

COUNTY OF GLENN AGENDA ITEM TRANSMITTAL


MEETING DATE: May 30, 2017	BRIEF SUBJECT/ISSUE DESCRIPTION:
Submitting Department(s): Marijuana AdHOC	Hear report from Marijuana AdHOC and provide guidance to staff.
Contact: Supervisors Foltz and Viegas	
Phone: 530.934.6400	

AGENDA PLACEMENT	ATTACHMENTS	LEGAL/PERSONNEL/FISCAL
APPOINTMENT – Appearances by: (Specify Name & Title)	<input checked="" type="checkbox"/> Board Report <input type="checkbox"/> Letter <input type="checkbox"/> Minute Order <input type="checkbox"/> Contract <input type="checkbox"/> Transfer <input type="checkbox"/> Grant App. <input type="checkbox"/> Resolution	<input checked="" type="checkbox"/> County Counsel <input type="checkbox"/> Personnel <input type="checkbox"/> Finance
Required <u> 5 </u> Minutes	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Proclamation <input type="checkbox"/> Policy Update <input type="checkbox"/> Code Update <input checked="" type="checkbox"/> Other Public opinion poll data	CLERK INSTRUCTIONS
<input type="checkbox"/> Business – No <input type="checkbox"/> Consent <input type="checkbox"/> Correspondence <input type="checkbox"/> Reports & Notices		<input type="checkbox"/> Return Minute Order <input type="checkbox"/> Return Certified Copy Of: <input type="checkbox"/> Other:
AFFECTED DEPARTMENT(S)		
<input type="checkbox"/> Receive Concurrence		


PUBLIC HEARINGS & COMMITTEE VACANCIES	LEGISLATION	FUNDING SOURCE/IMPACT	CONTRACTS, LEASES & AGREEMENTS
<input type="checkbox"/> State <input type="checkbox"/> Federal Public Hearings: <input type="checkbox"/> Published <input type="checkbox"/> Affidavit on File w/Clerk <input type="checkbox"/> Affected Parties Notified Committees: <input type="checkbox"/> Vacancy Posted <input type="checkbox"/> Application Attached	Bill#: __ <input type="checkbox"/> Latest Version of Bill <input type="checkbox"/> Draft Letter Attached <input type="checkbox"/> List of Supporters/Opposers <input type="checkbox"/> Statement of Relevance to County Interests <input type="checkbox"/> Description Attached	<input type="checkbox"/> General Fund Impact <input type="checkbox"/> Other: _____ <input type="checkbox"/> Budgeted <input type="checkbox"/> Transfer Attached <input type="checkbox"/> 4/5ths Vote Required <input type="checkbox"/> Contingency Request	<input type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Insurance Certificate <input type="checkbox"/> Contract Report Date of Original Contract: Contract No.: Fiscal Year:

RECOMMENDED ACTION/MOTION:

Hear report from Marijuana AdHOC and provide guidance to staff.



John Viegas, Supervisor District 1



Dwight Foltz, Supervisor District 2

Reviewed By (if applicable):

Personnel Director

Department of Finance

cc:



GLENN COUNTY BOARD OF SUPERVISORS

Willows Memorial Hall, 2nd Floor
525 West Sycamore Street, Suite B1
Willows, CA 95988

John K. Viegas, District 1
Dwight Foltz, District 2
Vince T. Minto, District 3
Keith Corum, District 4
Leigh W. McDaniel, District 5

BOARD REPORT

EXECUTIVE SUMMARY:

At the Board's meeting on February 7, 2017 on motion of Supervisor Viegas, seconded by Supervisor McDaniel, it was unanimously ordered to terminate the former Marijuana AdHoc Committee, form a new Marijuana AdHoc Committee to work on implementing the items outlined in the Board Report analysis, to appoint Supervisor Viegas and Supervisor Foltz, to include public outreach, end date of said AdHoc to be December 31, 2017, and goals and objectives to be 1) Review current medical marijuana ordinance, 2) Develop current recreational and commercial ordinance, 3) Review department needs and impact on recreational use and commercial sales, 4) Review land use issues, 5) Make decision on indoor or outdoor grows in developing ordinance, 5) Develop code enforcement process, and 6) Develop new Administrative Code and/or Title.

RECOMMENDATION(S):

Hear report from Marijuana AdHOC and provide guidance to staff.

HISTORY AND BACKGROUND:

The members of the Marijuana AdHoc Committee met with several times with various County Department Heads and their staff, members of the public and industry experts. Additional outreach was conducted using social media and a public opinion poll which was advertised and published on the county's website on April 13, 2017. The poll questions were also published twice in the local newspaper and once in the Farm Bureau newsletter. The results of the poll are attached to this report as well as a great deal of information gathered for the purpose of providing the Board with sufficient information to determine the direction in which it wishes to move forward.

FISCAL/PERSONNEL IMPACT(S):

Staff and resources from law enforcement, permitting and compliance departments and County Counsel would be required to review existing code and draft a proposed ordinance.

ANALYSIS/DISCUSSION:

Below is a summary of some of the key components of the laws that establish the Medical Cannabis Regulation and Safety Act (an excerpt from the California Bureau of Medical Cannabis Regulation's website <http://bmcr.ca.gov/>)

In 2015, the Legislature passed and the Governor signed into law three bills (Assembly Bills 243 and 266, and Senate Bill 643) that create a licensing and regulatory framework for medical cannabis through the Medical Cannabis Regulation and Safety Act. This legislation created the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs. It also divided the responsibility for state licensing between three state entities – the CA Department of Food and Agriculture, the CA Department of Public

Health and the Bureau of Medical Cannabis Regulation, with the Bureau designated as the lead agency in regulating the cannabis industry in California.

The Bureau of Medical Cannabis Regulation is not issuing licenses at this time.

Assembly Bill 266

- Enacts the Medical Cannabis Regulation and Safety Act for the licensure and regulation of medical cannabis and establishes within the Department of Consumer Affairs the Bureau of Medical Cannabis Regulation, under the supervision and control of the Director of Consumer Affairs.
- Requires the Board of Equalization, in consultation with the Department of Food and Agriculture, to adopt a system for reporting the movement of commercial cannabis and cannabis products.
- Imposes certain fines and civil penalties for specified violations of the act, and would require moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account.
- Provides that actions of licensees with the relevant local permits, in accordance with the act and applicable local ordinances, are not offenses subject to arrest, prosecution, or other sanction under State law.
- Makes legislative findings to align with existing constitutional provisions that require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

Assembly Bill 243

- Appropriates funds to implement the Medical Cannabis Regulation and Safety Act.
- Requires the Department of Food and Agriculture, the Department of Pesticide Regulation, the State Department of Public Health, the Department of Fish and Wildlife, and the State Water Resources Control Board to promulgate regulations or standards relating to medical cannabis and its cultivation, as specified.
- Requires various State agencies to take specified actions to mitigate the impact that cannabis cultivation has on the environment, and requires cities, counties, and their local law enforcement agencies to coordinate with State agencies to enforce laws addressing the environmental impacts of medical cannabis cultivation.
- Requires a state licensing authority to charge each licensee under the Act licensure and renewal fees, as applicable, and deposit them into an account specific to that licensing authority in the Medical Cannabis and Safety Act Fund, which this bill creates. The bill also imposes certain fines and civil penalties for specified violations of the Medical Cannabis Regulation and Safety Act, and requires resulting moneys be deposited into the Medical Cannabis Fines and Penalties Account, also established by this bill within the fund.

