP**

ROADS AND ACCESS

1. Access to Parcel 2 for ingress and egress/public utilities shall be shown on the final parcel map in the form of a minimum thirty (30) foot-wide access and public utility easement designed to accommodate a fire and emergency vehicle turnaround that meets the Town Fire Marshal's requirements.

2. Place the following notes on the final map information data sheet:
 - a. “Prior to the issuance of a building permit authorizing development upon Parcel Nos. 1 or 3, the project developer shall submit and secure town review and approval of public street frontage and offsite improvements to be constructed prior to the final building inspection and certificate of occupancy.”
 - b. “If more than 50 cubic yards of soil are displaced to accommodate site improvements, the project developer shall apply for and secure town issuance of a grading permit satisfying all engineering division requirements and the current adopted edition of the UBC and pay applicable grading permit fees per current fee schedule.”
 - c. “Prior to the commencement of construction activities associated with site improvements on Parcel 3, the project developer shall submit an engineered erosion and dust control plan to the Town Engineering Division for approval by the Town Engineer . All erosion control devices and sedimentation basins required by the PMC 15.04.280.shall be shown on the plan.”
 - d. “If disturbed area is greater than one acre, the project developer shall secure the issuance of a State Construction General Permit from the California Regional Water Quality Control Board.”
 - e. “Prior to construction of any required site improvements, the project developer shall submit an engineered drainage analysis in accordance with the requirements of the Town Engineer and comply with all post-construction storm water design requirements.”

SITE DEVELOPMENT

3. All easements of record shall be shown on the final parcel map.
4. Indicate a fifty foot building setback line measured from the center line of Skyway.
5. Indicate on the final parcel map a 60 dB L_{dn} noise contour line measured 215 feet from the centerline of Skyway.
6. Place the following notes on the final map information data sheet:
 - a. “Prior to the issuance of building permits authorizing construction of buildings (or portions thereof) within 215 feet of the center of Skyway, the project developer shall submit material evidence demonstrating to the satisfaction of the Town Building Official that interior spaces of such buildings that are intended for occupancy shall not be exposed to noise levels exceeding those levels identified in Table 6.4-2 of the 1994 Paradise General Plan Vol. III.”
(Mitigation)

SEWAGE DISPOSAL

7. Satisfy all requirements of the Town of Paradise Onsite Sanitary Official concerning the design of the final parcel map.

UTILITIES

8. Meet the requirements of the Paradise Irrigation District (PID) in accordance with the comments provided by PID staff for the Yuhasz project, dated October 2, 2015 and on file with the Town Development Services Department.
9. Meet all other requirements of utility companies regarding the establishment of necessary public utility easements.
10. Place the following notes on the final map information data sheet:
 - a. "Prior to the issuance of building permits authorizing development upon Parcel 3, the developer shall provide a minimum of twenty feet horizontal clearance to assure adequate emergency vehicle access in a manner deemed acceptable to the Town Fire Chief."
 - b. "Prior to the issuance of building permits authorizing development upon Parcel 3, the owner shall implement and maintain vegetative field reduction measures in accordance with all current applicable fire code requirements."
 - c. "All fire apparatus access roadways must be maintained unobstructed and drivable by fire apparatus throughout the construction process. Access roadways shall be capable of holding an imposed load of 75,000 pounds including in adverse weather conditions. A soils report of the access roadway may be submitted which provides evidence of a 90-95% compaction of the soil along the access roadway. Access roadways that do not meet this requirement could be subject to a stop construction order until the roadway can be"

OTHERS

11. Provide written documentation verifying payment of current property taxes and payment of any assessment liens imposed by the Town.
12. Provide monumentation as required by the Town Engineer in accordance with accepted town standards.
13. Pay appropriate funds to the local recreation district per requirements of the Paradise subdivision ordinance to offset impact (cumulative) upon area-wide recreation facilities. Provide evidence of payment to the Town Development Services Department planning division.
14. Place the following notes upon the final parcel map information data sheet:
 - a. "At the time of building permit issuance, owner will be required to pay any Town of Paradise adopted development impact fees."
 - b. "If any archaeological resources are uncovered during the course of future development or construction activities, all work shall stop in the area of the find until a qualified archaeologist provides an appropriate evaluation of the discovery."

