



# Mendocino County

## Legislation Text

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**File #:** 23-0277, **Version:** 1

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**To:** Board of Supervisors

**From:** County Counsel and Cannabis

**Meeting Date:** March 28, 2023

**Department Contact:** Christian Curtis

**Phone:** 707-234-6885

**Department Contact:** Kristin Nevedal

**Phone:** 707-234-6335

**Item Type:** Regular Agenda

**Time Allocated for Item:** 45 Minutes

**Agenda Title:**

Discussion and Possible Action Including (1) Adoption of CEQA Resolution Regarding Addendum To The Previously Adopted Mitigated Negative Declaration; and (2) Introduction and Waive First Reading of an Ordinance Amending Section 10A.17 of the Mendocino County Code To Provide Clarity to Ambiguous Terms Regarding the Tree Removal Prohibition  
(Sponsor: County Counsel and Cannabis)

**Recommended Action/Motion:**

Adopt CEQA resolution regarding addendum to the previously adopted Mitigated Negative Declaration and introduce and waive first reading of an Ordinance amending section 10A.17 of the Mendocino County Code to provide clarity to ambiguous terms regarding the tree removal prohibition; and authorize Chair to sign same.

**Previous Board/Board Committee Actions:**

On October 4, 2022, the Board disbanded the Cannabis Ad Hoc Committee and suggested the discussion of vegetation modification return for further discussion at the next General Government Committee. The vegetation modification discussion at the General Government Committee occurred on December 12, 2022 and was continued to allow for further discussion and community input. Due to reorganization of the General Government Committee at the beginning of 2023, the vegetation modification discussion was moved to be discussed by the Board of Supervisors. That discussion occurred at the February 7, 2023, Board of Supervisor Meeting where the Board instructed staff to prepare an ordinance to amend Mendocino County Code Chapter 10A.17 to provide clarity on the vegetation modification issue.

**Summary of Request:**

Mendocino County only allows commercial cannabis cultivation with a permit under Chapter 10A.17 of the Mendocino County Code. Permits may not be granted if certain trees (commercial species, true oak or tan oak) are removed “for the purpose of developing a cannabis cultivation site . . .” The ordinance requires staff to deny permits where prohibited tree removal has occurred or is contemplated, but exceptions exist for safety or disease concerns. This limitation on tree removal is an environmental mitigation measure of the County’s adopted Mitigated Negative Declaration and made a part of Chapter 10A.17 to implement that mitigation measure.

A substantial number of current applications propose cultivation activities in areas from which trees have been

removed. For each such application, the Cannabis Department (the “Department”) needs to determine whether the trees removed were of a prohibited species, whether they were removed for the purpose of developing a cultivation site, and whether they fell within the ordinance’s exemption for “safety or disease concerns.” In many cases, there may be substantial questions about the sufficiency and reliability of the evidence available to make that determination.

Administration of this part of the ordinance has presented certain challenges to the Department. Because the Chapter 10A.17 permitting process is ministerial in nature, the Department must apply objective standards in reviewing permit applications, which can be difficult when implementing and enforcing ambiguous terms.

As such, the Department, with assistance from County Counsel, presented proposed definition to the Board that would clarify certain language within Chapter 10A.17. The Board discussed those proposed definitions and provided staff with direction to prepare an Ordinance to amend Chapter 10A.17 with the approved definition.

**Alternative Action/Motion:**

Provide direction to staff.

**Does This Item Support the General Plan?** Yes.

**Strategic Plan Priority Designation:** An Effective County Government.

**Supervisory District:** All

**vote requirement:** Majority

**Supplemental Information Available Online At:** N/A

**Fiscal Details:**

**source of funding:** N/A

**current f/y cost:** N/A

**annual recurring cost:** N/A

**budget clarification:** N/A

**budgeted in current f/y:** N/A

**if no, please describe:**

**revenue agreement:** N/A

**Agreement/Resolution/Ordinance Approved by County Counsel:** Yes

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**CEO Liaison:** Executive Office

**CEO Review:** Yes

**CEO Comments:**

**FOR COB USE ONLY**

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Executed By: Atlas Pearson, Senior Deputy Clerk

Date: March 28, 2023

Final Status: Adopted

Executed Item Type: Resolution Number: 23-064