Senate Bill 643

- Sets forth standards for physicians and surgeons prescribing medical cannabis and requires the Medical Board of California to prioritize its investigative and prosecutorial resources to identify those who have repeatedly recommended excessive cannabis to patients for medical purposes or done so repeatedly without a good faith examination.
- Requires applicants to furnish a full set of fingerprints in order to conduct criminal history record checks.

- Requires, through the Medical Cannabis Regulation and Safety Act that the Department of Food and Agriculture administer the provisions of the act related to and associated with the cultivation and transportation of medical cannabis. The Department of Food and Agriculture, in consultation with the Bureau, shall establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier. It also establishes State cultivator license types.
- Requires the California Department of Public Health to oversee manufacturing and testing of medical cannabis.
- Requires the Governor to appoint a chief, subject to Senate confirmation, of the Bureau of Medical Cannabis Regulation, and requires the Department of Consumer Affairs to have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation and storage (unrelated to manufacturing) of medical cannabis, and would authorize the department to collect fees for its regulatory activities and impose related specified duties.
- Authorizes counties to impose a tax on specified cannabis-related activity.

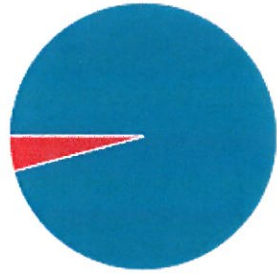
LIST OF ADDITIONAL REFERENCE MATERIALS

- Text of Proposition 64, the Adult Use Marijuana Act (AUMA)
<https://static.cdfa.ca.gov/MCCP/document/Comprehensive%20Adult%20Use%20of%20Marijuana%20Act.pdf>
- Medical Marijuana/Cannabis Regulation and Safety Act (MCRSA) (2015/16)
 - AB 243 (Wood) http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0201-0250/ab_243_bill_20151009_chaptered.pdf
 - AB 266 (Bonta) http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0251-0300/ab_266_bill_20151009_chaptered.pdf
 - SB 263 (McGuire) http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0601-0650/sb_643_bill_20151009_chaptered.pdf
 - AB 21 (Wood, urgency amendments)
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB21
 - SB 837 (Budget Committee) http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0801-0850/sb_837_bill_20160627_chaptered.pdf
- CDFA CalCannabis <https://www.cdfa.ca.gov/is/mccp/>
- DCA Bureau of Medical Cannabis Regulation <http://bmcr.ca.gov/>
- DPR Enforcement Letters Related to Pesticide Use on Cannabis
 - Initial 2015 Guidance
<http://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2015/2015015.htm>
 - 2017 Update <http://www.cdpr.ca.gov/docs/county/cacltrs/penfltrs/penf2017/2017003.htm>

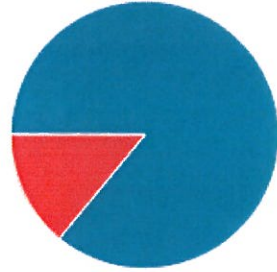
- Central Valley Regional Water Board Waste Discharge Requirement for Cannabis Cultivation
http://www.waterboards.ca.gov/rwqcb5/water_issues/cannabis/index.shtml
- North Coast Regional Water Board Waste Discharge Requirement for Cannabis Cultivation
http://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/
- California Growers Association <http://www.calgrowersassociation.org/>
- California Cannabis Industry Association <http://www.cacannabisindustry.org/>
- National Governor's Association Position on Cannabis (1.5) <https://www.nga.org/cms/home/federal-relations/nga-policy-positions/page-hsps-policies/col2-content/main-content-list/homeland-security-emergency-mana.html>
- US Department of Justice Cole Memo
<https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>
- CSAC Policy <http://www.counties.org/cannabis>

Glenn County Marijuana Poll

Are you a resident of Glenn County? Did you vote on Proposition 64?

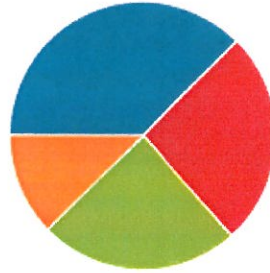


● Yes
● No

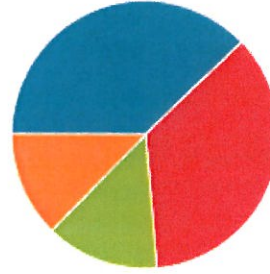


● Yes
● No

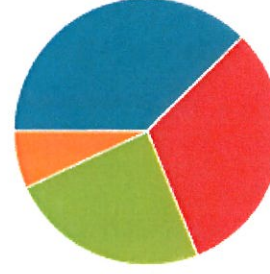
Should commercial cannabis operations be located: Should a Glenn County cannabis dispensary be located: Should there be a county tax on:



● No commercial cannabis operations
● Within the low-density areas of the unincorporated County
● Within the incorporated cities (Orland, Willows)
● Within the unincorporated communities (Artois, Butte City, Hamilton City)



● Within the incorporated cities (Orland, Willows)
● No dispensary
● In the unincorporated County within the sphere of influence (SOTI) of the cities
● Within the unincorporated communities (Artois, Butte City, Hamilton City)



● Retail cannabis sales
● Cannabis manufacturing & distribution activities
● Cannabis cultivation activities
● No tax

What do you feel is a reasonable setback distance?

Choices	Percentage	Count
1000 feet	31.28%	188
100 feet	26.62%	160
Other	20.97%	126
350 feet	9.32%	56
500 feet	8.82%	53
Total Entries		601
		<i>Unanswered</i>

Alternative setback distances

Choices	Percentage	Count
20 miles	6.31%	7
1 mile	5.41%	6
10 feet	4.50%	5
2000	4.50%	5
10 miles	3.60%	4
25 feet	3.60%	4
5 Feet	2.70%	3
Other	69.37%	77
[View]		
Total		111
		<i>Unanswered</i>

Alternative setback distances

Choices	Percentage	Count
20 miles	6.31%	7
1 mile	5.41%	6
10 feet	4.50%	5
2000	4.50%	5
10 miles	3.60%	4
25 feet	3.60%	4
5 Feet	2.70%	3
Other	69.37%	77
20 feet	2.70%	3
2500 feet	2.70%	3
not in county	1.80%	2
next county	1.80%	2
1 mile or more	1.80%	2
20	1.80%	2
20feet	1.80%	2
there is no acceptable distance	0.90%	1
out of county	0.90%	1
Prohibit outdoor grows	0.90%	1
none allowed	0.90%	1
County line	0.90%	1
do not allow growing	0.90%	1
All the way to Mendocino Co.	0.90%	1
at least 1 mile	0.90%	1
no outside grows	0.90%	1
or more	0.90%	1
do not allow gardens	0.90%	1
.25 of a mile	0.90%	1
In a different county	0.90%	1
No gardens	0.90%	1