6. OTHER BUSINESS

Chair Clarkson informed the Planning Commissioners that he is recusing himself from participating in the next item of business as he has a financial relationship with the developer. Mr. Clarkson exited the Council Chambers.

- 6a. Community Development Director Baker reported to the Planning Commission regarding the Valley Vista Tentative Map Extension (PL15-00388) request for a time extension for the conditional approval of the Valley Vista Tentative Map (SD-05-3) for an additional six years beyond February 7, 2016. Mr. Baker noted for the record that the applicant for the time extension request was unable to attend the meeting and has requested that town staff act as his representative as he is in agreement with the staff's recommendation. A copy of the request was provided to the commissioners and is part of the public record. Mr. Baker stated that the property is zoned portions TR ½ and AR-1, the applicant has no plans to change the zoning, all lots meet sewage disposal requirements, and there is no apparent reason to re-evaluate the project based on its age.

MOTION by Neumann, seconded by Groom, approved, on behalf of the Town of Paradise, the granting of a six-year time extension for assignment to the conditionally approved Valley Vista Tentative Map (SD-05-3), thereby creating a new tentative parcel map expiration date of February 7, 2022. Roll call vote of commissioners present was unanimous; Clarkson absent and not voting.

Commissioner Clarkson returned to the Council Chambers.

7. COMMITTEE ACTIVITIES – No reports.

8. COMMISSION MEMBERS

Director Baker informed the Commissioners that he hopes to be bringing forward proposed zoning code amendments to the December meeting that relate to the housing element, that a site plan review application and building plans have been submitted for the property on Skyway that was formerly the site of the Carousel Motel.

9. ADJOURNMENT

Chair Clarkson adjourned the meeting at 6:31 pm.

Date approved:

By: _____
James Clarkson, Chair

Joanna Gutierrez, CMC, Town Clerk

MEMORANDUM

TO: Paradise Planning Commission Agenda No. 4(a)
FROM: Craig Baker, Community Development Director
Dwight L. Moore, Town Attorney
SUBJECT: Prohibition of Marijuana Cultivation
DATE: December 16, 2015

BACKGROUND:

On January 1, 2016, the State will have three new medical marijuana regulations known as the Medical Marijuana Regulation and Safety Act (MMRSA.) The primary purpose of the MMRSA is to establish statewide laws regarding the licensing of marijuana businesses. Since the Town presently prohibits medical marijuana dispensaries in all its zoning districts, the new licensing provisions of the laws do not apply to the Town. However, one of the new provisions requires the Town to take action to prohibit the delivery of medical marijuana in all zoning districts if the Town wishes to do so.

Furthermore, if the Town would like to prohibit the cultivation of marijuana by qualified patients and primary caregivers, current case law authorizes it to do so.

Since 2011, the Town of Paradise has prohibited medical marijuana cooperatives/collectives and dispensaries in all zoning districts. However, qualified patients and primary caregivers are currently permitted to cultivate medical marijuana indoors or outdoors within an area not exceeding fifty square feet within a residential zoning district for use by a qualified patient.

Since the adoption of the Town's regulations, there have been numerous court of appeal cases dealing with the cultivation or distribution of medical marijuana. In *Maral v. City of Live Oak*, the court of appeal held that a city has the land use power to completely ban cultivation of medical marijuana within its jurisdiction. The *Maral* Court ruling was recently confirmed by another court of appeal in *Kirby v. County of Fresno*, which held that a city can prohibit marijuana dispensaries and the cultivation of medical marijuana in all its zoning districts. Based on the *Maral* and *Kirby* cases, it is now legally permissible to ban the cultivation of medical marijuana under a land use ordinance.

ANALYSIS:

Given the new State laws, it is prudent to take action to amend the Paradise Municipal Code to ban the delivery of medical marijuana in all Town zoning districts. Such a ban would prevent mobile deliveries from other jurisdictions where it is lawful to make deliveries of

marijuana. Since marijuana cooperatives/collectives and dispensaries are currently prohibited, no action is necessary.

Currently, the Town permits qualified patients and primary caregivers to cultivate indoor or outdoor no more than fifty square feet of medical marijuana. As a result, there have been numerous complaints by citizens of an offensive odor from the marijuana plants that prevents them from enjoying their residences. Pursuant to the *Maral and Kirby* cases, the Town has the legal authority to ban the cultivation of medical marijuana by qualified patients and primary caregivers.

