



City of Calistoga
Planning Commission
Agenda Item Summary

DATE	September 12, 2018
ITEM	Zoning Code Amendment to Increase Number of Marijuana Plants Cultivated Outdoors ZOA 2018-2
STAFF CONTACT	Lynn Goldberg, Planning & Building Director
POTENTIAL CONFLICTS	None
RECOMMENDATION	Recommend to the City Council adoption of an amendment to Calistoga Municipal Code Section 17.48.040(C)
SUGGESTED MOTION	"I move that the Planning Commission adopt a resolution recommending to the City Council approval of a Zoning Code amendment to increase the number of marijuana plants that may be cultivated outdoors for personal use"

**CALISTOGA PLANNING COMMISSION
STAFF REPORT**

TO: Chair Coates and Members of the Planning Commission
FROM: Lynn Goldberg, Planning & Building Director
MEETING DATE: September 12, 2018
SUBJECT: **Zoning Ordinance Amendment ZOA 2018-2
Increase in Number of Marijuana Plants Cultivated Outdoors**

1 **ITEM**

2 Consideration of an amendment to the Calistoga Municipal Code to increase the
3 number of marijuana plants that may be cultivated outdoors for personal use

4 **BACKGROUND**

5 The Calistoga Municipal Code Section 17.48.040 allows up to six marijuana plants per
6 dwelling unit to be cultivated for personal use in zoning districts that allow single-family
7 residences.

8 Up to two of these plants may be cultivated outdoors. They must be enclosed by a solid
9 fence at least six feet in height, and may not be visible from a public right-of-way or
10 neighboring property at the ground level.

11 The Code prohibits:

- 12 • Cultivation within 300 feet of youth-oriented and religious facilities
- 13 • Cultivation within garages
- 14 • Certain extraction methods, and the use of supplemental carbon dioxide and
15 ozone generators
- 16 • Nuisance impacts, including odors, vibration and light that are discernible beyond
17 a property's or residence's boundaries.

18 During a Community Forum on April 11th to discuss the possibility of allowing one or
19 more cannabis dispensaries in Calistoga, several attendees mentioned that the City had
20 committed to reviewing the appropriateness of the two-outdoor plant limitation after the
21 2017 fall harvest had passed.

22 Staff reported to the City Council at its May 15, 2018 meeting, that the Calistoga Police
23 Department has not logged any complaints related to personal cannabis cultivation
24 (either indoors or outdoors) since adoption of the regulations approximately one year
25 ago. No information is available about the number of local residential properties with
26 cultivation activities, because the City chose to forego any type of permitting
27 requirement.

28 The Council was also informed that the City of Napa allows the indoor or outdoor
29 residential cultivation of up to six plants for personal use. None of the other Napa
30 County jurisdictions currently allow personal outdoor cultivation.

31 After discussion, the Council directed staff to initiate a revision to the City's outdoor
32 cultivation regulations and asked the Planning Commission to forward a
33 recommendation regarding the maximum number of plants that should be allowed.

34 **DISCUSSION**

35 The Council did not provide guidance as to the maximum number of plants that should
36 be permitted. Several councilmembers felt that six plants should be allowed, and if that
37 number proved to be a problem, it could be reduced through a subsequent Code
38 amendment. However, two councilmembers were opposed to any increase about the
39 two currently allowed.

40 Certain aspects of outdoor cultivation or preferable to indoor cultivation because it
41 eliminates the need for electricity, supplemental carbon dioxide and ozone, and avoids
42 other problems such as mold. However, the species of marijuana cultivated outdoors
43 must be carefully selected to minimize odor problems that can occur over several
44 months during the maturation process.

45 **PUBLIC COMMENTS**

46 As of September 6, 2018, no public comments had been received regarding this
47 proposed Code amendment.

48 **ENVIRONMENTAL REVIEW**

49 The proposed Zoning Code amendment has been reviewed in accordance with the
50 California Environmental Quality Act and the City has determined that CEQA Guidelines
51 Section 15061(b)(3), the "general rule" exemption, applies because it can be seen with
52 certainty that there is no possibility that the amendment may have a significant effect on
53 the environment. Therefore, the proposed action is exempt from CEQA.

54 **RECOMMENDATION**

55 Staff recommends that the Commission receive public input on the proposed
56 amendment, and after discussion, provide a recommendation to the Council regarding
57 the maximum number of marijuana plants that may be cultivated outdoors for personal
58 use.

ATTACHMENT

1. Draft resolution

CITY OF CALISTOGA
PLANNING COMMISSION
PC RESOLUTION 2018-XX

RECOMMENDING THAT THE CITY COUNCIL AMEND CALISTOGA MUNICIPAL CODE SECTION 17.48.040(C) TO INCREASE THE NUMBER OF MARIJUANA PLANTS THAT MAY BE CULTIVATED OUTDOORS FOR PERSONAL USE (ZOA 2018-2)

1 **WHEREAS**, Calistoga Municipal Code Section 17.48.040(C) limits the number of
2 marijuana plants that may be cultivated for personal use to two per dwelling unit; and

3 **WHEREAS**, since adoption of this limitation and one cultivation period, the City
4 has not received any complaints related to odors, security problems or any other
5 nuisance issues; and

6 **WHEREAS**, state law allows up to six marijuana plants to be cultivated per
7 household; and

8 **WHEREAS**, outdoor cultivation eliminates the need for electricity, supplemental
9 carbon dioxide and ozone associated with indoor cultivation, and avoids other problems
10 such as mold; and

11 **WHEREAS**, the Planning Commission reviewed the proposed amendment at a
12 public hearing on September 12, 2018, and during its review, considered the public
13 record, including the oral and written staff reports, and any written materials and
14 testimony presented by the public; and

15 **WHEREAS**, the Planning Commission has determined that the proposed
16 amendment is not subject to the California Environmental Quality Act (CEQA) under
17 Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that
18 there is no possibility that they may have a significant effect on the environment.

19 **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning
20 Commission that, based on the above findings, it is recommended that the City Council
21 amend Calistoga Municipal Code Section 17.48.040(C) to increase the number of
22 marijuana plants that may be cultivated for personal use to ___ per dwelling unit.

APPROVED AND ADOPTED on September 12, 2018 by the following vote of
the Calistoga Planning Commission:

AYES:

NOES:

ABSENT:

ABSTAIN:

Paul Coates, Chair

ATTEST: _____
Lynn Goldberg, Secretary