Choices	Percentage	Count
no acceptable setback	0.90%	1
as far as possible!	0.90%	1
0	0.90%	1
not at all	0.90%	1
no gardens	0.90%	1
you can't get it far enough for me	0.90%	1
None of neighbor's business if a neighbor grows marijuana in their yard.	0.90%	1
No where	0.90%	1
I can't even go outside and enjoy the fresh air without smelling someones crop. We are against anthing that has to deal with Cannabis. It's going to cause major problems within our small community. It's definitely affecting our youth since it has been leg	0.90%	1
no weed in Glenn County..	0.90%	1
or further	0.90%	1
No outdoor grows. Funnel to dispensary for tax revenue	0.90%	1
Not anywhere near residences	0.90%	1
Don't want it at all!	0.90%	1
Do not want dispensary.	0.90%	1
no outside grow, don't like the smell	0.90%	1
I don't want any gardens near me	0.90%	1
as far as possible	0.90%	1
one mile	0.90%	1
1/2 mile	0.90%	1
1,000,000 miles	0.90%	1
1/2 mile if at all	0.90%	1
	Total	111
	<i>Unanswered</i>	<i>490</i>

ORDINANCE NO. 1233

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF GLENN,
STATE OF CALIFORNIA, AMENDING TITLE 15
TO REGULATE THE CULTIVATION OF MARIJUANA FOR THE SPECIFIC
LIMITED PURPOSE OF ONE'S OWN USE FOR MEDICAL PURPOSES,
WITHIN THE COUNTY OF GLENN.**

THE BOARD OF SUPERVISORS OF THE COUNTY OF GLENN, a political subdivision of the State of California, does ordain as follows:

SECTION I:

Findings. The purpose of this Ordinance is to protect the public safety, health, and welfare of the citizens of Glenn County. The Board of Supervisors of the County of Glenn finds or declares as follows:

- A. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and entitled "The Compassionate Use Act of 1996").
- B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited circumstances.
- C. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes.
- D. To protect the public health, safety, and welfare, it is the desire of the Board of Supervisors to modify the Zoning Code regarding the location and regulation of Medical Marijuana uses.
- E. It is the intent of the Board of Supervisors that nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, nor to permit or license any activity that is lawfully and constitutionally prohibited under that Act.
- F. It is the intent of the Board of Supervisors that nothing in this Ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of cannabis for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.

- G. The Board of Supervisors finds and determines that the adoption of this Ordinance and Zone Change is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) (the "common sense" exemption) in that there is nothing in the Ordinance or its implementation that could foreseeably have a significant effect on the environment.
- H. The Ordinance and Zone Change will promote and protect the public, health, safety, peace, morals, comfort, convenience, and general welfare. Uses allowed under the proposed zone change will be subject to all local, State, and Federal regulations including, but not limited to, Air Pollution Control District regulations, Public Works requirements, Health Department regulations, and Building Code requirements.
- I. The Ordinance and Zone Change will continue implementation of the Glenn County General Plan and facilitate and guide growth in accordance with the General Plan Land Use and all Elements of the General Plan.
- J. The Ordinance and Zone Change will help protect the social and economic stability of residential, commercial, industrial, resource production, and recreational activities within the County through the planned use of real property.

SECTION II:

Proposed Amendments. The following section is the proposed amendments to Title 15 of the Glenn County Code. Additions to the code are denoted by the ***bolded, italicized, and underlined format with the alternative font***. Sections of the code included for reference are differentiated by the *italicized alternative font*.

- A. **Definitions:** the following sections of the Glenn County Code shall be ***added/amended*** to include the following definitions.

Chapter 15.020

DEFINITIONS

15.020.020 Definitions

- M. 1. *"Maintain aircraft" means any form of service, maintenance or repair of aircraft.*
- 2. *"Major electrical transmission and distribution project" means a project that includes a network of transmission lines, related towers, and similar facilities with a capacity to convey 200 kilovolts (kV) or greater. It shall also include any project that proposes the designation of a transmission corridor zone to accommodate such facilities.*
- 3. *"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured home" does not include a recreational vehicle.*

4. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
5. "Map Act" means the current Subdivision Map Act of the State of California, as amended from time to time.
6. **"Marijuana" shall have the same meaning as that set forth in Health and Safety Code section 11018. Except where the context otherwise requires, the following definitions shall govern Chapter 797, of this Title:**
 - a. **"Collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.**
 - b. **"Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.**
 - c. **"Director" means the Director of the Glenn County Planning and Public Works Agency.**
 - d. **"Dispensary" or "Medical Marijuana Dispensary" means any facility or location, whether fixed or mobile, where marijuana for medical purposes is made available to and/or distributed to one or more of the following: a primary caregiver, a qualified patient, or patient with an identification card, as those terms are defined in California Health and Safety Code section 11362.5 et seq. "Marijuana Dispensary" includes medicinal marijuana "cooperative" and collectives" (i.e., facilities or undertakings where an person(s) provides marijuana to any one or more other persons, or where persons meet or congregate to distribute or provide marijuana for medicinal or other purposes).**
 - e. **"Identification card" means a document issued by the State Department of Health Services (as provided in Health and Safety Code Section 11362.71) that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.**
 - f. **"Indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Glenn, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" X 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.**

- g. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined.**
 - h. "Qualified patient" means a qualified patient as defined in Health & Safety Code Section 11362.7.**
 - i. "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency.**
 - j. "Sheriff" or "Sheriff's Department" means the Sheriff's Office of the County of Glenn or the authorized representatives thereof.**
 - k. "Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall include a day care or preschool facility.**
- 6.7.** "Market value" means the value of the structure as determined by one of the two methods stated below:
- a. The Actual-Cash-Value of the structure as determined by the Building Official and the Tax Assessor, or
 - b. By an appraisal made by a certified appraiser within 90 days of the date of application for improvements and/or repairs to the structure. Said appraisal shall be based on the existing value of the structure along and shall be for the structure prior to the proposed improvements and/or repairs being made.
- 7.8.** "Mean sea level", for purposes of the National Flood Insurance Program, means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- 8.9.** "Mined lands" includes the surface water, subsurface water, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which the structure facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.
- 9.10.** "Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from or displaced by surface mining operations.
- 10.11.** "Minor land division" means any division of land into parcels, each of which has an area of one hundred sixty acres (or one quarter section) or more, and each with approved access.
- 11.12.** "Minor modification" means an amendment to a reclamation plan involving insignificant changes that do not require further review under CEQA.
- 12.13.** "Mobilehome accessory building or structure" means any awning, portable, demountable or permanent cabana, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobilehome.
- 13.14.** "Mobilehome park" means an area or tract of land where three or more mobilehome lots are rented or leased or held out for rent or lease to accommodate mobilehomes used for human habitation. The rental paid for any such mobilehome shall be deemed to include rental for the lot it occupies.
- 14.15.** "Mobilehome site" means any portion of a trailer park or mobilehome park designed for the use or occupancy of one trailer coach or mobilehome.