RECOMMENDATION:

Adopt Resolution No. 15-3 recommending Town Council adoption of an ordinance that provides, among other things, as follows:

1. Qualified patients or primary caregivers would be prohibited from cultivating medical marijuana within all Town zoning districts.
2. Medical marijuana cooperative/collectives and dispensaries would not be permitted within any Town zoning district. The prohibition would include any cultivation, distribution or processing of medical marijuana.
3. The delivery of medical marijuana would be prohibited within the Town limits.

**TOWN OF PARADISE
ORDINANCE NO. ____**

**AN ORDINANCE OF THE TOWN OF PARADISE REPEALING CHAPTER 17.31
OF THE PARADISE MUNICIPAL CODE AND ADDING A NEW CHAPTER 17.31
TO THE PARADISE MUNICIPAL CODE RESTRICTING MEDICAL
MARIJUANA CULTIVATION**

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

SECTION 1. Chapter 17.31 of the Paradise Municipal Code is hereby repealed.

SECTION 2. A new Chapter 17.31 is hereby added to the Paradise Municipal Code to read as follows:

Chapter 17.31

CULTIVATION OF MEDICAL MARIJUANA

Section:

- 17.31.100 Findings and purpose.**
- 17.31.200 Applicability.**
- 17.31.300 Definitions.**
- 17.31.400 ~~Cultivation in residential zoning districts for personal use.~~**
- 17.31.500 Prohibition.**
- 17.31.600 Nuisance and civil penalties.**

17.31.100 Findings and purpose.

- 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 section 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.

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- 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 section 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 §

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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

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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.

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 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 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 marijuana from any applicable electrical, plumbing, land use, or other building or land use standards or permitting requirements.
- E. All cultivation of medical marijuana within the town shall be subject to the provisions of this chapter.

17.31.300 Definitions.

- A. "Director" means the town of paradise planning director or his or her designee.
- B. "Medical marijuana" means marijuana used for medical purposes in accordance with California Health & Safety Code section 11362.5.
- C. "Medical marijuana collective or cooperative" means a collective, cooperative, dispensary, operator, establishment, provider, association, or similar entity that cultivates, distributes,

delivers, processes marijuana for medical purposes relating to a qualified patient or primary caregiver, pursuant to the

**TOWN OF PARADISE
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Compassionate Use Act and the Medical Marijuana Program Act.

- D. “Medical marijuana cultivation” means the planting, growing and harvesting of marijuana.
- E. “Primary Caregiver” means a primary caregiver as defined in Health & Safety Code section 11362.7.
- F. “Qualified Patient” means a qualified patient as defined in Health & Safety Code section 11362.7.
- G. “School” means an educational facility as defined in Health & Safety Code section 11362.768(h).

17.31.400 Cultivation in residential zoning districts for personal use.

~~It is unlawful for anyone to cultivate medical marijuana in any residential zoning district except as follows:~~

~~A. Outdoor Cultivation. Medical marijuana may be cultivated outdoors by a qualified patient or primary caregiver in a residential zoned district subject to the following conditions:~~

- ~~1. The owner of the property, if other than the resident, has consented in writing to the cultivation of marijuana on the property.~~
- ~~2. The location of the plants shall be in the rear or side yard at least seventy-five (75) feet from any habitable structure on adjacent property, or six hundred (600) feet from any school property line or at least fifty (50) feet from an unimproved adjacent property and takes place within a locked six (6) foot solid fence on all sides of the location of the plants in conformance with all applicable zoning regulations. These distance and fencing requirements shall also be applicable to cultivation of medical marijuana within an accessory structure on the property.~~
- ~~3. An area of no more than fifty (50) square feet shall be devoted to the cultivation of the marijuana. This restriction applies regardless of how many qualified patients are living on the property.~~
- ~~4. The plants are located, screened and maintained so that they are not visible from any adjacent public or private property.~~
- ~~5. No night lighting shall be used to grow marijuana plants.~~

~~B. Indoor Cultivation. It is unlawful for any person to cultivate medical marijuana inside any residence in a residential zoned district without an indoor cultivation permit issued by the director.~~

~~1. An application for an indoor cultivation permit shall be filed with the director on a form prescribed~~