- B. Special Use Standards: the following sections of the Glenn County Code shall be **added** to include Chapter 15.797 as a Special Use Standard.

DIVISION 5: SPECIAL USE STANDARDS

Chapter 15.797

MEDICAL MARIJUANA

Sections:

15.797.010 Purpose

15.797.020 Standards

15.797.030 Where Allowed

15.797.040 Nuisance

15.797.050 Enforcement

15.797.060 Misdemeanor

15.797.010 Purpose

- A. It is the purpose and intent of this chapter to provide a means for regulating the cultivation of marijuana for medical purposes within the unincorporated area of the County of Glenn, in a manner that is consistent with State law.**
- B. Nothing in this chapter shall be construed to permit the use of marijuana for nonmedical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under State or Federal law.**

15.797.020 Standards

- A. The cultivation of marijuana shall not be allowed in the following areas:**
- 1. Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined; provided, however, that the cultivation of marijuana on premises of one (1) acre in size or less, whether grown collectively or individually, in any amount or quantity, shall not be allowed within three hundred (300) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined;**
 - 2. Outdoors within twenty (20) feet of any residence located on a separate legal parcel;**
 - 3. In any location where the marijuana plants are visible from off the premises.**
- B. If the person(s) cultivating marijuana on any legal parcel is/are not the legal owner(s) of the parcel, such person(s) shall submit a notarized letter from the legal owner(s) consenting to the cultivation of marijuana on the parcel. This letter shall be presented to the Sheriff's Department.**

- C. All marijuana grown outside of any building must be fully enclosed by a solid and opaque fence at least, but no greater than, six (6) feet in height. Should the marijuana plant(s) grow higher than the fence, the plants shall be maintained so as to not extend higher than such fence. The fence must be adequately secure to prevent unauthorized entry. Bushes or hedgerows shall not constitute an adequate fence under this Chapter.
- D. Any legally authorized marijuana cultivation area shall prominently display a copy of the authorizing physician's recommendation and a valid identification card.
- E. No person owning, leasing, occupying, or having charge or possession of any premises within the County shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of marijuana plants in violation of this chapter.
- F. No person shall cause or permit the establishment, development, construction, maintenance, operation, or enlargement of a marijuana dispensary for medical purposes or collective and/or cooperative, as these terms are defined herein, within the unincorporated areas of the County of Glenn.

15.797.030 Where Allowed

- A. It is unlawful for anyone to cultivate marijuana within the unincorporated area of the County of Glenn except that marijuana for medical purposes may be cultivated as follows:
 - 1. Outdoor Cultivation. Marijuana may be cultivated outdoors on private property by a qualified patient or primary caregiver subject to the following conditions:
 - a. The location of the plants is at least 20 feet from the property line and takes place within an enclosed side or back yard;
 - b. An area of no more than one hundred (100) square feet is devoted to the cultivation of the marijuana. This restriction applies regardless of how many qualified patients are living on the property;
 - c. The plants are located and screened so that they are not visible from off the premises.
 - d. No lighting shall be used to assist in outdoor cultivation. If security lighting is used, no unobstructed beam of light shall be directed over onto adjacent parcels. Security lighting shall not exceed 10 feet in height.
 - 2. All marijuana cultivated for medical purposes shall be only for the personal use of a qualified patient residing on the property, and may not be distributed to any other person, collective, or cooperative.
 - 3. Notwithstanding that cultivation which is otherwise in compliance with the standards set forth in paragraph A.1. above, the cultivation of marijuana is not permitted if the activity adversely affects the health or safety of the nearby properties or residents through the creation of mold, mildew, dust, glare, heat, noise, odor, or other impacts.
 - 4. The cultivation and/or processing of marijuana shall not be an allowed home occupation.

15.797.040 Nuisance

Any violation of any provision of this chapter shall be, and is hereby declared, a public nuisance and may be abated by the Glenn County Sheriff as such.

15.797.050 Enforcement

The County Sheriff may, at his/her discretion, abate any violation of this Chapter by the prosecution of a civil action, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms. No provision of this chapter shall be deemed a defense or immunity to any action brought against any person.

15.797.060 Misdemeanor

Notwithstanding any other provision in this Chapter, every person who violates any provision of section 15.797.020 and/or any provision of section 15.797.030 is guilty of a misdemeanor.

SECTION III:

Conflict. All ordinances or parts of an ordinance or resolutions or parts of a resolution in conflict herewith are hereby repealed to the extent of such conflict and no further.

SECTION IV:

Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court of competent jurisdiction, such provision shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions or other applications of the Ordinance which can be given effect without the invalid provision or application thereof.

SECTION V:

Effective. This Ordinance shall take effect on March 22, 2012, and before the expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general circulation in the County of Glenn.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the Board of Supervisors of the County of Glenn on February 7, 2012, and adopted by the following vote on February 21, 2012.

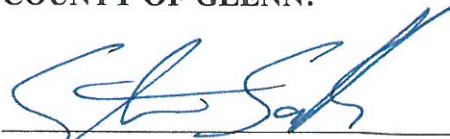
AYES: Supervisors Murray, Viegas, and Soeth (Chairman)

NOES: Supervisors Foltz and McDaniel

ABSTAIN: None


ABSENT: None

COUNTY OF GLENN:



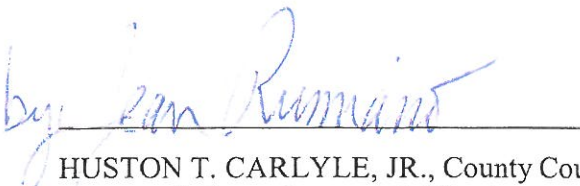
STEVE SOETH, Chairman of the Board of Supervisors
County of Glenn, State of California

ATTEST:



SHERYL THUR, County Clerk
and ex officio Clerk of the Board of Supervisors
County of Glenn, State of California

APPROVED AS TO FORM:



HUSTON T. CARLYLE, JR., County Counsel
County of Glenn, State of California

ORDINANCE NO. 1257

ORDINANCE OF THE COUNTY OF GLENN, CALIFORNIA, ADDING CHAPTER 10.46 TO CHAPTER 10 (PUBLIC PEACE, MORALS AND WELFARE) OF THE GLENN COUNTY CODE PROHIBITING THE DELIVERY OF MARIJUANA IN THE UNINCORPORATED AREA OF GLENN COUNTY.

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, codified as Health & Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use Act of 1996" (the "Compassionate Use Act" or "CUA"); and

WHEREAS, the intent of the CUA was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes; and

WHEREAS, on January 1, 2004, Senate Bill 420 codified California Health and Safety Code sections 11362.7, et seq., as the "The Medical Marijuana Program" ("MMP"), and became effective to clarify the scope of the Compassionate Use Act; and

WHEREAS, the MMP provides that specific immunities extend to those who cultivate marijuana for medical purposes in accordance with local regulations and laws; and

WHEREAS, the County of Glenn has adopted a medical marijuana ordinance codified in Chapter 15.797 of the Glenn County Code prohibiting the cultivation of marijuana except for the cultivation of marijuana for medical purposes by a qualified patient or primary caregiver under specified conditions and requirements; and

WHEREAS, the County of Glenn does further wish to specify conditions and requirements regarding the delivery of all marijuana, including marijuana for medical purposes in the unincorporated area of Glenn County.

NOW, THEREFORE, THE GLENN COUNTY BOARD OF SUPERVISORS does ordain as follows:

SECTION 1. The Glenn County Board of Supervisors finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this Ordinance.

SECTION II: Chapter 10.46 is hereby added to the Glenn County Code to read as follows:

Chapter 10.46

DELIVERY OF MARIJUANA, INCLUDING MARIJUANA FOR MEDICAL PURPOSES, IN THE UNINCORPORATED AREA OF GLENN COUNTY

Sections:

10.46.010	Purpose
10.46.020	Delivery Prohibited
10.46.030	Misdemeanor

10.46.010 Purpose

There is a need to have in place an ordinance that addresses the delivery of marijuana, including marijuana for medical purposes, in the unincorporated area of Glenn County in order to better protect the public peace, morals and welfare of the residents of Glenn County and to more effectively implement the County's medical marijuana ordinance codified in Chapter 15.797 of the Glenn County Code.

10.46.020 Delivery Prohibited

The delivery of marijuana, including the delivery of marijuana for medical purposes, by any possible means of transportation, including, but not limited to, cars, trucks, buses, airplanes, skateboards, via pedestrian means, etc. is prohibited in the unincorporated area of Glenn County. This prohibition does not apply to a qualified primary caregiver who provides marijuana for medical purposes cultivated in conformity with Chapter 15.797 of the Glenn County Code to one or more of their authorized patients at the location where the subject marijuana for medical purposes is grown by the primary caregiver.

10.46.030 Misdemeanor

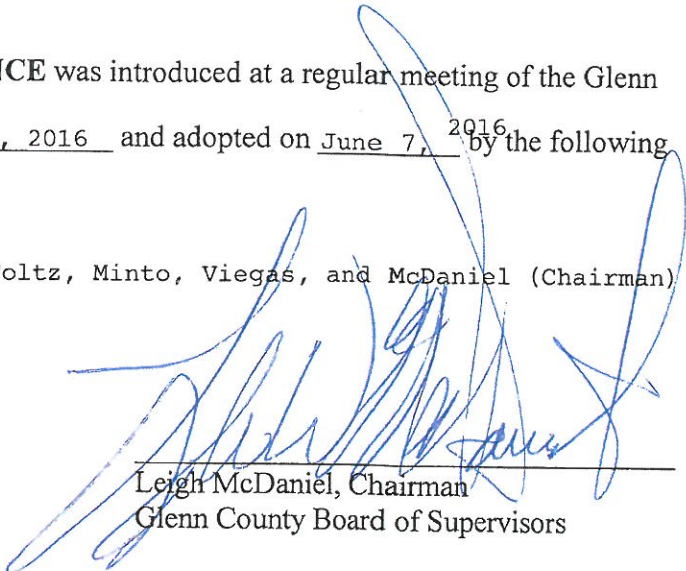
Every person who violates any provision of section 10.46.020 is guilty of a misdemeanor.

SECTION III: Severability. If any provision of this ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court or competent jurisdiction, such provision shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions or other applications of the Ordinance which can be given effect without the invalid provision or application thereof.

SECTION IV: Effective Date and Publication. This ordinance shall take effect on and after thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary of the Ordinance shall be published once, with the names of the members of the Board of Supervisors voting for and against it in accordance with Government Code section 25124, in the Sacramento Valley Mirror, a newspaper published in the County of Glenn, State of California.

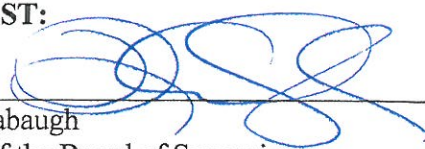
THE FOREGOING ORDINANCE was introduced at a regular meeting of the Glenn County Board of Supervisors on May 17, 2016 and adopted on June 7, 2016 by the following vote:

AYES: Supervisors Corum, Foltz, Minto, Viegas, and McDaniel (Chairman)
NOES: None
ABSENT OR ABSTAIN: None



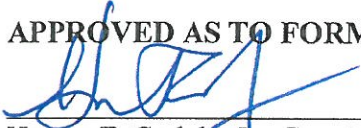
Leigh McDaniel, Chairman
Glenn County Board of Supervisors

ATTEST:



Di Aulabaugh
Clerk of the Board of Supervisors
County of Glenn, California

APPROVED AS TO FORM:



Huston T. Carlyle, Jr., County Counsel
County of Glenn, California



CSAC Cannabis Policy

Introduction

1100 K Street
Suite 101
Sacramento
California
95814
Telephone
916.327.7500
Facsimile
916.441.5507

On November 8, 2016, voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), legalizing the adult use of cannabis in California. AUMA contains broad local regulatory and taxation authority, allowing local governments to decide how best to regulate – and impose local taxes on – the retail sale and cultivation of cannabis in their respective communities while integrating local regulatory programs within a larger state licensing system. AUMA provides guidelines for several state agencies to develop specific regulations that taken together will create a statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, and sale of adult use cannabis. In addition to AUMA, the Governor signed into law the Medical Cannabis and Regulatory Safety Act (MCRSA) in 2015. MCRSA established a similar statewide licensing and regulatory framework specific to medical cannabis. While substantially similar, these two laws contain several differences. As a result, the Legislature and regulatory agencies are working to reconcile several inconsistencies between AUMA and MSCRA as they work to implement both laws.

AUMA and MCRSA respect local police powers and contain explicit county taxing authority. However, counties have a stake in shaping the broader statewide landscape of cannabis regulation in California as it will undoubtedly have a significant impact on local government operations. As the Legislature and regulatory agencies work to develop regulations to implement both the medical and adult use cannabis laws, counties put forth the following policy principles to guide CSAC positions and advocacy on cannabis regulation in California.

Policy Principles

I. Licensing, Regulation, and Local Control

Local government police powers and authority over taxation and fees must be respected in the development of any regulations implementing both medical and adult use cannabis laws. This includes support for existing local land use authority and counties' ability to ban the commercial adult use or medical cannabis retail sale and/or cultivation within the unincorporated area.

The MCRSA and AUMA outline categories of different types of licenses for the cultivation, sale, manufacture, distribution, and testing of cannabis. Both laws contain different types of restrictions on how many licenses can be held by a single entity. Counties support existing prohibitions on the cross-ownerships of licenses within the medical cannabis laws, and support restrictions on the cross-ownership of licenses within AUMA.