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~~by the town manager and accompanied by an application fee as adopted by the town council.~~

~~2. An indoor cultivation permit may be issued only if the director makes the following findings:~~

~~a. The applicant is either a qualified patient or primary caregiver.~~

~~b. The owner of the property, if other than the applicant, has consented in writing to the issuing of the indoor cultivation permit.~~

~~3. Any indoor cultivation permit shall be subject to the following conditions:~~

~~a. There shall be no cultivation of marijuana on the exterior of the residence.~~

~~b. An area no larger than fifty (50) square feet shall be devoted to the cultivation of marijuana. This restriction applies regardless of how many qualified patients are living on the property.~~

~~c. The lighting used for the cultivation shall not exceed 1200 watts.~~

~~d. The marijuana cultivation shall not be visible from any public or other private property.~~

~~e. The cultivation of marijuana shall not take place in the kitchen, bathrooms or occupied bedrooms of a residence.~~

~~f. The use of flammable or combustible products, including but not limited to, propane and butane for cultivation and processing is prohibited.~~

~~C. All medical marijuana cultivated pursuant to this section, whether outdoor or indoor, shall be for the personal use only of a qualified patient residing on the property and may not be distributed to any other person, collective, or cooperative.~~

~~D. Notwithstanding that cultivation which is otherwise in compliance with the standards set forth in paragraph A. above, or a permit issued pursuant to paragraph B. above, the cultivation of medical marijuana shall not be permitted if, after holding a noticed hearing, the director determines based on substantial evidence that the cultivation activity adversely affects the health~~

~~or safety of any person, including children, residing at the property or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, odor, or other impacts; provided, however, in finding that an outdoor cultivation under paragraph A above shall not be permitted, substantial evidence shall be supported by complaints from two (2) or more different property owners or tenants during a fourteen (14) day period.~~

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~~E. The cultivation of medical marijuana shall not be an allowed home occupation.~~

17.31.500 Prohibition.

~~A. Medical Marijuana Collectives and Cooperatives shall be prohibited in all zoning districts within the _____ town.~~

~~B. Except as provided in section 17.31.400, all other cultivation of marijuana within the town is prohibited.~~

- A. Medical Marijuana Collectives and Cooperatives as defined in section 17.31.300C shall be prohibited in all zoning districts within the town. This prohibition shall include the cultivation of marijuana by Medical Marijuana Collectives and Cooperatives.
- B. 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 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.
- D. Cultivation of medical marijuana for non-commercial purposes, including indoor and outdoor cultivation by a qualified patient or a primary caregiver, 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.

17.31.600 Nuisance and civil penalties.

- A. Any cultivation, processing or distribution of medical marijuana which takes place in violation of any provision of this chapter shall be unlawful, and is hereby declared a public nuisance and may be abated by the town as such in accordance with the procedure set forth in chapter 8.04 of this Code.
- B. In addition, violation of this chapter shall be prosecuted under civil administrative citation procedure set forth in chapter 1.09 of this code.

SECTION 3. 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 _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jody Jones, Mayor

APPROVED AS TO FORM:

Joanna Gutierrez, Town Clerk

Dwight L. Moore, Town Attorney

**TOWN OF PARADISE PLANNING COMMISSION
RESOLUTION 15-3**

**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 PROHIBITING MEDICAL 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 prohibit the cultivation and delivery of medical marijuana in all zoning districts, and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on December 21, 2015 to study and consider recommending Town Council adoption of a text amendment 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 prohibit the cultivation and delivery of medical 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. 15-3

PASSED AND ADOPTED by the Planning Commission of the Town of Paradise this 21st day of December, 2015 by the Following Vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jim Clarkson, Chairman

ATTEST:

Joanna Gutierrez, Town Clerk

**NOTICE OF SPECIAL 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 December 21, 2015, 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 prohibiting all medical marijuana cultivation, delivery and distribution within the Town.

The proposed ordinance provides, among other things, as follows:

1. Qualified patients or primary caregivers would be prohibited from cultivating medical marijuana within all Town zoning districts.
2. Medical marijuana cooperative/collectives and dispensaries would not be permitted within any Town zoning district. The prohibition would include any cultivation, distribution or processing of medical marijuana.
3. The delivery of medical marijuana would be prohibited within the Town limits.

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: December 9, 2015

By: Craig Baker, Planning Director