Counties support:

1. The development of a dual licensing system, which requires the verification of a local license as a condition precedent to the issuance of a state license for both medical and adult use commercial cannabis licensees, and the development of a strong license revocation policy and procedure for violations of license requirements.
2. Limitations and/or phase-in of unlimited acreage licenses, or Type Five licenses. (Proposition 64 allows for an unlimited acreage cultivation license - Type 5 - after the law has been in effect for five years).
3. State development of uniform regulations, when feasible, for adult use and medical cannabis.

II. Cultivation and Environmental Impacts

Counties urge:

1. Action to reduce environmental degradation and ensure the responsible use of resources, including water and electricity, in cannabis cultivation.

Counties support:

1. Uniform pesticide and other contaminant standards for adult use and medical cannabis.
2. A statewide track and trace technology system designed with compatibility and full integration with local programs.
3. Local access to both the state track and trace system and laboratory test results for cannabis and cannabis products.
4. Integration with GIS systems at the local level, especially with respect to cultivation sites. This should include integration and consultation with resource conservation districts and enable integration with Integrated Watershed Management Plans.
5. Strong coordination between local and state agencies to ensure uniform application in environmental enforcement efforts. This includes providing clear guidance and adequate resources to responsible agencies to regulate and enforce existing environmental laws when they are applied to the cultivation of cannabis.
6. The ability to grow industrial hemp as an agricultural product.

III. Enforcement and Public Safety

Counties strongly urge the state to fully enforce all state aspects of cannabis regulations, and to provide resources to local governments for enforcement efforts undertaken by local governments.

Counties support:

1. The development of enforceable standards for impaired driving.
2. Employer rights to maintain competency for duty and a drug-free workplace and the ability to impose restrictions on cannabis use by employees.
3. Action and assistance to aid local government and law enforcement's ability to stop unlicensed commercial activity and diversion of cannabis and cannabis products.
4. Dedicated resources for the active enforcement of illegal cannabis cultivation on state and federal lands.
5. State standards governing worker safety and security in the cannabis industry.
6. Inspections of cannabis retail establishments, sales locations, or cultivation sites to ensure adherence to state and local laws and policies.

IV. Labeling, Testing, and Advertising

Counties urge the state:

1. To develop packaging requirements that are designed to display no appeal for children and to require childproof containers, where appropriate.
2. To allow counties to use state-run labs for pesticide, heavy metal, and biological testing for enforcement purposes.
3. To develop uniform potency standards for cannabis products to ensure consumer health and safety.

Counties support:

4. Standards for the recognition of a particular appellation of origin of cannabis cultivated in a certain geographical region.
5. Strict labeling and testing requirements of all adult use and medical cannabis products.

V. Resources, Revenue Collection, and Banking

Counties urge:

1. The federal government to continue to respect states' rights with respect to cannabis regulation and enforcement.
2. The federal government to allow banking services for the cannabis industry to help reduce the public safety issues posed by a cash-based industry.
3. The federal government to declassify cannabis as a Schedule I drug and remove all conflicts under federal law.
4. Revenue sharing and grants from state revenues to manage the impacts of cannabis growth.

Counties support:

5. Interim solutions to encourage tax compliance in the absence of adequate banking solutions.
6. Sufficient resources for local code enforcement and environmental health and other departments.
7. Sufficient funding for adequate staffing at the state and local level to conduct regular inspections for dispensaries, cultivation, and manufacturing facilities, to conduct investigations and enforcement activity, and to quickly respond to and resolve complaints in a timely manner.
8. Actions that would provide state funding and resources to local governments for public education efforts concerning responsible use of cannabis.

VI. Public Education, Outreach, and Research

Counties support:

1. Methods of sharing best practices, lessons learned, and model ordinances on cannabis regulation and taxation.
2. The development of strong, effective substance abuse prevention and education campaigns at the state level with input from counties, and resources for local education.
3. Statewide data collection and additional research and monitoring of trends regarding the impacts of cannabis – including impacts to public health, enforcement issues, and other impacts. Counties urge the state to share such data and research with local governments.
4. Continued collaboration between local and state agencies, including ongoing dialogue about implementation efforts, tax rates, enforcement issues, and other issues of significance.
5. Adequate local representation on the state Cannabis Advisory Committee to help inform state regulatory agencies and other stakeholders about local conditions, concerns and issues of significance.
6. Widespread communication on the impacts of cannabis on public health, especially related to impaired driving and youth.

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TEHAMA
ADDING CHAPTER 9.06 TO THE TEHAMA COUNTY CODE PERTAINING TO
MARIJUANA CULTIVATION**

THE BOARD OF SUPERVISORS OF THE COUNTY OF TEHAMA ORDAINS AS
FOLLOWS:

SECTION 1. Chapter 9.06 is hereby added to the Tehama County Code to read:

Chapter 9.06

MARIJUANA CULTIVATION

Sections:

- 9.06.010 Authority and Title.
- 9.06.020 Findings and Purpose.
- 9.06.030 Definitions.
- 9.06.040 Nuisance Declared.
- 9.06.050 Notice to Abate Unlawful Marijuana Cultivation.
- 9.06.060 Contents of Notice.
- 9.06.070 Service of Notice.
- 9.06.080 Administrative Review.
- 9.06.090 Liability for Costs.
- 9.06.100 Abatement by Owner or Occupant.
- 9.06.110 Enforcement.
- 9.06.120 Accounting.
- 9.06.130 Notice of Hearing on Accounting; Waiver by Payment.
- 9.06.140 Hearing on Accounting.
- 9.06.150 Modifications.
- 9.06.160 Special Assessment and Lien.
- 9.06.170 Enforcement by Civil Action.
- 9.06.180 Summary Abatement.
- 9.06.190 No Duty to Enforce.
- 9.06.200 Remedies Cumulative.
- 9.06.200 Other Nuisance.
- 9.06.210 Severability.

9.06.010 Authority and Title. Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code section 11362.83, and Government

Code section 25845, the Board of Supervisors does enact this Chapter, which shall be known and may be cited as the "Tehama County Marijuana Cultivation Ordinance."

9.06.020 Findings and Purpose. The Board of Supervisors of the County of Tehama hereby finds and declares the following:

- (A) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996").
- (B) The intent of Proposition was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The Proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."
- (C) In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes.
- (D) Health and Safety Code section 11362.83 expressly allows Cities and Counties to adopt and enforce ordinances that are consistent with Senate Bill 420.
- (E) The federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies marijuana 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 use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or posses with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
- (F) The County's unique geographic and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the

sparse population in many areas of the County, provide conditions that are favorable to marijuana cultivation. Marijuana growers can achieve a high per-plant yield because of the County's favorable growing conditions. The federal Drug Enforcement Administration reports that various types of marijuana plants under various planting conditions may yield averages of 236 grams, or about one-half pound, to 846 grams, or nearly two pounds. Based on law enforcement seizures, yields in Tehama County have tended to be at the higher end of this range. The "street value" of a single cannabis plant is substantial. Pound prices for domestically produced high-grade cannabis sold illegally within Northern California can reach \$2,000 to \$5,000. A single marijuana plant cultivated within the County can thus yield \$4,000 or more in salable marijuana.

- (G) Proposition 215 and Senate Bill 420 primarily address the criminal law, providing qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* adopted pursuant to Senate Bill 420, provides comprehensive civil regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Tehama County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive civil regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation, and that are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.
- (H) Cultivation of any amount of marijuana at locations or premises within 1,000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.

- (I) As recognized by the Attorney General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.
- (J) It is the purpose and intent of this Chapter to implement State law by providing a means for regulating the cultivation of medical marijuana in a manner that is consistent with State law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the unincorporated territory of the County of Tehama. This Chapter is intended to be consistent with Proposition 215 and Senate Bill 420, and towards that end, is not intended to prohibit persons from individually, collectively, or cooperatively exercising any right otherwise granted by State law. Rather, the intent and purpose of this Chapter is to establish reasonable regulations upon the manner in which marijuana may be cultivated, including restrictions on the amount of marijuana that may be individually, collectively, or cooperatively cultivated in any location or premises, in order to protect the public health, safety, and welfare in Tehama County.
- (K) The limited right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Tehama County.
- (L) Nothing in this ordinance shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal under State or federal law. No provision of this Chapter deemed a defense or immunity to any action brought against any person by the Tehama County District Attorney, the Attorney General of State of California, or the United States of America.

9.06.030 Definitions. Except where the context otherwise requires, the following definitions shall govern the construction of this Chapter:

- (A) "Child Care Center" means any licensed child care center, daycare center, or

childcare home, or any preschool.

(B) “Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

(C) “Cultivation” means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.

(D) “Enforcing Officer” means the Health Officer or the Sheriff, or the authorized deputies or designees of either, each of whom is independently authorized to enforce this Chapter.

(E) “Legal parcel” means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

(F) “Marijuana plant” means any mature or immature marijuana plant, or any marijuana seedling, unless otherwise specifically provided herein.

(G) “Premises” shall mean a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single “premises” for purposes of this Chapter.

(H) “Primary caregiver” shall have the meaning set forth in Proposition 215 and Senate Bill 420.

(I) “Qualified patient” shall have the meaning set forth in Proposition 215 and Senate Bill 420.

(J) “School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.

(K) “School Bus Stop” means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233, or school pupil activity buses, as defined in Vehicle Code section 546.

(L) “School Evacuation Site” means any location designated by formal action of the governing body, Superintendent, or principal of any school as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of an emergency or

other incident at the school.

(M) "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

9.06.040 Nuisance Declared.

A. The cultivation of more than the following number of marijuana plants, either indoors or outdoors, on any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter:

1. If the premises is twenty (20) acres in size or less, no more than 12 mature marijuana plants or 24 immature marijuana plants shall be cultivated on the premises. If both mature and immature marijuana plants are cultivated on the premises, there shall be no more than 12 mature marijuana plants and no more than 24 total marijuana plants.

2. If the premises is greater than twenty (20) acres in size but less than one hundred and sixty (160) acres in size, no more than 30 mature marijuana plants or 60 immature marijuana plants shall be cultivated on the premises. If both mature and immature marijuana plants are cultivated on the premises, there shall be no more than 30 mature marijuana plants and no more than 60 total marijuana plants.

3. If the premises is one hundred and sixty (160) acres or greater in size, no more than 99 marijuana plants, whether mature or immature, shall be cultivated on the premises.

The foregoing limitation shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this limitation shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

B. The cultivation of marijuana, in any amount or quantity, either indoors or outdoors, upon any premises located within one thousand (1,000) feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter.

1. Except as provided in Subdivision (B)(2), such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.

2. If the premises is twenty (20) acres or greater in size, then such distance shall be measured in a straight line from the building in which the marijuana is cultivated, or, if

the marijuana is cultivated in an outdoor area, from the fence required by Subdivision (c)(3), to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is located.

C. The cultivation of marijuana, in any amount or quantity, either indoors or outdoors, upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless all of the following conditions are satisfied:

1. The person(s) owning, leasing, occupying, or having charge or possession of any premises have registered the premises with the Tehama County Health Services Agency, and provided all of the following current information and documentation to the Agency:

- a. The name of each person, owning, leasing, occupying, or having charge or possession of the premises;
- b. The name of each qualified patient or primary caregiver who participates in the cultivation, either directly or by providing reimbursement for marijuana or the services provided in conjunction with the provision of that marijuana;
- c. A copy of the current valid medical recommendation or State-issued medical marijuana card for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver;
- d. The number of marijuana plants cultivated on the premises; and
- e. Such other information and documentation as the Agency determines is necessary to ensure compliance with State law and this Chapter.

This information and documentation shall be received in confidence, and shall be used or disclosed only for purposes of administration or enforcement of this Chapter or State law, or as otherwise required by law.

The Board of Supervisors may, by Resolution, establish a fee for such registration in accordance with all applicable legal requirements.

2. If the person(s) cultivating marijuana on any legal parcel is/are not the legal owner(s) of the parcel, such person(s) shall submit a notarized letter from the legal owner(s) consenting to the cultivation of marijuana on the parcel. This letter shall be examined by Agency, and shall then be returned to the submitter. The Agency shall prescribe forms for such letters.

3. All marijuana grown outside of any building must be fully enclosed by an opaque fence at least six (6) feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes or hedgerows shall not constitute an adequate fence under this Subdivision.

4. Each building or outdoor area in which the marijuana is cultivated shall be set back from the boundaries of the premises as follows:

a. If the premises is twenty (20) acres in size or less, each cultivation building or area shall be set back at least 100 feet from all boundaries of the premises, unless the enforcing officer or the Board of Supervisors reduces or waives this requirement based upon a finding of unusual hardship.

b. If the premises is greater than twenty (20) acres in size but less than one hundred and sixty (160) acres in size, each cultivation building or area shall be set back at least 300 feet from all boundaries of the premises.

c. If the premises is one hundred and sixty (160) acres or greater in size, each cultivation building or area shall be set back at least 1,000 feet from all boundaries of the premises.

Such setback distance shall be measured in a straight line from the building in which the marijuana is cultivated, or, if the marijuana is cultivated in an outdoor area, from the fence required by Subdivision (c)(3), to the boundary line of the premises.

D. No person owning, leasing, occupying, or having charge or possession of any premises within the County shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of marijuana plants in violation of this Chapter.

9.06.045 Change in Land Use. The County shall encourage any person proposing to construct or operate a new or relocated school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility to consider whether the proposed location of such use is within one thousand (1,000) feet of a registered premises upon which marijuana is cultivated. Upon request, the Tehama County Health Services Agency shall inform any person proposing to construct or operate a new or relocated school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility regarding whether there is a registered premises upon which marijuana is cultivated within one thousand (1,000) feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of the registered premises that such a use is being proposed within (1,000) feet of the premises.

9.06.050 Notice to Abate Unlawful Marijuana Cultivation. Whenever the enforcing officer determines that a public nuisance as described in Chapter exists on any premises within the unincorporated area of Tehama County, he or she is authorized to notify the owner(s) and/or occupant(s) of the property, through issuance of a "Notice to Abate Unlawful Marijuana Cultivation."

9.06.060 Contents of Notice. The Notice set forth in section 9.06.050 shall be in writing and shall:

(a) Identify the owner(s) of the property upon which the nuisance exists, as

named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.

(b) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.

(c) Identify such property by reference to the assessor's parcel number.

(d) Contain a statement that unlawful marijuana cultivation exists on the premises and that it has been determined by the enforcing officer to be a public nuisance described in this Chapter.

(e) Describe the unlawful marijuana cultivation that exists and the actions required to abate it.

(h) Contain a statement that the owner or occupant is required to abate the unlawful marijuana cultivation within fourteen (14) calendar days after the date that said Notice was served.

(i) Contain a statement that the owner or occupant may, within ten (10) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the enforcing officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Chapter.

(j) Contain a statement that, unless the owner or occupant abates the unlawful marijuana cultivation, or requests a hearing before the Board of Supervisors, within the time prescribed in the Notice, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

9.06.070 Service of Notice.

(a) The Notice set forth in section 9.06.050 shall be served by delivering it personally to the owner and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that:

- (1) If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner at his or her address as it

appears in said records; or

- (2) In the event that, after reasonable effort, the enforcing officer is unable to serve the Notice as set above, service shall be accomplished by posting a copy of the Notice on the real property upon which the nuisance exists as follows: Copies of the Notice shall be posted along the frontage of the subject property and at such other locations on the property reasonably likely to provide notice to the owner. In no event shall fewer than two (2) copies of the Order be posted on a property pursuant to this section.

(b) The date of service is deemed to be the date of deposit in the mail, personal delivery, or posting, as applicable.

9.06.080 Administrative Review.

(a) Any person upon whom an Notice to Abate Unlawful Marijuana Cultivation has been served may appeal the determination of the enforcing officer that the conditions set forth in the Notice constitute a public nuisance to the Board of Supervisors, or may show cause before the Board of Supervisors why those conditions should not be abated in accordance with the provisions of this Chapter. Any such administrative review shall be commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within ten (10) calendar days after the date that said Notice was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this Section, the findings of the enforcing officer contained in the Notice shall become final and conclusive on the eleventh day following service of the Notice.

(b) Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the Clerk of the Board of Supervisors shall set a hearing date not less than seven (7) days nor more than thirty (30) days from the date the request was filed. The Clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice was served, and to the enforcing officer.

(c) Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Board of Supervisors has discretion to exclude evidence if its probative value is substantially outweighed

by the probability that its admission will necessitate undue consumption of time.

(d) The Board of Supervisors may continue the administrative hearing from time to time.

(e) The Board of Supervisors shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate Unlawful Marijuana Cultivation. The Board of Supervisors shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the alleged unlawful marijuana cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the Notice was served, and the enforcing officer.

(f) The decision of the Board of Supervisors shall be final and conclusive.

9.06.090 Liability for Costs.

(a) In any enforcement action brought pursuant to this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Chapter, whether those costs are incurred prior to, during, or following enactment of this Chapter;

(b) In any action by the enforcing officer to abate unlawful marijuana cultivation under this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

9.06.100 Abatement by Owner or Occupant. Any owner or occupant may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer.

9.06.110 Enforcement.

(a) Whenever the enforcing officer becomes aware that an owner or occupant

has failed to abate any unlawful marijuana cultivation within fourteen (14) days of the date of service of the Notice to Unlawful Marijuana Cultivation, unless timely appealed, or of the date of the decision of the Board of Supervisors requiring such abatement, the enforcing officer may take one or more of the following actions:

- (1) Enter upon the property and abate the nuisance by County personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the Board of Supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this Code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California; and/or
- (2) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance.

9.06.120 Accounting. The enforcing officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the Board of Supervisors showing the cost of abatement and the administrative costs for each parcel.

9.06.130 Notice of Hearing on Accounting; Waiver by Payment. Upon receipt of the account of the enforcing officer, the Clerk of the Board of Supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the Board of Supervisors will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the enforcing officer prior to the time set for the hearing by the Board of Supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

9.06.140 Hearing on Accounting.

- (A) At the time fixed, the Board of Supervisors shall meet to review the report of the enforcing officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.

- (B) The report of the enforcing officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.
- (C) The Board of Supervisors shall also determine whether or not the owner(s) had actual knowledge of the unlawful marijuana cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the unlawful marijuana cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel.

9.06.150 Modifications. The Board of Supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

9.06.160 Special Assessment and Lien. The Board of Supervisors may order that the cost of abating nuisances pursuant to this Chapter and the administrative costs as confirmed by the Board be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The Board of Supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code.

9.06.170 Enforcement by Civil Action. As an alternative to the procedures set forth in Sections 9.06.050 through 9.06.080, the County may abate the violation of this Chapter by the prosecution of a civil action through the Office of the County Counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

9.06.180 Summary Abatement. Notwithstanding any other provision of this Chapter, when any unlawful marijuana cultivation constitutes an immediate threat to public health or safety, and when the procedures set forth in Sections 9.06.050 through 9.06.080 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 9.06.070, but the formal notice and hearing procedures set forth in this Chapter shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 9.06.120 through 9.06.160.

9.06.190 No Duty to Enforce. Nothing in this Chapter shall be construed as imposing on the enforcing officer or the County of Tehama any duty to issue an Notice to Abate Unlawful Marijuana Cultivation, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the County of Tehama shall be held liable for failure to issue an order to abate any unlawful marijuana cultivation, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation.

9.06.200 Remedies Cumulative. All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this Chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

9.06.200 Other Nuisance. Nothing in this Chapter shall be construed as a limitation on the County's authority to abate any nuisance which may otherwise exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.

9.06.210 Severability. If any section, subsection, sentence, clause, portion, or phrase of this chapter is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 2. The Board of Supervisors hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds that the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment). The Chief Administrator is hereby directed to file a Notice of Exemption.

SECTION 3. This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time in the *Red Bluff Daily News*, a newspaper of general circulation in Tehama County.

The foregoing ordinance was duly passed and adopted by the Board of

Supervisors of the County of Tehama, State of California, at a regular meeting of the Board of Supervisors on the ____ day of _____, 2010 by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

STATE OF CALIFORNIA)
) ss
 COUNTY OF TEHAMA)

 CHAIRMAN, Board of Supervisors

I, BEVERLY ROSS, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California, hereby certify the above and foregoing to be a full, true and correct copy of an ordinance adopted by said Board of Supervisors on the ____ day of _____, 2010.

DATED: This ____ day of _____, 2010.

BEVERLY ROSS, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California.

By _____
 Deputy